Council of the European Union
General Secretariat

PUBLIC

Interinstitutional files:
2026/0059 (COD)

Brussels, 08 April 2026

WK 4573/2026 REV 1

LIMITE

COPEN
DROIPEN
COARM
ENFOPOL
JAI
CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Draft Directive on Firearms trafficking - Written contributions from delegations

In the light of the ongoing examination of the draft Directive, please find attached written contributions from the Austrian, Belgian, Dutch, Estonian, Finnish, French (two sets of comments), German (two sets of comments), Greek, Hungarian, Italian, Latvian, Luxembourgish, Polish, Slovenian and Swedish delegations.

PUBLIC

Contents

AUSTRIA 2
BELGIUM 6
ESTONIA 9
FINLAND 12
FRANCE 15
GERMANY 23
GREECE 37
HUNGARY 40
ITALY 44
LATVIA 52
LUXEMBOURG 53
NETHERLANDS 55
POLAND 57
SLOVENIA 59
SWEDEN 61

PUBLIC

AUSTRIA

Draft Directive on combating firearms trafficking and other firearms-related offences – Comments on Document WK 3705/2026 Rev 1

Austria would like to thank the Presidency for the possiblity to submit written contributions on document WK 3705/2026 REV 1 and hereby provides the following comments:

1. The correlation between the proposal and the model provision on EU substantive criminal law

Austria has consistently supported the development of model provisions on EU substantive criminal law. The current model provisions were discussed in the COPEN working party over a period of one and a half years. In Austria's view, they represent a well-balanced compromise. The purpose of the model provisions is to facilitate the negotiation process by ensuring that horizontal issues do not have to be negotiated separately for every new proposal of a directive. This also improves the quality of legislative acts. We, therefore, advocate aligning the wording in the proposed Draft Directive on combating firearms trafficking and other firearms-related offences (the „***Draft Directive***") with the model provisions.

Ad Art. 5 (1) and (2):

We support the wording of the model provisions – namely „shall ensure" – for the sake of consistency.

In this context, we would also like to point out already at this stage that the minimum-maximum penalties proposed do not correspond to the system of one, two, five or ten years' imprisonment set out in the model provisions (point C.2 of the model provisions). We strongly advocate this system, whereby, in view of the proposed offences, the minimum-maximum penalty for the most serious offences should be five years imprisonment, and correspondingly lower minimum-maximum penalties should be provided for the other offences.

Art. 5 (3):

It is very important for us that this provision remains a „discretionary" provision („may include the following"), as in the model provisions and the recent other directives.

Art. 6:

AT urges that the provisions of the Draft Directive be drafted in accordance with the model provisions on EU substantive criminal law. The proposed Article 6 contradicts these—aside from minor linguistic differences in paragraph 1—particularly in that paragraph 2 has a significantly broader scope of application compared to the model provisions and other directives (or proposals for directives): It refers not only to the commission of the act for the benefit of the legal person, but also to the commission for the benefit of the natural person acting or a third party. This proposal cannot be accepted, as it significantly broadens the criteria for the liability of legal persons. Furthermore, the proposal is inconsistent with recent directives (ENVI crime, restrictive measures, corruption), as well as with proposed directives currently at an already advanced stage of negotiation (migrant smuggling, sexual abuse of children).

PUBLIC

Art. 7:

Again, Austria refers to the model provisions. The proposal deviates significantly and unjustifiably from these in paragraphs 2, 4, and 5.

Paragraph 2 is worded in the opposite manner to the model provisions and previous directives (proposals of directives) with regard to the binding nature of the requirements: The word “may” is used for “criminal or non-criminal fines,” whereas the word “shall” is used for accessory criminal or non-criminal penalties or measures. This reverses the weight of the measures, does not correspond to the previous system and the model provisions, and therefore cannot be accepted.

Paragraph 4 and 5 contain the minimum maximum penalties for legal persons that have become standard in recent years, but opt for completely different amounts in several regards:

For offences subject to eight years’ imprisonment for natural persons, the penalty for legal persons is set at 20% of their global turnover or a fixed amount of EUR 10 million; for offences subject to two or four years’ imprisonment for natural persons, the penalty for legal persons is set at 10% of their global turnover or a fixed amount of EUR 5 million. This contradicts previous directives (proposals of directives) in two respects: first, regarding the ratio between the penalties for natural persons and the penalties for legal persons, and second, regarding the ratio between the turnoverbased penalty and the alternative fixed amount. Previously, the ratio between the turnover-based penalty and the alternative fixed amount was structured as follows:

• 1% of the global turnover – 8 million euros

• 3% of the global turnover – 24 million euros

• 5% of the global turnover – 40 million euros

This system has been adhered to in the model provisions and in all directives (ENVI crime, restrictive measures, corruption) and proposed directives (sexual abuse of children, migrant smuggling) to date and is now to be abandoned for the first time. Austria strictly rejects this proposal.

Moreover, the current proposal sets penalty levels for legal persons that do not fit into the existing system at all and appear to be far excessive. AT therefore firmly rejects the proposed percentages and fixed amounts.

Finally, AT also cannot accept the phrase “whichever is higher” in paragraphs 4 and 5. Such a phrase was already proposed and discussed during the negotiations on the proposal for a directive on child sexual abuse, but was not pursued further.

Articles 8 and 9:

Here too, we support an alignment with the model provisions. In particular, a reference to national law should be included in both articles. Such a reference to national law is, incidentally, also included in the most recent directives (the Environmental Criminal Law Directive, the Restrictive Measures Directive and the Anti-Corruption Directive).

Art. 12 (1):

For Austria, the wording in the model provisions appears to be clearer; however, this does not entail any change in substance.

PUBLIC

Art. 13 (1) and (2):

The phrase “where any of the following applies” does not appear in either the model provisions or the most recent directives (the Environmental Criminal Law Directive, the Restrictive Measures Directive and the Anti-Corruption Directive). In Austria’s view, it seems unnecessary and should therefore be deleted.

Art. 14:

With regard to Article 14, we would suggest considering the replacement of the term “regular” with “recurrent”, as this could allow for greater flexibility, in particular for smaller Member States with a limited target group, to better align training provisions with actual needs. Such an adjustment may contribute to a more efficient use of resources, without affecting the scope of the Draft Directive. As regards the use of the term “scope” instead of “objective”, we have no reservations.

Art. 18:

It is to be welcomed that paragraph 2 obliges Member States to submit the required data to the Commission for the first time six years after the transposition of the Directive and thereafter every five years. The provision limits this exclusively to „existing data“ and thus does not create any new categories of data to be collected, which is to be welcomed. It is particularly positive that, for the first time, longer periods of six and five years respectively are envisaged. This makes far more sense for the purposes of crime statistics than the data transmission previously often required on an annual basis, and reduces the workload for the Member States and the Commission.

Paragraph 4 sets out a retention period for the data categories specified in paragraph 2. Such a provision is not included in the most recent directives (proposals) or in the Model Provisions. It also appears unnecessary because the Commission will retain the data transmitted to it in any case.

General comment on the draft Directive:

One further deviation from the model provisions ist that instead of the wording „covered by Article …“ the wording „referred to in Article …“ is used in the current proposal.

During the negotiations on the model provisions, terminology issues werer discussed at length. We, therefore, support the wording „covered by …“ instead of „reffered to in …“ to be used in the current Directive.

2. The correlation between the proposal and the recent acquis as regards issues not covered by the model provisions

Art. 10:

Although not explicitly mentioned in the document, it should be noted that the wording of Article 10 also differs from standard model provisions:

Article 10 differs significantly from the standard wording in other Directives, such as – most recently – the wording of Article 13 of Directive (EU) 2024/1203 of 11 April 2024 on the protection of the environment through criminal law which states: „Member States shall take the necessary measures to ensure that effective and proportionate investigative tools are available for investigating or prosecuting criminal offences referred to in Articles 3 and 4. Where appropriate, those tools shall include special investigative tools, such as those used in combatting organised crime or in other serious crime cases.“

PUBLIC

The wording of Article 10 of the draft Directive, on the other hand, would make special investigative tools, such as those used in combatting organised crime or in other serious crime cases, mandatory for all criminal offences referred to in Articles 3 and 4 which would be too far-reaching and thus disproportionate. The wording of Article 10 should hence be aligned with the standard provision for investigative tools such as in Article 13 of Directive (EU) 2024/1203 of 11 April 2024 on the protection of the environment through criminal law.

Art. 16:

Austria would like to highlight, that it does not seem very practical to have different information obligations towards Union bodies for competent national authorities. The information obligation in accordance with Art. 16(1) would require implementation into national law. However, comprehensive information obligations are already provided for in the respective Regulations of Union entities. National judicial authorities are bound by Art. 21(5) of the Eurojust-Regulation which is worded far narrower than the proposal in Art- 16(1): „*5. The competent national authorities shall inform their national members without undue delay of any case affecting at least three Member States for which requests for or decisions on judicial cooperation, including requests and decisions based on instruments giving effect to the principle of mutual recognition, have been transmitted to at least two Member States, where one or more of the following apply:*

(a) the offence involved is punishable in the requesting or issuing Member State by a custodial sentence or a detention order, the maximum period of which is at least five or six years, to be decided by the Member State concerned, and is included in the following list:

(iv) illicit trafficking in firearms, their parts or components or ammunition or explosives;"

Considering that the Europol-Regulation as well as the Eurojust-Regulation will undergo revision this year as well, we would recommend addressing information obligations in the Regulations for Europol and Eurojust. Therefore, the Austrian delegation would like to propose the following rewording for Art. 16(1): „Where the criminal offences referred to in Articles 3 and 4 are suspected to be of a cross-border nature, t**T**he competent authorities of the Member States concerned shall refer the information related to those offences to appropriate competent entities **in accordance with the applicable Regulations**."

PUBLIC

BELGIUM

COPEN Draft Directive on Firearms trafficking – Comments following document WK 3705/2026

Belgium welcomes this legislative proposal and thanks the Commission and the Presidency for the amount of work accomplished so far.

Due to the ongoing internal consultation, the comments below represent the preliminary position of Belgium and could be further adjusted or completed.

1. **The correlation between the proposal and the model provision on EU substantive Criminal law**

In general, Belgium underlines the need to ensure coherence and consistency across standard language in recurring provisions in different EU substantive criminal law acts to facilitate the implementation of these provisions in national law as well as their interpretation.

In line with the Council Conclusions of December 2025, Belgium firmly supports applying the model provisions "by default" to this new proposal. This is why provisions in this proposal should be brought in line with the model provisions as much as possible. Consequently, throughout the proposal, the wording **"*referred to*" in articles referring to other articles should be replaced by "*covered by*".**

Belgium would therefore suggest following wording of provisions mentioned in document WK3705/2026 :

Article 3 (1) : [Optionally, insert the word "Each" at the beginning, as noted by the Presidency] *Member States shall ensure that, where it is intentional, any of the following* ***conducts*** ~~***acts***~~ *constitute a criminal offence, irrespective of whether it was committed online or offline:*

This would align the wording of subparagraph 1 with several EU acquis, such as directive 1226/2024 , directive 1385/2024, directive 1203/2024, as well as with the proposed wording in subparagraph 2 of article 3 in this proposal.

