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#### COVER NOTE

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| From:          | Presidency                                                                                                                                                                    |
| To:            | Delegations                                                                                                                                                                   |
| 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<br>= 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. The GENVAL Working Party on 25 April 2016 discussed mainly the technical specifications allowing the prohibition of certain firearms (Category A, Annex I) and possible derogations from that prohibition. In order to provide further guidance on the proposal, COREPER held a policy debate on these key issues at its meeting on 11 May 2016. On that basis, the Presidency submitted a text which was discussed by JHA Councillors on 13 May 2016. In the light of those discussions discussions, the Presidecny submitted a revised proposal to the GENVAL Working Party on 19 May 2016.
6. The current fourth revised version of the draft Directive set out in the Annex takes into account the discussions of GENVAL of 19 May 2016. Changes are underlined compared to the initial Commission proposal; changes to the previous version of the revised text, discussed by GENVAL on 19 May 2016, are marked in **bold and underlined**.
7. Member States are invited to consider the current version of the text in view of the JHA Councillors meeting on 25 May 2016. With a view to achieving 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.

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Proposal<sup>1 2</sup> for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**amending Council Directive 91/477/EEC on control of the acquisition and possession of**  
**weapons<sup>3</sup>**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 91/477/EEC<sup>5</sup> established an accompanying measure for the internal market. It created a balance between, on the one hand, the undertaking to ensure a certain freedom of movement for some firearms 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.
- (2) As a response to recent terrorist acts which demonstrated gaps in the implementation of Directive 91/477/EEC especially with regard to the 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 their reactivation and use by criminals.

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

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

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

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

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

- (4) (...)<sup>6</sup>.
- (5) Since collectors have been identified as a possible source of traffic of firearms, they should be covered by this Directive.
- (6) Since brokers provide services similar to those of dealers, they should also be covered by this Directive.
- (7) Taking into consideration the high risk of reactivating improperly 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 or historical purposes. 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.
- (7c) **The Directive should not prevent manufacturers, dealers and brokers from handling firearms prohibited in accordance with this Directive in those cases where persons are exceptionally allowed to acquire such firearms, or where they are handling such firearms for the purpose of deactivation. Neither should the Directive prevent the manufacturers, 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 ensure the traceability of (...) all firearms and essential components thereof covered by this Directive, they should be registered in national registries.
- (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 firearm in combination with a removable loading device with a high number of rounds should be prohibited for civilian use. Such loading devices, such as fixed or detachable magazines, as well as feeding belts, should also be prohibited. When individuals are found to be in the possession of such loading devices these should be seized, as well as any semi-automatic centre fire firearms to which these could be fitted, even if the possession of these firearms was authorised. These individuals should also be deprived from their authorisation.**

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

- (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 as well as of the essential components thereof should be kept for [20] years after destruction by the competent authorities.<sup>7</sup> Access to all related personal data shall only be permitted under strict conditions where it is necessary to carry out a criminal investigation or prosecution.
- (12) Selling arrangements for firearms and their essential 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 authenticity of authorisations. It is therefore appropriate to enhance the specific provisions for sales (...) by means of distance communication, in particular the internet (...).
- (13) Furthermore, the risk of acoustic weapons and other types of blank firing weapons being converted to real firearms is high, and in some recent terrorist acts such converted arms were used. It is therefore essential to address the problem of converted firearms being used in criminal offences, in particular 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 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.<sup>8</sup>
- (13b) 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. Criteria for (...) 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.

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<sup>7</sup> AT, DE, LU, ES, IT, FR (keep data including of the export). PT, HR underlined the need to keep each entry, changing only the status of the firearm. FI suggests adding: „or in case of an exported firearm, 20 years after the export;”

<sup>8</sup> Suggestion to delete recital: CH

- (15) In order to ensure appropriate exchange of information between the Member States on authorisations granted and on refusals, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of adopting an act to enable the Member States to create such a system of exchange of information on authorisations granted and on refusals. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (16) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>9</sup>.
- (17) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (17a) (...)
- (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 latters' association with the implementation, application and development of the Schengen *acquis* which fall within Article 1 of Council Decision 1999/437/EC.

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<sup>9</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (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 20<sup>10</sup>
- (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) 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 22<sup>11</sup>.
- (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.

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

<sup>11</sup> 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 1*

Directive 91/477/EEC is amended as follows:

(1) Article 1<sup>12</sup> is amended as follows:

(a) Paragraph 1a is deleted<sup>13</sup>.

(aa) Paragraph 1bis replaced by the following:

"1b. For the purposes of this Directive, "essential component" means (...) <sup>14</sup> the barrel, (...), frame, the receiver, including both upper and lower receivers, where appropriate, slide, (...) cylinder, bolt or breech block (...) <sup>15</sup> which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.