Article 5 :

1. Member States ***shall*** ~~***take the necessary measures to***~~ ***ensure*** *that the criminal offences referred to in Articles 3 and 4, are punishable by effective, proportionate and dissuasive criminal penalties.*

2. Member States ***shall*** ~~***take the necessary measures to***~~ ***ensure*** *that: […]*

Article 6 (3) : ~~***The l***~~***Liability*** *of legal persons under paragraphs 1 or 2 shall not preclude criminal proceedings against natural persons who commit, incite or are accessories to the criminal offences referred to in Articles 3 and 4.*

PUBLIC

Article 8 : *To the extent that the following circumstances do not form part of the constituent elements of the criminal offences referred to in Articles 3 and 4, Member States shall* ~~***take the necessary measures to***~~ *ensure that, in relation to the criminal offences referred to in Articles 3, one or more of the following circumstances can* ***, in accordance with national law,*** *be regarded as an aggravating circumstance […]*

Article 9 : *Member States shall* ~~***take the necessary measures to***~~ *ensure that, in relation to the criminal offences referred to in Articles 3 and 4, providing the administrative or judicial authorities with information which they would not otherwise be able to obtain can* ***, in accordance with national law,*** *be regarded as a mitigating circumstance, provided that the information is capable of contributing to any of the following: […]*

Regarding the proposed wording "shall take the necessary measures to ensure" in articles 8 and 9, Belgium has a strict preference for an alignment with model provisions, even though we bear in mind that this wording was already used in some EU acquis previous to the adoption of model provisions.

Article 12 (1) : *Member States shall* ~~***take the necessary measures to***~~ *provide for a* ~~***sufficient***~~ *limitation period after the commission of criminal offences referred to in Articles 3 and 4, which is commensurate to the gravity of the criminal offences and that enables the investigation, prosecution, trial and adjudication of those criminal offences* ***for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences*** *to be tackled effectively.* ~~***Member States shall take the necessary measures to provide for a sufficient limitation period following a final conviction for criminal offences referred to in Articles 3 and 4 that enables the enforcement of the penalties imposed.***~~

Article 13 (1) : *Each Member State shall establish its jurisdiction over the criminal offences referred to in Articles 3 and 4 where* ~~***any of the following applies***~~*: [...]*

Article 13 (2) : *A Member State shall inform the Commission where it decides to extend its jurisdiction to one or more criminal offences referred to in Articles 3 and 4 which have been committed outside its territory, where* ~~***any of the following applies***~~*: [...]*

Article 14 : *Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall take the necessary measures to ensure that specialised* ~~***regular***~~ *training is provided to judges, prosecutors, police and judicial staff and to competent authorities' staff involved in criminal proceedings and investigations with regard to the* ~~***scope***~~ ***objectives*** *of this Directive as referred to in Article 1 and appropriate to the functions of such judges, prosecutors, police and judicial staff and competent authorities' staff.*

Article 18 (1) : *Member States shall ensure that a* ~~***digital***~~ *system is in place for the collection,* ~~***development,***~~ *productions and dissemination of* ***existing,*** *anonymised statistical data on the criminal offences* ~~***referred to in***~~ ***covered by***~~*Articles 3 and 4.*

PUBLIC

2. **The correlation between the proposal and the recent acquis as regards issues not covered by the model provisions**

Article 13 (4) : Without prejudice to any adaptation following internal consultations, Belgium could be flexible.

Concerning articles 15 (1) and 16 (1) and (2), Belgium would suggest following wording to ensure alignment with standard wording in recent EU acquis:

Article 15 (1) : *Each Member State shall designate a single National Firearms Focal Point, for coordination and cooperation at strategic and operational levels* ***from among their ~~all its~~*** *competent authorities involved in the prevention of, and the fight against, firearms-related criminal offences. The National Firearms Focal Point shall perform at least the following tasks: […]*

Article 16 :

1. *Where the criminal offences referred to in Articles 3 and 4 are suspected to be of a cross-border nature, the competent authorities of the Member States concerned shall refer the information related to those offences to appropriate competent* ***bodies ~~entities~~.***

2. Without ***~~affecting~~ prejudice to*** *the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States, Eurojust, Europol, the European Public Prosecutor's Office, and the Commission shall, within their respective* ***~~scope of~~*** *competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end, Eurojust shall, where appropriate, provide the technical and operational assistance needed by the competent national authorities to facilitate coordination of their investigations. The Commission may, where appropriate, provide assistance.*

PUBLIC

ESTONIA

Estonia welcomes this legislative proposal of the Directive and thanks the Commission and the Presidency for the amount of work accomplished so far. However, Estonia currently maintains a Parliamentary scrutiny reservation. Accordingly, all positions set out herein, and subsequent positions should be considered preliminary in nature, until the reservation is lifted.

As a general comment, and as observed by the Presidency at the meeting of the COPEN WP on 26 March, Estonia too advocates for an alignment of the proposal with the model provisions for EU criminal law and existing EU acquis, to the highest extent possible.

Regarding the questions raised by the Presidency in document WK 4727/2026 INIT *(Note summarizing the provisional state of play and issues for discussions),* Estonia notes the following:

1) Whether Article 3(1) points e and f would need to be redrafted or possibly reduced
Regarding Article 3(1) point e: clarification would be appreciated, as to how broadly the concept of 'sharing' should be interpreted. In particular, we seek confirmation as to whether it also covers sharing through closed or encrypted communication channels, such as private messaging groups.

Points e and f could emphasize to clearly criminalize these conducts committed for "unlawful purposes". While assessing case-by-case, if the conduct is not considered of serious nature, Member States, for example, should be able to consider these acts as misdemeanors, rather than criminal offences. Conducts provisioned in points e and f might be considered criminal offences, if the offender had clearly acted with unlawful or criminal purpose

Estonia reserves right to provide further comments due to current parliamentary scrutiny reservation.

2) Their position on the notions of serious negligence and knowledge under Article 3(2)
At this procedural stage, while reserving the right to provide further comments at a later stage (due to current Parliamentary scrutiny reservation) Estonia maintains a rather conservative position regarding including serious negligence and knowledge under Article 3(2). The concept of criminalizing serious negligence in relation to criminal offence under Article 3(2) point f might raise difficulties regarding the enforcement, given that Article 3 (1) point f expressly requires awareness on the part of the offender: "dissemination of blueprints **knowing that** the blueprints may be used for the purpose of committing any of the offences referred to in points (a), (b), (d) and (e)."

3) Whether you agree with the wording and the levels of penalties proposed in Articles 5 and 7 , or, if not, what wording or level they consider appropriate:
In principle we support the establishment of minimum penalty levels within the EU for offences related to the illicit handling of firearms, as such measures have both general and specific preventive effects and contribute to enhancing the prevention and deterrence of criminal activity.

PUBLIC

Article 7(4) and 7(5) of the proposal use “whichever is higher” in relation to the minimum-maximum fine for legal persons deviates substantially from the model provision “or alternatively.” In the light of recital 19 last sentence, using the model provision would be more precise. In addition, the proposed minimum maximum fines for legal persons in the proposal diverge substantially from the model provision. The Model provisions, as well as recent EU-legislation, such as the Envicrime-directive (2024/1203) and the VURM (2024/1226), as a reference mentions percentages of 1, 3 and 5%.

4) Whether the levels of penalties proposed in Article 6 are acceptable, and whether it is acceptable to extend liability to a third person –

Article 6 as proposed, does not appear to contain any penalties. The wording of Article 6(2) in the Proposal, which allows for extending the liability of legal persons to situations where the offence has not been committed directly on behalf of the interests of the legal person, but rather in the interests of the offender or a third party, indeed differs significantly from the model provisions as well as from the wording used in Directives (EU) 2024/1203 and (EU) 2024/1226. This issue is of substantial importance, as the liability of legal persons has traditionally been linked specifically to situations in which an individual (the offender) has acted for the benefit of the legal person. At this procedural stage, while reserving the right to provide further comments at a later stage, Estonia maintains a rather conservative position regarding this substantive change.

5) Whether the lists of aggravating and mitigating circumstances in Articles 8 and 9 as drafted are acceptable

Similarly to the proceedings of directive (EU) 2024/1203, in principle, we support the establishment at EU level of mitigating and aggravating circumstances applicable to offences related to the illicit handling of firearms. However, we consider it essential that such a list remains sufficiently flexible to accommodate the diversity of Member States’ legal systems, and that over-regulation is avoided.

The absence of the phrase “in accordance with national law” in the proposed articles is a clear deficiency reducing the necessary national flexibility, not aligning with the model provisions and not coherent with the directives (EU) 2024/1203 and (EU) 2024/1226.

Given the proposed wording of Article 8 and its grammatical inconsistency with the model provisions, Estonia kindly wishes to confirm, whether the Member States are expected to transpose at least one of the aggravating circumstances in its national legislation, which use is a matter of case-by-case assessment, or all the aggravating circumstances provided in Article 8.

Article 8 point (j) introduces the terms ‘conflict area’ and ‘post-conflict area’. However, the legal basis or criteria for determining the scope and substantive content of these notions remains unclear. The terms are left undefined under Article 2, neither is unclear whether such areas must be explicitly designated at the level of the United Nations or the European Union to fall within the meaning of these provisions.

PUBLIC

6) General comments regarding other articles of the Proposal

The purpose of using the phrase *irrespective of whether it was committed online or offline* in articles 3 (1) and article 4 (1) and 4 (2) remains unclear.

In the light of Recital 15 last sentence, it could be considered to include in Article 3, that the activities per Article 3, which are carried out for legitimate scientific, academic, industrial, testing or law enforcement purposes, while provided that such activities are subject to appropriate safeguards under national law, do not constitute as criminal offences or unlawful acts under the Directive.

Article 12 - Similarly to the proceedings of directive (EU) 2024/1203, at this procedural stage, while reserving the right to provide further comments at a later stage, Estonia maintains a rather conservative position on such detailed regulation of limitation periods in the Directive.

Article 17 (1) – For the purposes of complying with the obligation laid down in Article 17(1), does it include any support measures from the Union which the Member States could request for?

PUBLIC

FINLAND

The comments and answers of the FI delegation on the proposal for a Directive on firearms trafficking and other firearms-related offences for the COPEN Working Party *Reference document: WK 3705/2026 REV 1*

The Presidency has invited delegations to send their written replies to questions on compliance with the model provisions for EU criminal law and general comments and reflections on the proposal for a directive. The delegation of Finland is grateful for this opportunity and presents the following comments and answers:

Finland's positions will not be ready until Parliament has considered the directive proposal. Until then, the views are preliminary. Finland also refers to what was said in the first Working Party meeting about the proposal.

The model provisions are not binding, but it is justified to formulate the EU's criminal law as far as possible in line with them. By doing so, it is possible to avoid ambiguities in interpretation arising from different expressions. On the other hand, consistency with the model provisions is not of particular importance if there is no clear substantive difference between the expressions in practice. Above all, the model provisions in many places reflect the flexibility that has been established in the directives in the field of criminal law. This flexibility makes possible to take properly into account the differences the legal and sanction systems have between the Member States.

In the Presidency note the first group of questions concerns the correlation between the proposal and the model provisions. Some of the differences highlighted in the Presidency note are such that the differences cannot be considered to have significance in terms of content. Some of the differences are such that it would be good to hear the Commission's explanation of the differences. Our answers and comments to some questions of the first group:

- Article 3(2): This paragraph concerns the dissemination of blueprints. In general, the inclusion of blueprint offences in the directive requires careful consideration. The main rule in the EU's criminal law regulation is to oblige the Member States to criminalize only intentional acts, an approach that is also reflected in the model provisions. Criminalization based on negligence is far-reaching criminal law. The expression "serious negligence" is an unknown term. It also seems that Article 3(2) is not in line with Article 3(1)(f), which requires

PUBLIC

that the act of dissemination be carried out in such a way that the offender knows that the blueprints may be used for purpose of committing certain acts.

- Article 5(3): **1)** It is unclear what is the difference between the word "other" used in the model provisions and the word "accessory" used in this proposal. However, the latter word is used in the directive (EU) 2024/1203 (environment crimes) and in the directive (EU) 2024/1226 (crimes related to the violation of restrictive measures). **2)** Clearly a more significant difference is that this paragraph ends with "…criminal or non-criminal penalties or measures **including** the following:". The corresponding paragraph of the model provisions ends as follows: "…criminal of non-criminal penalties or measures **which may include** the following:". The latter wording is followed by the directive (EU) 2024/1203 and by the directive (EU) 2024/1226. In this respect,
  the proposal does not seem to follow the approach taken in the model provisions and in the directives in the field of criminal law, which calls for flexibility concerning this kind of sanctions.
- Article 6(2): In this respect, the proposal does indeed differ significantly from the model provisions and from the expressions used in the directives (EU) 2024/1203 and (EU) 2024/1226. The question is substantially significant, because the liability of legal persons has traditionally been linked specifically to situations in which a person (an offender) has acted specifically for the benefit of the legal person.
- Article 7(4): The distinction highlighted in the Presidency note also applies to Article 7(5). Again, it is a question of wording that is not in line with the model provisions and what has been adopted in the directives (EU) 2024/1203 and (EU) 2024/1226.
- Articles 8 and 9: The absence of the phrase **"in accordance with national law"** in the proposed articles is a clear deficiency reducing the necessary national flexibility. Again, it is a question of wording that is not in line with the model provisions and what has been adopted in the directives (EU) 2024/1203 and (EU) 2024/1226.
- Article 14: It is possible to see that **"regular"** and **"scope"** extend the scope of the training obligations in relation to the model provisions. It should be possible to arrange training in a way that it is appropriate and sufficient at the national level.
- Article 18(1): This is an article in which it is appropriate to avoid unnecessary administrative and costly burdens. That is something to bear in mind when assessing the terms that should be used in the article.

In the Presidency note, the second group of questions concerns the correlation between the proposal and the recent acquis regarding issues not covered by the model provisions. There are no specific comments in this regard at this stage. However, it would be good to hear the Commission's explanations related to these differences as well, so that the situation can be reassessed if necessary.

PUBLIC

The delegation of Finland would like to draw attention to certain differences in relation to the model provisions that are significant in terms of content. There are also differences compared to recent directives in the field of criminal law. The following differences are highlighted here:

- Article 5(2): The maximum terms of imprisonment of eight and four years differ from those mentioned in the model provisions and those commonly used in the directives.
- Article 7(2): The paragraph starts with the following: “Effective, proportionate and dissuasive criminal or non-criminal penalties or measures **may** include criminal or non-criminal fines and **shall** include accessory criminal or non-criminal penalties or measures, such as:” The corresponding part of the model provisions reads as follows: “Effective, proportionate and dissuasive criminal or non-criminal penalties or measures **shall** include criminal or noncriminal fines and **may** include other criminal or non-criminal penalties or measures, such as:”. The latter wording is followed by the directive (EU) 2024/1203 and by the directive (EU) 2024/1226.
- Article 7(4) and (5): The worldwide turnover percentages 20 and 10 % are significantly higher than those mentioned in the model provisions (5 and 1/3 %) and adopted in directives (EU) 2024/1203 (5 and 3 %) and (EU) 2024/1226 (1 and 5 %).
- Article 9: The article is missing the part **“one or more of the following circumstances'”** which is included in the corresponding part in the model provisions and which is also included in the corresponding articles in the directives (EU) 2024/1203 and (EU) 2024/1226.
- Article 15(2): There is no corresponding paragraph in the directive (EU) 2024/1203, which contains an article on coordination and cooperation between competent authorities within a Member State. This paragraph is associated with the goal of avoiding unnecessary administrative and costly burdens and making use of existing structures. It would be good to know what the phrase "sufficient staff and resources to ensure their continuous operation and effective functioning" means.

PUBLIC

FRANCE

Objet : Note des autorités françaises visant à préparer la réunion du groupe COPEN trafic illicite d'armes à feu du 26 mars 2026

Réf. : WK3705/2026 **-** Note de la Présidence

La Présidence du Conseil a adressé une note aux délégations pour leur permettre de retourner leurs vues s'agissant du lancement des négociations sur la directive contre le trafic illicite d'armes à feu. La Présidence sollicite des contributions pour préparer le groupe du 26 mars 2026.

Elle invite les délégations à formuler leurs positions :

1. sur **l'emploi de ces dispositions types relatives au droit pénal matériel**, pour savoir si les délégations souhaitent que la proposition de directive soit alignée sur les dispositions-types concernant l'ensemble ou seulement certains points mentionnés dans la note WK3705/2026 REV 1. La Présidence rappelle que les conclusions sur les dispositions types ont été adoptées lors du Conseil Justice et Affaires intérieures des 8 et 9 décembre 2025 et que ces dernières constituent une boîte à outil dont l'usage est non contraignant pour le législateur ;

2. sur **la rédaction de la directive à la lumière de l'acquis du droit de l'Union** à l'instar de la directive sur la protection de l'environnement par le droit pénal (2024/1203) ou de la directive relative à la définition des infractions pénales et des sanctions en cas de violation des mesures restrictives de l'Union (2024/1226) ;

3. sur **l'ensemble du projet de directive** adressé en partageant des commentaires généraux et partageant des premières réflexions.

Les autorités françaises feront part des commentaires écrits telles que formulés ci-après.

PUBLIC

S'agissant de l'emploi des dispositions types dans la rédaction de la directive :

A titre liminaire, les autorités françaises soulignent que la proposition de directive contre le trafic illicite d'armes à feu s'écarte des « dispositions-types » telles qu'elles ont été adoptées lors du Conseil Justice et Affaires intérieures des 8 et 9 décembre 2025. Elles attirent donc l'attention de la Présidence et des autres Etats membres du Conseil sur l'importance de ne s'en écarter que pour des raisons justifiées.

Elles feront par ailleurs les commentaires suivants :

- **article 3(1)** : nous nous interrogeons sur la notion d'acte « *commis en ligne ou hors ligne* » (« *irrespective of whether it was committed online or offline* ») qui ne parait pas nécessairement pertinente pour toutes les infractions listées à l'article 3 ;
- **article 3(2)** : nous nous opposons à l'introduction d'un cas de « négligence grave » (« *serious negligence* ») pour l'infraction de diffusion de plans de fabrication d'armes en 3D (« *dissemination of blueprints* ») ; cette notion risque de créer une confusion dans l'appréciation de l'élément intentionnel de cette infraction, alors même que la diffusion de plans de fabrication d'armes 3D est, par nature, un acte intentionnel (même si les conséquences de cette diffusion, elles, peuvent ne pas être intentionnelles) ; en ouvrant la voie à une qualification non intentionnelle, on affaiblit mécaniquement la poursuite des comportements intentionnels, puisque l'argument de la négligence deviendra un moyen de défense automatique ; cette disposition, loin de renforcer la répression, risque au contraire de fragiliser l'efficacité des poursuites en la matière ;
- **article 6(2)** : nous sommes défavorables à l'élargissement de la possibilité d'engager la responsabilité des personnes morales lorsque le défaut de surveillance ou de contrôle a rendu possible la commission d'une infraction pénale pour le bénéfice non pas de la personne morale, comme prévu dans les dispositions-types et les autres directives récemment adoptées, mais « de cette personne ou d'un tiers » (« *for the benefit of that person, a third person, or that legal person* ») ;
- **article 7(4)** : nous sommes opposés au fait de prévoir les sanctions des personnes morales sur le modèle de la peine la plus élevée (« *whichever is higher* ») qui ne correspond pas à ce qui est prévu dans notre droit national et imposerait de devoir modifier tous les textes relatifs aux sanctions ;
- **articles 8 et 9** : nous sommes défavorables au fait de supprimer la référence au droit national (« *in accordance with national law* ») qui figure dans les dispositions-types ;
- **article 14** : nous sommes défavorables au fait de rendre l'obligation de formation « *régulière* » ;
- **article 18** : nous sommes défavorables au fait d'élargir les obligations de collecte de données statistiques et notamment, au paragraphe 1, au fait d'ajouter les termes « *digital* » et « *development* » et d'élargir l'article à toutes les données statistiques et pas seulement celles « *existantes* » et, au paragraphe 2, à la suppression de la condition que

PUBLIC

les données doivent être transmises à la Commission « *si elles sont disponibles* » (« if they are available at central level »).

S'agissant de la rédaction de la directive à l'aune des directives récemment adoptées :

Les autorités françaises n'ont pas de commentaire à faire valoir sur ce point.

S'agissant des commentaires d'ordre généraux sur la proposition de directive :

Les autorités françaises maintiennent à ce stade une **réserve générale** de leur analyse sur la proposition de directive.

Elles souhaitent toutefois, d'ores et déjà, faire valoir les points suivants en première lecture.