(b) Paragraph 1e<sup>16</sup> is replaced by the following:

"1e. For the purposes of this Directive, "broker"<sup>17</sup> means any natural or legal person (...), or partnership resident or established in a Member State (...) whose (...) services <sup>18</sup> (...) consist wholly or in part in (...)

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

(b) arranging the transfer thereof within a Member State, from one Member State to another Member State, from a Member State <sup>19</sup> to a third country or from a third country to a Member State <sup>20 21</sup> (...)."

<sup>12</sup> 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

<sup>13</sup> As only essential components are subject to obligations under this Directive, there is no need for a definition of 'parts'.

<sup>14</sup> Deletion suggested by BE, CZ, DE, IT, CY, SI, UK,; closed list requested by DE, CZ, CY, UK, including removable magazines by BE, IT, PT, BG, ES.

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

<sup>15</sup> Deletion suggested by BG, EE, ES, FR, IT, LU, PL, RO, SK SI, UK, CH.

<sup>16</sup> Definition of "broker" should be under paragraph 2.

<sup>17</sup> IT, FR, PL, RO, UK requested to define the term to distinguish from "dealer", with regard to mediating activities of broker who ' furthermore, is not owner of firearms. FR suggested to align paragraph to Regulation (EC) No 428/2009 of 5 May 2009; DE, UK considered distinction between broker and dealer as artificial.

<sup>18</sup> AT: wording to be aligned to wording for definition of 'dealers'

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

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

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

- (c) In paragraph 1, the following paragraphs are added<sup>22</sup>:
- "1f. For the purposes of this Directive, "alarm and signal weapons"<sup>23</sup> means (...)<sup>24</sup> devices with a cartridge holder (...) designed to fire only blanks, irritants, other active substances or pyrotechnic ammunition. (...)"<sup>25</sup>
- 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 reenactments, parades, sporting events and training. (...)"<sup>26</sup>
- 1h. (...);
- 1i. For the purposes of this Directive, "deactivated firearms" means firearms that have been deactivated (...) <sup>27</sup>in accordance with<sup>28</sup> Commission Implementing Regulation (EU) 2015/2403 (...) <sup>29</sup>"
- 1j. For the purposes of this Directive, "museum" means permanent institution in the service of society and its development, open to the public, which acquires, conserves, researches exhibits firearms, essential components thereof and ammunition for the purpose of education, study and enjoyment;<sup>30</sup>
- 1k. For the purposes of this Directive, "collector" means any legal or natural person dedicated to the gathering and conservation of firearms and associated artefacts<sup>31</sup>, and recognised as such by a Member State.

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

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

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

<sup>25</sup> Deletion suggested by BG, AT, IT, ES, PT, CH, EE

<sup>26</sup> Deletion suggested by BG, AT, IT, ES, PT, CH, EE

<sup>27</sup> Deletion suggested by DE.

<sup>28</sup> Suggested by DE, CZ.

<sup>29</sup> Commission Implementing Decision (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable, OJ, L 333/62, 19.12.2015.

<sup>30</sup> Deletion suggested: DK, DE, UK, ES, FI, CH

<sup>31</sup> Deletion of "and associated artefacts " suggested by CZ

(cc) Paragraph 2b is replaced by the following:<sup>32</sup>

"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<sup>33</sup> 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).

(d) Paragraph 2 is replaced by the following:

"2. For the purposes of this Directive, "dealer" means any natural or legal person whose trade or business consists wholly or in part of any of the following:

- (i) the manufacture, trade, exchange, hiring out, repair or conversion of firearms, essential components (...) <sup>34</sup> of firearms<sup>35</sup>; or
- (ii) the manufacture, trade, exchange (...) <sup>36</sup> or 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 authorities<sup>37</sup>. Neither shall it apply to commercial transfers (...) <sup>38</sup> as regulated by Directive 2009/43/EC<sup>39 40</sup>.

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<sup>32</sup> Addition suggested by FR

<sup>33</sup> Deletion of "Member" suggested by COM, PT, opposed by DK, DE to underline that the Directive is on internalmarket issues

<sup>34</sup> Deletion suggested by CZ, supported by DE, UK and CH.

<sup>35</sup> Suggested by FR, rewording suggested by UK.

<sup>36</sup> Deletion suggested by FR CH

<sup>37</sup> Suggestion by FI "...armed forces and law enforcement authorities."

<sup>38</sup> Deletion suggested by FR.

<sup>39</sup> Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146/1, 10.6.2009.