- **concernant l'article 3, de manière générale,** en ce qui concerne les incriminations de cet article, elles semblent être rédigées à partir du protocole onusien sur les armes à feu entré en vigueur le 3 juillet 2005, plutôt qu'à partir de l'acquis de la directive (UE) 2021/555 du Parlement européen et du Conseil du 24 mars 2021 relative au contrôle de l'acquisition et de la détention d'armes et du règlement (UE)2025/41 du Parlement européen et du Conseil du 19 décembre 2024 relatif aux mesures concernant l'importation, l'exportation et le transit des armes à feu, des parties essentielles et des munitions. Ces deux textes entendent pourtant déjà prendre en compte hors du champs pénal le protocole ;
- sous réserve de commentaires plus développés que pourront faire les autorités françaises à l'avenir, elles relèvent également les points suivants :

    - **point a) ii :** il convient de relever que l'autorisation à laquelle il est fait référence est l'autorisation nécessaire à l'exercice de l'activité d'armurier ou de courtier ; si le protocole n'oblige à l'incrimination que de la "fabrication" et de "l'assemblage", les activités d'armurier au sens du droit de l'Union sont plus large, ou en tous cas définies de manière plus développée (cf. article 1§1 point 9 de la directive (UE) 2021/555 : l'activité d'armurier, soumise à autorisation, recouvre la fabrication, le commerce, l'échange, la location, la réparation, la modification ou la transformation d'armes à feu ou de parties essentielles, ainsi que la fabrication, le commercer, l'échange, la modification ou la transformation de munitions) ; en ce qui concerne le terme de "fabrication", il est ici plus développé que dans le protocole ;la modification ou la transformation, qui sont explicitement mentionnées dans la définition telle qu'elle est posée par la directive (UE) 2021/555, apparaissent par ailleurs plus explicites pour couvrir les situations telles que la réactivation d'armes neutralisées (cf. considérant 11 de la proposition de directive) ;

      par ailleurs, incriminer la fabrication sans incriminer explicitement le commerce apparaît incohérent : il en va tant de l'efficacité que de la cohérence générale du droit de l'Union ;

PUBLIC

l'activité de courtier est quant à elle également soumise à autorisation depuis la directive modificative (UE) 2017/853 ;cette extension du champ de l'autorisation s'explique par le fait que les courtiers exercent en réalité une partie du métier d'armurier (cf dir. (UE) 2021/555, considérant 5) ; en soumettant l'activité de courtier à un régime d'autorisation préalable, le droit de l'Union n'a d'ailleurs fait que répondre à l'invitation formulée par l'article 15 du Protocole ;

il apparaît donc nécessaire de reformuler l'infraction contenue au (ii) du (a) de l'article 3 afin d'incriminer l'exercice de l'activité d'armurier ou de courtier sans autorisation ;les définitions d'armurier et de courtier devraient ainsi être reprises à l'article 2 (en renvoyant aux définitions déjà posées en droit de l'Union aux points 9) et 10) de l'article 1er, paragraphe 1 de la directive (UE) 2021/555) ;

- **point a) iii :** la rédaction proposée de ce point devrait être clarifiée ;elle reprend en effet les termes généraux du protocole en exigeant le marquage des armes et des parties essentielles "au moment de la fabrication", et en renvoyant en même temps à l'article 4 de la directive (UE) 2021/555 ; or, en posant la règle selon laquelle le marquage doit être apposé "sans tarder après la fabrication et, au plus tard, avant la mise sur le marché", la directive (UE) 2021/555 a en réalité précisé les termes généraux du protocole ; aussi les mots "*at the time of manufacture*" devraient être supprimés, pour que soit incriminé uniquement l'absence de marquage conformément à la directive (UE)2021/555 ;
  ainsi, ce (iii) procèderait uniquement par renvoi au droit de l'Union existant, de la même manière que le point (ii) du point (b) (trafic illicite) procède lui-même, ce qui garantirait une interprétation cohérente de l'ensemble du droit de l'Union ;

- **point a) i : c**e point a en réalité pour objet d'incriminer certaines formes de recel des deux infractions citées dans le point suivant (article 3 1) b) que le protocole comme la proposition de directive regroupent sous le vocable de "trafic illicite" ; plutôt que d'employer le terme d'"*illicitly trafficked*", qui ne fait pas l'objet d'une définition à l'article 2, mais ne se déduit que du chapeau du point b), ce point pourrait sans doute être réécrit en faisant directement référence aux infractions visées ;
  les comportements, qui, sous réserve d'une analyse à venir, semblent en réalité visés ici sont :

  - la fabrication d'armes ou de parties essentielles à partir d'armes ou de parties essentielles importées sans autorisation ou sans respecter les règles de marquage à l'importation ;

PUBLIC

- l'assemblage (i.e. la constitution ou la reconstitution) d'armes à partir d'armes ou de parties essentielles importées sans autorisation ou sans respecter les règles de marquage à l'importation.

- **point b) :** l'article 4 de la directive ne mentionne que le marquage au moment de la fabrication et après l'importation. Les exigences de marquage à l'importation sont détaillées à l'article 6 du règlement (UE) 2025/41 ;ainsi, en faisant référence à ces deux articles, mais en incluant les flux d'exportations, l'article manque de clarté ; par ailleurs, les termes "acquisition, sale, delivery, movement", qui sont des termes directement repris du protocole, apparaissent inutiles dans le contexte du droit de l'Union, et surtout de nature à créer de l'ambiguïté : en tout état de cause, l'infraction de trafic illicite telle qu'elle est prévue par le protocole inclut, dans tous les cas qu'elle prévoit, dans ses éléments constitutifs un élément transfrontalier ; aussi ce point pourrait être clarifié en procédant par infractions distinctes :
  - l'importation, exportation ou transfert d'armes à feu sans autorisation des États concernés ;
  - l'importation d'armes ou d'éléments d'armes non marqués dans les conditions exigées par l'article 6 du règlement (UE) 2025/41
  - l'exportation d'armes à feu sans marquage ;

- **point (d) :** l'harmonisation de l'incrimination de l'acquisition ou de la détention illégale d'armes ne découle d'aucune obligation posée par le protocole ; elle est au surplus rendue difficile en droit de l'Union par le fait qu'elle repose sur une harmonisation *partielle*, celle qui a été opérée par la directive (UE) 2021/555 ;ainsi, l'acquisition ou la détention d'une arme classée en catégorie C selon la directive (UE) 2021/555 doit *au moins* être soumise à déclaration dans chacun des Etats membres, qui peuvent néanmoins, s'ils l'estiment nécessaire, prévoir un régime d'autorisation ou d'interdiction ; prévoir une peine maximale minimale de 5 ans pour la détention irrégulière de toutes les armes, sans distinction de catégorie, apparaît peu conforme au principe de nécessité et de proportionnalité des peines (art. 49§3 de la Charte).

- **article 11 en lien avec l'article 17** : il nous apparaît nécessaire de préciser la rédaction de ces deux articles à commencer par la définition d'armes saisies ;

PUBLIC

Second contribution from France

NOTE DES AUTORITÉS FRANÇAISES

Objet :Note des autorités françaises à la suite de la réunion du groupe COPEN trafic illicite d'armes à feu du 26 mars 2026.

Réf. : 7439/26 - Note de la présidence chypriote sur les articles 3, 4, 12, 15, 17 et 18 de la proposition de directive du Parlement européen et du Conseil relatif à la lutte contre le trafic d'armes à feu et à d'autres infractions liées aux armes à feu et modifiant la directive (UE) 2024/1260 du Parlement européen et du Conseil.

WK 3705/2026 REV 1 - Note de la présidence chypriote relative aux dispositions-types.

A la suite de la réunion du **groupe COPEN trafic illicite d'armes à feu du 26 mars 2026**, les autorités françaises souhaitent faire valoir les commentaires écrits ci-dessous :

1) **Sur les dispositions-types**

Comme elles ont déjà eu l'occasion de le souligner[1], les autorités françaises remarquent que **la proposition de directive contre le trafic illicite d'armes à feu s'écarte des « dispositions-types »** telles qu'elles ont été adoptées lors du Conseil Justice et Affaires intérieures des 8 et 9 décembre 2025.

Plusieurs dispositions vont ainsi plus loin que les dispositions types, d'une façon qui n'est **pas acceptable pour la France** (responsabilité des personnes morales, sanctions pour les personnes morales, circonstances aggravantes, etc.)

Elles attirent donc l'attention de la Présidence et des autres Etats membres du Conseil sur l'importance de ne s'en écarter **que pour des raisons justifiées**, surtout lorsqu'elles imposent des obligations supplémentaires aux Etats membres.

[1] Cf. la note des autorités françaises du 20 mars 2026.

PUBLIC

2) <u>Sur l'infraction relative aux plans détaillés (« *blueprint* ») (articles 2 et 3)</u>

Les autorités françaises précisent que les commentaires apportés ci-dessous aux articles 2 et 3, sur les points précis qui font l'objet des questions de la présidence, ne remettent pas en cause les observations qu'elles ont déjà eu l'occasion de formuler sur les autres dispositions de l'article 3. Les autorités françaises transmettront des commentaires écrits plus étayés sur la rédaction des incriminations à l'article 3 après les échanges du groupe du 8 avril 2026.

Elles rappellent être **favorables à la définition des plans détaillés (*blueprint*)**, qui a été travaillée dans le cadre du groupe d'experts. Cette définition apparait à la fois **suffisamment large** pour couvrir l'ensemble des technologies pouvant être utilisées, tout en reliant bien les fichiers de conception à la fabrication d'armes à feu ou à leurs composants essentiels ou munitions.

3) <u>Sur les modifications éventuelles de l'annexe par actes délégués (articles 17 et 19)</u>

Les autorités françaises rappelleront que la modification éventuelle de l'annexe par les services de la Commission, adoptant un acte délégué conformément aux dispositions prévues par les articles 17 et 19, devra s'inscrire dans une collaboration étroite avec les États membres pour que ces derniers puissent renseigner utilement, en fonction de leurs outils informatiques d'enregistrement des armes saisies, les champs portés par l'annexe que ces actes délégués permettraient de modifier.

- **<u>Sur les délais de prescription (article 12)</u>**

Si les autorités françaises sont **favorables à prévoir un article général sur les délais de prescription**, comme prévu au paragraphe 1er de l'article afférent dans les dispositions types, elles sont en revanche **défavorables** au fait de prévoir dans le détail des délais spécifiques de prescription.

PUBLIC

Les délais de prescriptions prévus aux paragraphes 2 et 3 de l'article 12 sont en effet **trop longs pour certaines infractions de nature délictuelle**, ce qui pourrait venir bouleverser les équilibres juridiques et constitutionnels de certains Etats membres.

En tout état de cause, les autorités françaises indiqueront que, à défaut de réduire les délais de prescription prévus, **le maintien du paragraphe 5, qui prévoit la possibilité de déroger à ces délais, constitue une ligne rouge**.

PUBLIC

GERMANY

German comments on the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating firearms trafficking and other firearms-related offences and amending Directive (EU) 2024/1260 of the European Parliament and of the Council:

Germany welcomes the initiative of the European Commission and thanks the Cyprus Presidency for its work in negotiating the proposal so far. Furthermore, Germany thanks the Cyprus Presidency for drawing the attention to the wording where the proposal diverges from the model provisions set out in the Council conclusions 16638/25.

Germany is currently still reviewing the proposal and expressly reserves the right to make further comments. Nevertheless, Germany would like to comment on the following points according to the current position:

1. **Regarding the correlation between the proposal and the model provisions (document wk 3705/2026 REV 1):**

- With regard to question 1 in the Presidency note, it is important to Germany that we work to ensure the draft directive is brought into line with the Council conclusions on model provisions for EU substantive criminal law (st16638/25), which were agreed in December 2025. In particular, in light of the Presidency's recent paper (st06082/26), which discusses possible working methods to make better use of the model provisions in future negotiations, we consider it particularly important that the Council does not immediately give in on this current directive, but instead adopts a unanimous position calling for the consistent application of the model provisions and defending them vis-à-vis the European Parliament.

- Germany prefers that the order of the articles be the same as in the model provisions. In the model provisions, the rules covering aggravating and mitigating circumstances are placed before the provisions on liability of legal persons and penalties for legal persons.

- **Article 3**

  Germany is of the opinion, that this does not constitute a deviation from the model provisions, but rather a supplement to them. We are reviewing this supplement.

PUBLIC

Nevertheless, we propose to stick to the wording of the model provisions as close as possible and use a consistent terminology. Therefore, instead of the wording “act” the wording “conduct” should be used in Article 3 (1) as well as in Article 5 (3), point (a), and Article 7 (3).