<sup>40</sup> Suggested by FR, CZ.

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

"1<sup>41</sup>. Member States shall ensure that any firearm or<sup>42</sup> essential component of a firearm<sup>43</sup> placed on the market<sup>44</sup> has been:

(i) provided with a unique marking, which is clear and permanent<sup>45</sup>, without delay after manufacture or import to the Union<sup>46</sup> and

(ii) (...) registered in compliance with this Directive without delay after manufacture or import to the Union<sup>47</sup>.

The Commission shall adopt technical specifications for the marking.<sup>48</sup> The implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13 b(2).<sup>49</sup>

2<sup>50</sup>. For the purposes of identifying and tracing each (...) <sup>51</sup> firearm and its essential components<sup>52</sup>, Member States shall, without delay (...) after manufacture (...) or (...) import to the Union<sup>53</sup> (...), require a unique marking<sup>54</sup> 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.

(...)

(...)

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.

<sup>41</sup> Suggested by FI: "Member States shall ensure that each assembled firearm placed on the market or individual essential component placed on the market separately has been marked ..."

<sup>42</sup> IT: "and essential components".

<sup>43</sup> Suggested by PL, FI, ES, PT, SK.

<sup>44</sup> FI raised the attention that there should be a possibility to mark a firearm directly after it is being imported to the EU. DE : more clarification needed

<sup>45</sup> Suggested by ES, FR; IT "in an indelible way"; DE: "clearly and permanently marked according to the state of the art".

<sup>46</sup> Addition suggested by DE

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

<sup>48</sup> DE voiced concerns about administrative burdens.

<sup>49</sup> Addition suggested by FR.

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

<sup>51</sup> Deleted at the suggestion of DE.

<sup>52</sup> Suggested by ES.

<sup>53</sup> Wording suggested by DE.

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

For those purposes, Member States may choose to apply<sup>55</sup> the provisions of the Convention on Reciprocal Recognition of Proofmarks on Small Arms of 1 July 1969<sup>56</sup>.

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 appropriate<sup>57</sup> unique marking permitting identification of the transferring entity.

3. (...)<sup>58</sup>

(4) <sup>59</sup>In Article 4, paragraph 4<sup>60</sup> is amended as follows:

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

"This filing system shall record:

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

- the names and addresses of the suppliers and of the persons acquiring or possessing the firearm or the essential components thereof,<sup>61</sup>.

Member States shall ensure that the record of firearms and the essential components thereof, including the related personal data, be retained for a period of [20] years after destruction by the competent authorities. The personal data of the current [and previous] owner shall be accessible by the competent authorities. Access to all related personal data shall only be permitted where it is necessary **for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.**<sup>62</sup>

Member States shall ensure that the personal data are deleted upon expiry of the period specified in the above paragraph. This obligation shall be 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, in which case the retention of such data by the competent authority shall be regulated by the national law of the Member State."

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<sup>55</sup> Suggested by CZ

<sup>56</sup> A number of delegations (ES, SK, CZ, BE, UK) requested restoring this provision. Small adaptation has been made as suggested by CZ to clarify that the Convention to which not all MS are members does not represent an alternative regime to the EU one. In this regard FR raised the question whether accession to that Convention should be considered by the EU.

<sup>57</sup> Suggested by FI.

<sup>58</sup> Moved to Article 4b.

<sup>59</sup> FR suggested a merge with 4b.

<sup>60</sup> FR rewording see 5342/3/16 REV 3.

<sup>61</sup> Addition suggested by PT; and ammunition

<sup>62</sup> Addition suggested by DE, FR, CZ, scrutiny reservation: FI

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

"Throughout their period of activity, dealers<sup>63</sup> and brokers shall be required to maintain a register<sup>64</sup> in which each firearm and each essential component of a firearm<sup>65</sup> 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 person supplying and acquiring it.

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

Each Member State shall ensure that the registers of the dealers and brokers established in their territory are connected to the computerised data-filing system for firearms and (...) essential components (...)." <sup>66</sup>

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

*"Article 4b*

1. Member States shall establish a system for the regulation of the activities of dealers and brokers. Such a system shall include at least<sup>67</sup> the following measures:

- (a) registration of dealers and brokers<sup>68</sup> operating within the territory of each Member State; and
- (b) licensing or authorisation of the activities of dealers and brokers within their territory.

2<sup>69</sup>. The system referred to in paragraph 1(b) shall include at least a check of the private and professional integrity and of the abilities of the dealer or broker. In the case of a legal person, the check shall be on the legal person and on the person who directs the undertaking."

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<sup>63</sup> Covers manufacturers according to its definition.