- **Article 5 (1) and (2), Article 8, 9, 10, Article 12 (1), Article 13 (3), Article 14**

  Germany kindly asks that the wording from the model provisions be used in these sections. We do not understand why the wording "take the necessary measures" was included in these articles in deviation from the model provisions. Germany is of the opinion that these insertions are not necessary, as they do not lead to further clarification, particularly regarding the legislative mandate for Member States resulting from these provisions. When transposing a Directive, Member States are required to take the necessary measures anyway to ensure the full effectiveness of the Directive. Germany also finds it difficult to understand why the wording "take the necessary measures" was used in the above-mentioned articles, while it was not included in other articles, such as Articles 3 or 4 of the proposal.

- **Article 5 (2)**

  The prescribed minimum-maximum penalties should, as a matter of principle, be adjusted (at the very least) to bring them into line with the model provisions (st16638/25), which set out four levels of criminal sanctions with minimum and maximum penalties of 1, 2, 5 or 10 years. This is certainly not the case here in paragraph 2(a) and (b).
  A maximum term of imprisonment of eight years for offences covered by Article 3 (1), points (a) and (b), especially for offences related to the marking of firearms and essential components, and a maximum term of imprisonment of four years for offences covered by Article 3 (1), point (c), would be way too high in relation to our national system of criminal penalties. We, therefore, propose to set the penalties for offences covered by Article 3 (1), points (a) and (b), excluding point (a) (iii) and point (b) (ii), to a maximum term of imprisonment of five years and those for offences covered by Article 3 (1), point (c), to a maximum of two years.

PUBLIC

- **Article 5 (3)**

  Germany kindly asks that the wording from the model provisions be used here. Germany would like to exchange “including” for “which may include” as in the model provisions. Germany would like to ask for clarification on the Commission's interpretation of the term 'justified exceptional cases' and the cases that would fall under this category. Also, we reserve the right to invoke a reservation under national law in this regard.

- **Article 6 (2)**

  Germany kindly asks that the wording from the model provisions be used here. This is a standard clause found in a wide range of directives in the field of criminal law (see most recently the Environmental Crime Directive or the Directive on Criminal Sanctions for the violation of Union Restrictive Measures). This also ensures consistency with the provision in paragraph 1. If the wording of the Commission’s proposal were retained, the liability of the legal person would extend further in the case of a mere lack of supervisory duties by the leading person than in the case where the leading person commits the offence personally.

- **Article 7 (2)**

  Germany kindly asks that the wording from the model provisions (“may include other criminal or non-criminal penalties or measures, such as”) be used here. It is of utmost importance to us that rules on additional penalties and measures are only optional and not obligatory for the Member States.

- **Article 7 (3), (4) and (5)**

  Germany kindly asks that the wording from the model provisions be used here.

  Germany views the Commission's proposal with great concern for several reasons:

  - Specific provisions on penalties should only apply in cases where the leading person commits the offence personally (Article 6 para 1).
  - Member States should be able to set the maximum levels of fines either as a percentage of the total worldwide turnover of the legal person concerned, or in

fixed amounts (“or alternatively” instead of “whichever is higher”), see recital 19 last sentence.

- The maximum levels of fines for legal persons should be based on the penalties imposed on natural persons, such that one year of imprisonment corresponds to 1 percent of turnover or 8 million euros. Five years of imprisonment would correspond to 5 percent of turnover or 40 million euros. This ratio was also adopted in the Environmental Crime Directive and basically also in the Directive on Criminal Sanctions for the violation of Union Restrictive Measures.

- **Article 8**

  Germany kindly asks for an explanation for the deviation from the model provisions. Germany is of the opinion that the wording from the model provisions "in accordance with national law" should also be used in the present proposal. This wording ensures that the provisions for aggravating circumstances provided for in the proposal are implemented while taking into account the specificities of the criminal law of each Member State.

- **Article 9**

  In the case of ‘mitigating circumstances’, the wording ‘**one or more**’ from the model provisions should be adopted in all cases.

- **Article 12 (1)**

  Germany kindly asks for an explanation for the deviation from the model provisions. The change in the order of the sentence parts appears to be unobjectionable from a German perspective. We reserve the right to review the individual limitation periods.

- **Article 13 (1) and (2)**

  Germany kindly asks for an explanation for the deviation from the model provisions regarding "Jurisdiction". Germany is of the opinion that the deviation from the model provisions is not necessary. The wording from the model provisions should be adopted in its entirety.

PUBLIC

PUBLIC

- **Article 14**

  Germany kindly asks for an explanation for the deviation from the model provision. We would like to stay on track with the model provision.

- **Article 17**

  Germany kindly asks for an explanation concerning the purpose and scope of the registration and data transfer.

- **Article 18 (1)**

  Germany kindly asks for an explanation for the deviation from the model provision. In this context, it is particularly unclear to Germany what is meant by "development of anonymised statistical data."

  Even though it seems sensible to use a "digital system" for data collection, particularly to simplify the required transfer of data to the Commission at the national level, Germany is of the opinion that it should be left to the Member States to decide which type of system they wish to use. The insertion of the word "digital" should therefore be deleted.

  It is of great importance to Germany that, in Article 18 (1), the word “existing” be inserted before the word “anonymized” as agreed in the model provisions.

  In Article 18 (2), the date should be changed to “December 31st”, the transmission of statistical data in Germany follows a long established procedure between the Länder and the federal government; a change would be possible - if at all - only at the cost of a disproportionately high burden on the Länder and would require unanimous, unlikely approval by all Länder in the Statistics Committee.

  Germany prefers that in Article 18 (2) S. 1 the phrase “, if they are available at central level,” be added before the word “submit” as agreed in the model provisions.

PUBLIC

Germany kindly asks the Presidency to explain the relationship between Article 18 (3) and Article 17 of the draft. The wording of the provision as such might suggest that Europol should have full access to the data sets referred to in Article 17 (1). On the other hand, the systematic location of the provision in Article 18 suggests that Europol does not receive the data as such, but rather statistical information. On page 59 of the Commission's draft, for example, the explanation of data flows with regard to the transmission of data from MS to Europol also refers only to "statistical data on seized firearms". If, in fact, only statistical data are concerned, the positioning of the provision in Article 18 is consistent, but the wording should also clarify the statistical nature of the data transmission.

- **Article 19**

  We would appreciate a clarification in which areas delegated acts are to be made possible. Although the explanation in recital 42 mentions statistical aspects, it specifically refers to the update of the Annex and thus to Article 17 (2). Against this background, we would be grateful if you could confirm that the implementing acts do not relate to statistical information within the meaning of Article 18 (1) of the draft. What data is to be provided by the MS in what form must be determined by the enacting part of the Directive itself and must not be specified or even extended by a delegated act.

- **In general**

  From a German perspective, it appears unobjectionable that the wording "covered by" has been replaced by "referred to."

2. Regarding the correlation between the proposal and other recent acquis (document wk 3705/2026 REV 1):

Germany kindly asks for an explanation for the deviations.

- **Article 15 (1)**

PUBLIC

Germany is of the opinion that the wording chosen in the proposal should be maintained. It should be left to the Member States to decide whom they designate as the National Firearms Focal Point.

- **Article 16 (1)**

  Germany kindly asks for an explanation as to why there is a deviation from the wording of the Environmental Crime Directive (Envicrime) and the VURM (Violation of Union Restrictive Measures) respectively.

- **Article 16 (2)**

  Germany kindly asks for an explanation as to why there is a deviation from the wording of the Environmental Crime Directive and the VURM respectively.
  We would like to ask why the EPPO is mentioned here at all. As regards the EPPO's competence to investigate and prosecute crimes against the EU's financial interests, the EPPO might be misleading here.

3. General comments

- **Article 2 no 4**

  Germany is of the view that the definition of 'blueprint' in its current version does not yet appear appropriate. We have numerous questions within the scope of our current review of the draft.

  For example, Germany is of the view that the current wording already covers the CAD files required for 3D printing firearms. Germany therefore concerns that this would lead to a significant increase in workload for law enforcement agencies, as every single CAD file found would have to be examined to determine its suitability for weapon manufacturing.

PUBLIC

Therefore, we would already like to suggest that the definition of 'blueprint' be given sufficient room for discussion as a key priority of the draft. Ideally, an entire session should be dedicated to this topic.

Without prejudice to the above, we reserve the right to submit further comments.

- **Article 3(1)**
  Basically, the references to the fundamental prohibitions within the provisions of Directive (EU) 2021/555 and Regulation (EU) 2025/41 are too unspecific for references building criminal offences upon. The exact provisions describing the prohibition need to be identified and referenced precisely.

Article 3(1) (e) and (f) / Article 3 (2)

Our analysis of these provisions is still ongoing. First, the questions raised above with regard to the definition of "blueprints" have a practical effect here. Second, we ask ourselves why the issue of blueprints is not addressed in the provisions of Directive (EU) 2021/555 and Regulation (EU) 2025/41, but is now supposed to be regulated directly and exclusively in the current draft within the framework of minimum harmonisation under criminal law. Furthermore, according to the draft, the criminal liability should already be linked to acts in the preparatory stage. In that regard, it will be necessary to discuss whether the provision refers to sufficiently specific acts which, in spite of their preparatory nature, already constitute criminal conduct. We would appreciate an explanation as a basis for our further assessment.

Based on the consideration that the provisions on blueprints move criminality far into the preparatory stage, we would be grateful for an explanation as to why the Commission even considers certain forms of negligent conduct punishable in paragraph 2.

Irrespective of the above basic questions, Germany kindly asks for an explanation how “sharing a blueprint …” and “dissemination of blueprints …” relate to each other.

PUBLIC

- **Article 15**

  In principle, Germany has no reservations about the requirement to designate National Firearms Focal Points. However, the analysis of the range of tasks provided for in Article 15 has not yet been completed. Therefore, Germany reserves the right to make further comments.

- **Article 16**

  Germany kindly asks for an explanation to whose “appropriate competent entities” at the end of Art. 16 (1) should refer.

  The provision in Article 16(3) does not find any parallel in the existing directives. We have already pointed out that, overall, we need to examine the issue of blueprints in more detail. According to Article 16(3), we would first be grateful for further information on the background of the proposal.

PUBLIC

Second contribution from Germany

Active:

Germany thanks the Presidency for its work to date and for the documents sent, in particular the document inviting the Member States to submit written comments on the differences between the proposal for a Directive and the Council Conclusions on model provisions on EU substantive criminal law. Germany has presented its position at length and has expressly requested that the proposal for a Directive be based on the model provisions. Germany refers to its written comments dated 19 March 2026.

In general, the proposal for a Directive requires further examination. Germany has not yet been able to complete its examination. In the course of the upcoming discussions of the content, we will provide detailed comments. We therefore enter a comprehensive scrutiny reservation at this time.