<sup>64</sup> UK agrees, doubts CH; IT: distinguish between content of dealer's and broker's register, latter should be about "carried out operations".

<sup>65</sup> Addition suggested by PT: and ammunition

<sup>66</sup> AT: deletion of para suggested, otherwise transposition period of 36 months needed

<sup>67</sup> ES specified that measures should be cumulative.

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

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

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

*"Article 5*

- 1 Without prejudice to Article 3, Member States shall authorise the acquisition and possession of firearms<sup>70</sup> only by persons who have good cause and who:
  - (a) are at least 18 years of age, except in relation to the acquisition, other than through purchase, and possession of firearms for hunting and target shooting, provided that in that case persons of less than 18 years of age have parental permission, or are under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or are within a licensed or otherwise approved training centre;<sup>71</sup>
  - (b) are not likely to be a danger to themselves<sup>72</sup>, to public order or to public safety; having been convicted of a violent intentional crime shall be considered as indicative of such danger.
  - (c) (...)

2. Member States may<sup>73</sup> make the issuance or renewal of the authorisations referred to in paragraph 1 subject to (...) medical, including psychological, review.<sup>74</sup>

Member States shall withdraw (...) authorisations for the 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.

- 3. An authorisation to acquire and an authorisation to possess a firearm classified in category B of Annex 1 shall be withdrawn if the person who was granted the authorisation is found to be in the possession of a loading device which can hold more than 20 rounds and is apt to be fitted to a short centre fire semi-automatic firearm or of a loading device which can hold more than 10 rounds and is apt to be fitted to a long centre fire semi-automatic firearm.**

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

<sup>71</sup> Reinstated after Council discussion.

<sup>72</sup> Addition by FI "or others,...".

<sup>73</sup> IT: reinstate shall

<sup>74</sup> 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."

## 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<sup>75</sup>.
2. For the protection of critical infrastructure and commercial shipping and high-value convoys, national defence, educational, cultural, research and historical <sup>76</sup>purposes and without prejudice to Article 6(1), the competent authorities may grant in individual special cases authorisations for (...) such firearms, essential components and ammunition where this is not contrary to public security or public order.
3. [Member States may authorise dealers or brokers, in their professional capacity, to acquire, manufacture, deactivate, repair 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. Member States may authorise collectors to acquire and possess firearms, essential components thereof and ammunition from category B subject to strict conditions on security.

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<sup>75</sup> Up to Member States what to do with such firearms: EE.

<sup>76</sup> HU: add "film making"

Article 6a<sup>77</sup>

1. Member States shall ensure that in case of the acquisition and selling<sup>78</sup> of firearms and their essential components and the ammunition covered by categories A, B **and** C (...) set out in Annex I by means of distance communication<sup>79</sup>, 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<sup>80</sup> prior to or at the latest upon delivery thereof to that person, by:

- -an authorised dealer or broker; or
  - a public authority or a representative thereof.
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(\*) 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)."

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<sup>77</sup> BE: reservation on this Article and requests, at least, a requirement of a face-to-face delivery

<sup>78</sup> Suggested by LT, CH, FR.

<sup>79</sup> Delegations requested more clarity regarding this prohibition as well as an alternative BG, DE, EE, HR, FI, SE, UK.

<sup>80</sup> Suggested by UK: ...checked prior to...

(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<sup>81</sup>. 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 was classified in category (...) B set out in Annex I of the Directive, as amended by Directive 2008/51/EC<sup>82</sup>, even if the firearm is currently classified in category A. However, such authorisations may be renewed only for persons already holding an authorisation before [the date referred to in Article 3 of this Directive]."<sup>83</sup>

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

"The arrangements for the acquisition and possession of ammunition **as well as loading devices** shall be the same as those for the possession of the firearms for which the ammunition is intended."

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

*"Article 10a<sup>84</sup>*

1. Member States shall take measures to ensure that alarm and signal weapons (...) cannot be converted into firearms.

The Commission shall adopt technical specifications for alarm and signal 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 A<sup>85</sup> and B (...) of Annex 1, part II (...).

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<sup>81</sup> More flexibility as to time limit, emphasis on robust procedures as to issuing licenses: UK DK (10 years), scrutiny reservation: DE objects to current version; Emphasis on checking every 5 years CZ, IT, PL COM Revised text supported by PT: FI 7(4)b) periodic review every five years... and delete COM addition after 7(4)c).

<sup>82</sup> Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons, OJ 179/5, 8.7.2008.

<sup>83</sup> Disagreement among delegations as to whether the "Grandfather clause" should provide for succession rights.