On the basis of its current position, Germany comments on the Presidency's discussion paper as follows:

- **Article 3 – Definition of the firearms-related criminal offences**

  - The list of criminal offences in Article 3 (1) of the proposal includes some acts which, as we understand them, clearly constitute punishable offences and are already punishable under German law. However, we have a number of questions concerning the complete list of offences.
  - To begin with, we would like to note the following: Article 3 (1) (a) (ii) and (iii), (b) (i) and (ii) and (d) contain references to Directive (EU) 2021/555 and Regulation (EU) 2025/41, which, as we understand them, are far too general. Nor do the references in Article 3 (1) (b) (i) to Directive (EU) 2021/555, Regulation (EU) 2025/41 and the UN Firearms Protocol currently refer to specific provisions; they should be worded more concretely. The requirements which are referred to in order to specify the criminal offence must be described as precisely as possible.
  - Article 3 (1) (a) (i):
    - For Germany, the aim of Article 3 (1) (a) (i) is not yet clear: who can be the perpetrator of this offence? Is this provision aimed at the criminal prosecution of holders of a manufacturing licence who knowingly use illicitly trafficked essential components of firearms, or at the criminal prosecution of persons who assemble weapons from such essential components without a licence? Or possibly both?
    - Furthermore, for Germany it is not sufficiently clear what exactly is meant by "illicitly trafficked" in Article 3 (1) (a) (i). In order for a particular act to be subject to criminal prosecution, the act must be clearly described and its content defined as an offence. That does not yet appear to be the case here. If reference to Article 1 (12) of Directive (EU) 2021/555 is intended, this should be clearly indicated in Article 2 of the proposal.

PUBLIC

- Article 3 (1) (a) (iii):
  - The offences referred to in Article 3 (1) (a) (iii) and (b) (ii) only have to do with **marking obligations**, and not with the handling of weapons as such, which in our view is generally more dangerous. In line with Article 4 (1) (a) and para. 2 of Directive (EU) 2021/555, violations of marking obligations are prohibited under German law as well. However, violations of marking obligations are only subject to non-criminal fines owing to their lesser degree of wrongfulness compared to the unlawful handling of firearms. We therefore believe that criminal penalties, in particular the **lengthy terms of imprisonment** of up to eight years, as provided for in Article 5 (2) (a), are **disproportionate**. Germany therefore asks the Commission to explain the reasons for this very severe punishment.
  - Germany is also critical of the current wording of Article 3 (1) (a) (iii). The reference to Article 4 of Directive (EU) 2021/555 is not likely to be permitted in this form, as it does not appear to make clear which point in time in Article 4 (1) (a) of Directive (EU) 2021/555 the proposal is referring to: “without delay after manufacture”, “at the latest before its placement on the market”, or “without delay after importation into the Union”? These are obviously three different points in time.
  - Furthermore, Germany has a question about the extent of the reference to Article 4 of Directive (EU) 2021/555: does this reference encompass Implementing Directive (EU) 2019/68 on the marking of firearms, which was implemented pursuant to Article 4 (3) of Directive (EU) 2021/555, or does it only refer to the information in Article 4 (2) of Directive (EU) 2021/555? If the proposal is intended to refer to the Implementing Directive, then for reasons of clarity, as already explained, this must be explicitly stated. Does the reference also encompass Implementing Directive (EU) 2024/325 as regards the minimum depth of markings on firearms and essential components? If so, Germany also sees the enforcement of the marking requirement as problematic. This question concerning the extent of references also applies to Article 3 (1) (b) (ii) of the proposal.
- Article 3 (1) (b)
  - With regard to the proposed provision on the criminal punishability of firearms trafficking in Article 3 (1) (b), Germany notes that, in the current version, the proposal appears to refer only to cross-border cases, although illegal firearms trafficking can also be a (purely) national problem, which the proposal does not address. Germany would therefore like to know whether this is intentional and if so, why.
  - Germany also asks whether the wording in Article 3 (1) (b) constitutes a definition which should be included in Article 2 of the proposal. This wording would then provide a partial definition of “illicitly trafficked” in Article 3 (1) (a) (i) which Germany believes is necessary (see note on that provision). We would also like to ask why the wording differs from the definition in Article 1 (12) of Directive (EU) 2021/555.
  - The offences listed in Article 3 (1) (b) (ii) are violations of marking obligations; we therefore refer to our comments on Article 3 (1) (a) (iii).

PUBLIC

- Article 3 (1) (e) and (f)
    - With regard to Article 3 (1) (e) and (f) of the proposal, Germany would like to know how "sharing a blueprint" and "dissemination of blueprints" differ from each other. When someone makes a blueprint available to the public (i.e. disseminates it), this could also be understood as "sharing" a blueprint.

- **Article 2 No 4 – Specifically on the offence of dissemination of blueprints**

Question 2a:

- In general, Germany is pleased that the proposal addresses new technologies which can be used for the illegal manufacture of firearms and that it has identified the illegal production and dissemination of blueprints as a problem.
- In Germany's view, the harmonisation of criminal law should generally follow the harmonisation of the administrative legal content of weapons law and should not overtake it. With this in mind, we would appreciate an explanation as to why the provision on blueprints is now addressed directly and only in the context of harmonising criminal law. Does the Commission plan in future to add provisions on blueprints to existing weapons law (i.e. Directive (EU) 2021/555 and/or Regulation (EU) 2025/41)?
- In addition, according to the proposal, penal provisions are to be introduced which are still at a very early stage of preparation. It is therefore necessary to discuss whether the proposed provision adequately covers certain criminal acts which already constitute punishable wrongs at this early stage. We would be grateful for the Commission's explanation of its thoughts on these questions.
- Germany however believes that the definition of "blueprint" is not yet convincing: on the one hand, it seems very broad; and on the other hand, it could result in the regulation of digital versions of objects which are not relevant for weapons law.
- In Germany's view, the current definition covers all digital data formats capable of being used with software to ultimately produce machine code for a 3D printer, a CNC metal milling machine, etc. This applies in particular to CAD files. Germany sees a number of questions arising in connection with CAD files:
    - CAD files can very easily be scaled at any time after they are created. If the size of a digital model has been adjusted subsequently (enlarged/reduced), this raises the question whether it is in fact a firearms component by definition.
    - Furthermore, CAD files usually contain no information about materials or infill density. As a result, CAD files alone provide no clear indication of intent to manufacture firearms components or of their operability.

PUBLIC

- An additional step requiring the use of a slicer is needed to generate the machine code necessary for the manufacturing process. Only the machine code generated for the printing or manufacturing process contains all the data and information to produce the physical product and therefore to evaluate that product. Clear attribution to a component therefore appears to be possible only with machine code. This is also linked to the question whether the acts referred to in Article 3 (1) (e) and (f) already constitute punishable offences.
- Germany believes that the current definition entails the risk that the inclusion of CAD files would lead to a major increase in the workload of law enforcement agencies, because of the much larger number of CAD files which would have to be checked to determine whether they could be used to manufacture a firearm or an essential component of a firearm.

- For the reasons already given, Germany therefore asks whether the provision should target machine codes in order to be more effective and practical to apply.
- However, it should be noted that focusing on machine codes would make Article 3 (1) (f) irrelevant, because CAD files are typically shared online, while machine codes are not.

Question 2b:

- We doubt whether **serious negligence** needs to be a criminal offence. Certain acts are already criminalised as premeditated at a very early stage. We should show some restraint here, also in view of the fact that the criminal law is a last resort.

- **Article 12 – Limitation periods**
  - We have no objections to Article 12 (1) sentence 1 of the proposal if it uses the same wording as the corresponding provision in the model provisions on EU substantive criminal law. In our view, however, the detailed provisions in Article 12 (2) to (5) on limitation periods are not necessary. What are the Commission's reasons for believing that it is necessary to harmonise rules on limitation periods? Rules on the limitation of legal proceedings and execution of sentences are generally based on the range of penalties and the penalty imposed, regardless of the offence adjudicated or the area of crime. We see no need to create different rules specifically for the area of weapons law. If the majority truly regards rules on limitation periods as necessary, we reserve the right to conduct a thorough examination of the detailed provisions in Article 12 (2) to (5).
- **Article 15 – National Firearms Focal Point**
  - Germany is in favour of requiring each Member State to designate a National Firearms Focal Point. Germany nonetheless has the following comments:
  - The task in Article 15 (1) (c) seems to us unspecified and wide-ranging. As the basis for our further examination, please provide a more detailed explanation of the background to this provision and exactly what it is intended to accomplish. Please explain as well which specific databases are referred to here.

PUBLIC

- With regard to Article 15 (1) (d), please explain why the wording differs from that in the Environmental Crime Directive and the Directive on the definition of criminal offences and penalties ("consultation in individual investigations, within the limits set out in applicable Union and national law").

- **Article 17 – Minimum dataset of registering seized firearms**
  - Germany has no reservations about registering seized firearms and compiling the Member States' data at Europol.
  - However, Germany points out that care should be taken to ensure that data can be transmitted to Europol using an IT interface and that no manual data entry will be necessary. Germany would also like to emphasise that data transmission from the Member States to Europol should use the existing universal messaging format (UMF) and that no funds should be invested in the programming of alternatives.
  -

- **Article 18 – Statistical data**
  - Germany asks the Presidency to explain the relationship between Article 18 (3) and Article 17 of the proposal. The wording of the provision could imply that Europol is to have unlimited access to the datasets referred to in Article 17 (1). On the other hand, the systematic placement of the provision in Article 18 implies that Europol will not receive the data as such, but rather statistical information. On page 59 of the Commission's proposal, for example, the explanation of data flows only refers to "statistical data on seized firearms" in connection with the transmission of data from the Member States to Europol. If only statistical data are in fact involved, then the placement of the provision in Article 18 makes sense. However, the wording should then make the statistical nature of the data transmission clearer. Otherwise, it would be better to place the provision in Article 17.
  - For Germany, it is very important that in Article 18 (1) the word "existing" should be added before the word "anonymized", as agreed in the model provisions.
  - Germany asks that, in Article 18 (2) no. 1, the words "if they are available at central level" be added before the word "submit", as agreed in the model provisions.
  - In Article 18 (2), the date should be changed to 31 December. The transmission of statistical data in Germany is conducted according to a long-established process between the federal states and the Federation. Altering this process would only be possible, if at all, with an unreasonable amount of effort on the part of the federal states and with the unlikely unanimous agreement of all of the federal states in the responsible body.

PUBLIC

GREECE

GENERAL COMMENTS AND REFLECTIONS ON THE PROPOSAL

In our opinion, the proposed Directive will contribute decisively to the prevention and suppression of illegal trafficking in firearms in the EU, increase the level of public safety and enhance the protection of EU citizens. More specifically:

a) The new offences related to blueprints are a critical factor in the illegal trafficking of firearms, which needs to be addressed.

b) The imposition of penalties for legal persons is an essential measure of compliance and has a deterrent effect. Legal persons are more likely to comply with the provisions in force, when they know that the breach of law will result in criminal or non-criminal penalties or measures.

c) The establishment of common minimum penalties for the listed firearms-related criminal offences will substantially limit the ability of offenders to exploit 'loopholes' or differences in the national legislation of the Member States. Furthermore, it will strengthen the fairness and credibility of the legal system at EU level, since the criminal response will be equal for every Member State.

d) Common aggravating circumstances will allow the judge to impose stricter penalties or to combine multiple offenses so as to increase the penalty imposed.

e) The establishment of National Firearms Focal Points is necessary for cross-border cooperation and ensures coordination at strategic and operational level among all the competent authorities involved in the prevention of and the fight against criminal firearms-related offences.

f) The creation of a European database containing data on seizures of firearms carried out in each EU country, as well as the maintenance of a digital system for collecting, recording and transmitting statistical data on weapons-related offences will enable national authorities to have direct access to information on offenders and criminal networks throughout the EU, facilitating mutual cooperation and information exchange.

g) The systematic collection and processing of statistical data will help to analytically monitor relevant trends and -through comparative evaluation of the effectiveness of countermeasures- will enable the formulation of policies based on objective and accurate data for the benefit of European citizens.

h) The introduction of similar rules in all Member States related to the prevention of incitement, aiding and abetting in the commission of a criminal offense involving firearms will decisively limit the circulation and availability of firearms on illegal markets. It will directly suppress the operational

activities of criminal networks and will limit the ability of unauthorized persons to access weapons. Thereby it will enhance public safety and the sense of protection of EU citizens.

FRAMEWORK IN GREECE

The legislative framework for weapons in Greece is laid down in Law 2168/1993 (A' 147), as in force, and in the relevant Ministerial Decisions. The recent amendments by Laws 5187/2025 (A' 48) and 5256/2025 (A' 223) have made the legal framework for weapon-related offenses even stricter.

Legal persons: Greek law (Law 2168/1993) provides that when legal persons held liable (e.g. for trafficking, brokering or dealing in firearms), criminal penalties are imposed on the natural persons representing them and on the members of their Boards of directors. At the same time, the law provides for the imposition of administrative penalties consisting of the revocation or temporary withdrawal of licenses (Art.18, 22 of Law 2168/1993), but also the confiscation of items that are illegally manufactured, possessed or traded (Art.16 of Law 2168/1993).

New technologies: As for the illegal manufacture of weapons using new technologies, the Weapons and Explosives Department of the Police Directorate has already submitted its proposals to the EU Firearms Team.

Aggravating circumstances will allow the judge either to impose stricter penalties or to combine multiple offenses so as to increase the penalty imposed. Our national legislation is moving in the same direction. According to the recent amendments to the Greek law on weapons, many offenses have been upgraded to felonies, while new cases of aggravating circumstances have been introduced (Art.15 Law 2168/1993).

National Firearms Focal Points: Greece, as early as 2021, by decision of the Chief of the Hellenic Police, in the context of the implementation of the Conclusions of the Council of the European Union (NFPP, 13.07.21), appointed its national representative in the EMPACT Firearms and Explosive Crimes priority, with his deputies (a Police Officer of the competent Department of the Directorate of Hellenic Police).

Incitement, aiding and abetting in the commission of a criminal offense involving firearms: Our national legislation is already aligned with the EU Direction, given that Law 5256/2025 added to Law 2168/1993 the Art.12A "Inciting and advertising the illegal supply or use of firearms", which criminalises inciting or provoking another person to illegally supply or use firearms, advertising their illegal use and providing information on their illegal supply.

PUBLIC

MODEL PROVISIONS AND THE PROPOSAL

Bearing in mind that the model provisions set out in the 2025 Council conclusions are a non-binding tool box, we think that the draft Directive should be brought in line with the model provisions on some of the points mentioned at the wk 3705/26.

A. Should be used as in the relevant model provision:

- Article 3, first subparagraph: The word "Each …"

-Articles 8 and 9: "In accordance with national law" before "be regarded as".

-Article 12(1): The order of the words in the first phrase.

-Article 18(1): The term "existing" after "dissemination of"

B. For the sake of accuracy, these words could be used as in the proposal:

- Article 5(1) and 5(2): "take the necessary measures"

-Article 6(3): "The liability of", "take the necessary measures"

-Article 13(1) and 13(2): "any of the following applies"

-Article 14: "regular" and "scope"

- Article 18(1): "digital" and "development"

-Provisions "referred to" in particular Articles (and not "covered by").

RECENT ACQUIS AND THE PROPOSAL

(Directives (EU)2024/1203, 2024/1226)

We believe that the draft Directive should be brought in line with the recent acquis (Envicrime/VURM) on the points mentioned below.

Article 13(4): the wording based on the Envicrime directive

Article 15(1): the use of "from among their competent authorities" after "shall designate"

Article 16(1): "bodies" and not "entities"

Article 16(2): The words "without prejudice" and the wording at the end of line 3 as in the equivalent provisions in the Envicrime directive and VURM.

PUBLIC

HUNGARY

Reply to the Presidency Questionnaire - Hungary

Subject: Proposal for a Directive on combating firearms trafficking

We are grateful for the structured framework the questionnaire provides for the preliminary examination of the proposal. Please find below our preliminary position on the questions raised, as well as a number of additional substantive observations that are essential to raise at this stage of the negotiations.

1. Model Provisions

Legislative proposals in the area of EU substantive criminal law should adhere as closely as possible to the model provisions adopted by the Council in its 2025 Conclusions. The model provisions represent a carefully negotiated, shared legislative baseline that ensures coherence, predictability and legal certainty across the EU criminal law acquis. **Departures from the model provisions, even if individually minor, risk creating interpretive inconsistencies and may complicate transposition for Member States. It will also contribute to the inflation of its value as a precedent.**
Therefore, as a general principle, the draft Directive should be brought in line with the model provisions on all the points identified by the Presidency in its questionnaire. Hungary has no specific objection to any individual alignment listed under Question 1 and considers that conformity with the model provisions should be the default position, with any deviation requiring clear and specific justification from the Commission.

2. Correlation with the Recent Acquis (Envicrime / VURM)

We equally support alignment with the most recent acquis, in particular the Envicrime Directive and the directive on the violation of restrictive measures, on the issues identified by the Presidency that fall outside the scope of the model provisions. Consistency with these recently adopted instruments is important not only for legal coherence, but also for the practical purposes of transposition: **Member States that have recently and faithfully transposed the Envicrime Directive into their national legal systems should not be required to revisit those transposition measures unnecessarily on account of minor (or major) and unjustified drafting divergences in a new instrument.** We support bringing Articles 13(4), 15(1), 16(1) and 16(2) into alignment with the equivalent provisions of the directives on all points raised by the Presidency. In particular, the replacement of 'without prejudice' with 'without affecting' in Article 16(2), as well as the addition of 'scope of' at the end of that provision, constitutes an unjustified departure from established acquis language and should be corrected.

PUBLIC

3. Additional Observations

3.1 Liability and Sanctions for Legal Persons: coherence

There is a structural coherence problem arising from the proposed sanctions regime as it applies to legal persons. This would impose a significant legislative burden on Member States without any added value in terms of public policy objectives. **The general scheme of sanctions is a matter of general criminal law and should therefore not be subject to a piecemeal approach or ad hoc amendments.** DG JUST assessment of the adequacy of transposition of these directives has not yet been concluded. Requiring Member States to modify transposition measures that have not yet even been assessed for compliance would be premature and counterproductive. Hungary therefore calls on the Commission to ensure full consistency between the liability and sanctions regime for legal persons in the present proposal and the equivalent provisions of the already adopted directive, and to provide a clear explanation and an adequate justification of any intentional deviation.
We find it particularly problematic that the scope of beneficiaries in Article 6(2) of the proposal has been broadened drastically. The reason behind the wording of the existing acquis [e.g. Article 6(2) of the VURM Directive] is that the legal person benefiting from the offence should be the one that is fined or sanctioned otherwise. Opening up the provision by inserting 'third person' would render legal persons subject to sanction in cases where they did not benefit from the offence; thus, this wording could make them criminally liable only because they have been instrumentalised. We find this approach overreaching and unjustified, we call on the use wording that is in full conformity with the recent acquis.

3.2 Limitation Periods: excessive details

The provisions on limitation periods included in the proposal are excessively detailed and lack adequate policy justification for their inclusion in a directive of this nature. **The regulation of limitation periods is a matter that falls within the core of national criminal law, and the level of prescription contemplated by the proposal goes significantly beyond what is necessary to achieve the harmonisation objectives of the instrument. Limitation periods are set out by general rules and are not specific to each criminal offences, therefore they should not be subject to harmonisation unless there is an acceptable justification also supported by the impact assessment**. There is no compelling policy reason why these provisions should feature in the directive at all, or alternatively, why they should be drafted in such prescriptive terms. We call for a thorough review of these provisions with a view to either removing them or substantially simplifying them.

3.3 Aggravating and Mitigating Circumstances

3.3.1 Aggravating Circumstances: irrelevance

Article 8(e)-(f) lists physical harm and fatality as aggravating circumstances. However, these are results that may occur during the commission of any crime, and for a circumstance to qualify as aggravating, it must have a logical link to the offence itself. Offences such as traffic violations, illegal abortion, or prisoner mutiny inherently carry a risk of injury or death. By contrast, the conducts criminalised under Article 3 are not violent crimes — they concern manufacturing, trafficking, or possession, not the use of firearms, and do not typically result in death or injury. The analogy with motorised vehicle offences is instructive: fatal result is not a justifiable aggravating circumstance for car theft, since the offence revolves around dishonest appropriation rather than driving. Causing a

PUBLIC

road traffic accident, on the other hand, inherently involves driving and thus bears a strong likelihood of injury or death.

The appropriate solution lies in the principle of concurrence of offences, a generally recognised concept of criminal law. Any injury or death occurring during the commission of a firearms-related offence under Article 3 should constitute a separate crime, dealt with in concurrence with the firearms offence.

Article 8(g) suffers from the same deficiency: there is no logical link between corruption and the firearms offence. Moreover, treating corruption as an aggravating factor risks running contrary to the ne bis in idem principle.

3.3.2 Mitigating Circumstances: mandatory rules are counterproductive

The inclusion of binding rules on mitigating circumstances in a criminal law directive is, in Hungary's view, counterproductive. Mitigating circumstances are inherently fact-specific and context-dependent, and their assessment requires judicial discretion. Rigid mandatory rules in this area constrain the ability of national courts to deliver proportionate outcomes and risk producing unjust results in individual cases. Hungary strongly favours replacing any mandatory provisions on mitigating circumstances with permissive or optional formulations that preserve the necessary flexibility for Member States and their judiciaries.

3.4 Reporting Obligations: proportionality, administrative burden

We have reservations regarding the scope and frequency of the reporting obligations envisaged in the proposal. Ministries and competent authorities are already subject to a substantial and growing reporting burden under existing EU law, and any additional reporting requirements must be strictly proportionate and operationally feasible.
It is not realistic to expect that ministries will systematically monitor and report on developments in the case law regarding aggravating circumstances on a regular basis. There should be a critical review of all reporting obligations in the proposal to ensure that they are adequate, targeted and not disproportionate, with a view to removing or substantially curtailing those that are unlikely to serve a meaningful purpose in practice.

3.5 Negligence – legal certainty

We do not support the inclusion of 'negligence' in Article 3. References to serious negligence in EU directives are exceptional, and its meaning at EU level remains [in]sufficiently clear. Two recent directives acknowledge this explicitly (the only two where this notion was used): Directive 2024/1226 and Directive 2024/1203 both state in their recitals that the concept of serious negligence is to be interpreted in accordance with national law, having regard to the relevant case-law of the Court of Justice.