<sup>85</sup> Addition suggested by FR

#### Article 10 aa

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 being accessed by an unauthorised person. Firearms and ammunition for them shall not be readily accessible together<sup>86</sup>. Supervision in this case shall mean that the person possessing the firearm or the ammunition has (...) <sup>87</sup> control over them during transport and use. The level of scrutiny for the storage arrangements shall correspond to the category of the firearm<sup>88</sup>.

(...) <sup>89</sup>

#### Article 10b

Member States shall make arrangements for the deactivation of firearms to be verified by a competent authority in order to ensure that the modifications made to a firearm render it irreversibly inoperable. Member States shall, in the context of this verification, provide for the issuance of a certificate and<sup>90</sup> record attesting to the deactivation of the firearm and<sup>91</sup> the apposition of a clearly visible mark to that effect on the firearm.

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

- (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 (...) or selling by means of distance communication, as defined in Article 2 of Directive 2011/83/EC of the European Parliament and of the Council.

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<sup>86</sup> Opposed by PT, LT: up to MS to define details

<sup>87</sup> CY, FI: delete reference to immediate control;

<sup>88</sup> Addition suggested: by FI: firearm "in question", by PT "firearm and quantity".

<sup>89</sup> Considered as a matter of subsidiarity and deletion suggested by PL and UK.

<sup>90</sup> FR, BG, ES and confirmed by COM.

<sup>91</sup> Suggested by DE.

(10) In Article 13, the following paragraphs 4 and 5 are added<sup>92</sup>:

- "4. The competent authorities of the Member States shall exchange by electronic means<sup>9394</sup> information on the authorisations granted for the transfers of firearms to another Member State as well as information with regard to refusals to grant authorisations as defined in Article 7 as well as **related to the reliability of the person concerned**.<sup>95</sup>
5. The Commission shall provide for a (...) tracing system for firearms. **This system shall use a module of the Internal Market Information System ('IMI') established by Regulation (EU) No 1024/2012 specifically customised for firearms.**<sup>96</sup> **The Commission** shall be empowered to adopt delegated acts<sup>97</sup> in accordance with Article 13a therefor and concerning the detailed arrangements for the systematic exchange of information by electronic means."<sup>98</sup>

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<sup>92</sup> Deletion suggested by CH since cross-border significance of information exchanged is limited.

<sup>93</sup> Supported by DE, IT, FI, SE, UK, FR.

<sup>94</sup> 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."

LT: COM should establish EU central database.

<sup>95</sup> Concerns as to personal data protection; AT concerns about data protection in case of bulk exchange of personal data, suggests data exchange only in cases with cross-border dimension. Addition proposed by DE

<sup>96</sup> Suggested by FR. Regulation (EU) No 1024/2012 is text with EEA relevance

<sup>97</sup> CZ would prefer implementing acts

<sup>98</sup> Suggestion by DK: The Commission shall provide for an ~~comprehensive~~ efficient tracing system for firearms. It shall be empowered to adopt delegated acts in accordance with Article 13a ~~therefor and concerning the~~ with regard to detailed arrangements for the ~~systematic~~ exchange of necessary 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 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."

(12) Article 13b is inserted:

*"Article 13b*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council(\*).
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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

(13) Article 17 is replaced by the following:

*"Article 17*

The Commission shall submit every five years a report to the European Parliament and the Council on the application of this Directive, accompanied, if appropriate, by proposals in particular as regards the categories of firearms of Annex I and the issues related to new technologies such as 3D printing, the 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. "

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

(a) part II is replaced by the following:

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

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

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

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

**7. Any of the following centre fire semi-automatic 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 is inserted into it; and**

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 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.**

**9. Loading devices, apt to be fitted to centre fire semi-automatic or to repeating firearms, with 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.**

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 **but fewer than [twelve]** rounds.

**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.
7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms **other than those listed under point 6, 7 or 9 of category A.**

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. Alarm and signal weapons. that fulfill the technical specifications of Article 10a(1).

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.

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.

(...)

(b) (...) point B<sup>113</sup> and the following text are deleted.

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

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

(a) point (a) is deleted;

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

"are solely<sup>114</sup> designed for life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be properly used for the stated purpose only;"

(c) point (c) is replaced by the following:<sup>115</sup>

"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 [**18**<sup>99</sup> months after publication in the OJ]. They shall forthwith communicate to the Commission the text of those provisions.
- 2. By way of derogation, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive [36 months after publication in the OJ] as regards Article 4(4) and Article 4b 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.** Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

## Article 3

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

## Article 4

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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<sup>99</sup> PL, DK, CZ, SK, HU, LT, PT, RO, CY, MT. 24 months was proposed by SK, DE, PT, RO, HR, BG, AT. DK 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.