However, (1) based on existing texts, serious negligence at in EU provisions refers primarily to a manifest breach of a duty of care — not to any form of negligence within the meaning of the national criminal codes describing different forms of *mens rea*. This is because the only authoritative interpretation is the *Intertanko* judgment (C-308/06), in which the Court held that serious negligence "can only refer to a patent breach of such a duty of care."

(2) In addition, this concept is particularly difficult to apply in the present context, given that point (e), therefore (f) in Article 3 expressly requires awareness on the part of the perpetrator: "*dissemination of blueprints **knowing** that the blueprints may be used for the purpose of committing any of the offences referred to in points (a), (b), (d) and (e).*" The inclusion of serious negligence alongside such a knowledge requirement would create significant interpretive inconsistency and a risk to legal certainty.

PUBLIC

PUBLIC

ITALY

Proposta di Direttiva del Parlamento europeo e del Consiglio relativa alla contro il traffico di armi da fuoco e altri reati connessi alle armi da fuoco e che modifica la direttiva (UE) 2024/1260 del Parlamento europeo e del Consiglio. Osservazioni dell'Italia sul documento di discussione WK 4727/2026.

In vista della riunione COPEN dell'8 aprile 2026, riscontrando i quesiti posti dalla Presidenza del Consiglio UE nel documento WK 4727/2026, si rappresentano di seguito le osservazioni dell'Italia su alcuni articoli della proposta di direttiva in oggetto.

1. **Se i punti e) e f) dell'articolo 3(1) debbano essere riformulati o eventualmente ridotti;**

Riguardo al punto e): reato di creazione, acquisizione, possesso o condivisione di un file di modellazione senza autorizzazione.

Lo scopo della norma appare in linea di principio condivisibile, essendo la medesima volta a prevenire il rischio di fabbricazione autonoma di armi da fuoco mediante tecnologie 3D al di fuori di qualunque regime autorizzativo. Tuttavia, la necessità e proporzionalità di una simile anticipazione della tutela penale va valutata attentamente, in particolare con riferimento alla creazione e al possesso, laddove tali condotte non siano in alcun modo sorrette da una volontà di successivo impiego illecito.

La creazione di un file di modellazione di per sé potrebbe, infatti, non comportare un pericolo tale da rendere necessaria una simile anticipazione di tutela penale, impedendo anche attività assolutamente private e individuali, di ricerca, che si fermino alla progettazione, in vista di una successiva possibile destinazione ad usi leciti e autorizzati, ad esempio nel campo della produzione lecita di armi. Tuttavia, potrebbe essere opportuno mantenere un controllo anche su tali condotte, evitando che le stesse possano porsi in essere senza alcuna regolamentazione. Pertanto, sul punto appare necessaria un'attenta riflessione politica, volta a definire termini che consentano di prevedere le incriminazioni laddove le condotte rappresentino un pericolo concreto.

Diversamente, le condotte di acquisizione e condivisione (con persone individuate) già coinvolgono una partecipazione di più soggetti e dunque una circolazione dei file che, ove al di fuori di ogni preventivo controllo o autorizzazione, comporterebbe un rischio ancor più elevato di uso illecito.

In relazione al punto f): reato di diffusione di file di modellazione.

In questo caso, il rischio insito nella diffusione tra il pubblico appare sicuramente più elevato rispetto alle altre fattispecie sopra descritte, atteso che - una volta diffuso - il file potrebbe cadere in possesso di un numero illimitato di persone in un tempo brevissimo, senza alcuna selezione. Tuttavia, la formulazione della norma suscita qualche perplessità. In primo luogo, l'inciso "knowing that the blueprints may be used for the purpose of committing any of the offences reffered to in points a, b, d, and e", sembra aggiungere all'oggetto del dolo un contenuto non necessario, se il fine della norma è quello precauzionale. Se un soggetto mette a disposizione del pubblico, tramite la rete internet, un file in grado di far produrre autonomamente armi mediante una stampante 3D, dovrebbe essere sufficiente la sua consapevolezza della diffusione, ossia di aver messo quel file a disposizione di chiunque, fuori dal proprio controllo. Il fatto che chiunque possa accedervi al di fuori di ogni supervisione implica, di per sé, anche la possibilità che ne faccia qualunque uso.

PUBLIC

In secondo luogo, suscita dubbi la previsione di cui al paragrafo 2 dell'art. 3, che impone agli SM l'incriminazione delle condotte di diffusione anche se colposa, nei limiti della negligenza grave. Il concetto di negligenza grave, oltre a non essere definito a livello UE, appare di difficile applicazione con riferimento alla diffusione online, tanto più se combinata con un dolo qualificato dall'inciso "knowing that…" di cui sopra.

Più semplicemente, se si incriminasse la sola condotta dolosa di diffusione, senza ulteriori specificazioni dell'oggetto del dolo, si limiterebbe l'accertamento al fatto che l'autore abbia diffuso il file tra il pubblico, essendosi rappresentato tale diffusione. La responsabilità potrebbe essere invece esclusa in presenza di eventi diffusivi indipendenti dalla volontà dell'agente, quali l'intervento di malware.

Alla luce delle considerazioni sopra svolte, una possibile soluzione sarebbe quella di prevedere al punto f) l'incriminazione della condotta di diffusione dolosa senza ulteriori specificazioni, cancellando l'inciso "knowing that…" ed eliminando il paragrafo 2 (negligenza grave).

Infine, ove si decidesse di introdurre entrambe le incriminazioni di cui alle lettere e) ed f), sarebbe opportuno precisare il concetto di condivisione (sharing), in rapporto a quello di diffusione (dissemination), poiché attualmente il testo della proposta prevede solo la definizione della seconda.

Tanto premesso, poiché la decisione di introdurre o meno tali nuove fattispecie e la definizione dei relativi limiti presuppongono una valutazione di natura politica che è tuttora in corso, l'Italia si riserva di esprimere una posizione più definita all'esito delle consultazioni interne.

2. **La loro posizione in merito ai concetti di colpa grave e consapevolezza di cui all'articolo 3(2);**

Si veda il punto 1.

3. **Se concordano con la formulazione e i livelli di pena proposti negli articoli 5 e 7 o, in caso contrario, quale formulazione o livello ritengono appropriato;**

Riguardo all'articolo 5 (sanzioni per le persone fisiche), si osserva quanto segue.

Con riferimento alle sanzioni detentive massime, di cui all'art. 5 paragrafo 2:

- il livello minimo di pena massima di 8 anni appare accettabile con riferimento alle condotte più gravi: fabbricazione e assemblaggio, importazione, esportazione e commercio di armi senza autorizzazione o di armi prive della marcatura o con marcatura manomessa. Diversamente, sembra eccessivo applicare lo stesso livello di pena anche alle condotte che abbiano ad oggetto le munizioni.
- Il livello di 5 anni stabilito per la detenzione illegale di armi appare altresì accettabile, mentre non sembra adeguato prevedere la stessa pena anche per la detenzione di munizioni;
- Non pone problemi la pena di 4 anni stabilita per la falsificazione, copertura, rimozione o alterazione della marcatura;
- Per quanto concerne le due nuove fattispecie relative ai file di modellazione, l'Italia si riserva di valutare l'adeguatezza delle pene solo una volta stabilito se sussista l'opportunità di incriminare tali condotte e ne siano definiti i limiti.

PUBLIC

Con riferimento alle sanzioni di natura non detentiva:

l'art. 5 paragrafo 3 introduce l'elenco delle sanzioni non detentive usando la formula "including the following", in luogo dell'espressione "which may include", che figura invece nella disposizione modello. L'effetto sostanziale è di trasformare l'elenco da una lista di tipo "pick and choose", quale è prevista nella disposizione modello, in una lista tassativa. L'elenco facoltativo è stato preferito, fino ad oggi, al fine di valorizzare le diverse sensibilità degli SM rispetto a ciascuna tipologia di sanzione, e superare la conseguente difficoltà di pervenire ad un accordo sul contenuto di una lista tassativa.

La norma, inoltre, definisce espressamente tali sanzioni come "accessory". Questo termine non figura nella disposizione modello, in cui si tratta più genericamente di "other sanctions".

Non sussistendo valide ragioni per modificare la terminologia, si chiede pertanto di riallineare la norma alle disposizioni tipo.

Riguardo all'articolo 7, si rinvia alla risposta sub. 4.

4. **Se i livelli di pena proposti nell'articolo 6 siano accettabili e se sia accettabile estendere la responsabilità a terzi;**

Preliminarmente si segnala che l'art. 6 non fissa i livelli di pena ma stabilisce le condizioni per la responsabilità delle persone giuridiche, mentre è l'art. 7 a prevedere le sanzioni per queste ultime. Tanto premesso, si osserva quanto segue.

In tema di responsabilità delle persone giuridiche, l'art. 6 paragrafo 2 della proposta, nel disciplinare il caso di reati commessi da sottoposti a causa di un difetto di vigilanza o controllo da parte dei soggetti apicali, estende la responsabilità dell'ente anche alle ipotesi in cui il reato sia stato commesso ad esclusivo vantaggio dell'autore (persona fisica) o di un terzo. Questa previsione, oltre a non avere precedenti in altri strumenti unionali di armonizzazione penale, diverge in modo netto dalla corrispondente disposizione modello, senza che la Commissione abbia fornito una adeguata e convincente giustificazione a suffragio di una scelta così innovativa. La norma nell'attuale formulazione risulterebbe peraltro non conforme ai principi posti in materia di responsabilità delle persone giuridiche dall'ordinamento italiano, stante l'art. 5 del D. lgs. 231/2001, che include tra i presupposti della responsabilità dell'ente la commissione del reato a vantaggio o nell'interesse di quest'ultimo, escludendo espressamente tale responsabilità qualora l'autore persona fisica abbia agito nell'esclusivo interesse proprio o di un terzo. Si ritiene pertanto necessario chiedere il riallineamento della norma con la disposizione modello.

Anche in tema di sanzioni per le persone giuridiche, l'art. 7 della proposta si discosta dalla disposizione modello, sotto un duplice profilo.

In primo luogo, nell'introdurre le due modalità alternative per definire l'importo della sanzione (percentuale sul fatturato o misura fissa), nel paragrafo 4 è stata aggiunta la locuzione "*one of the following amounts, whichever is higher*", e sono state rimosse le parole "*or, alternatively*" poste dopo la prima opzione nella disposizione modello. La versione italiana del testo traduce la formula "one of the following amounts, whichever is higher" con "uno dei seguenti importi, a seconda di quale sia più elevato". Ciò, unito alla rimozione del termine "alternatively", indica come lo scopo di questa modifica sia di imporre agli Stati membri di prevedere come massimo edittale entrambe le opzioni, ma di vincolare poi la scelta alla somma che nel caso concreto risulti più elevata.

PUBLIC

A ciò va aggiunto che l'articolo 7, paragrafi 4 e 5, fissano livelli in percentuale sul fatturato mondiale di gran lunga superiori a quelle previste nelle disposizioni modello e nelle altre direttive (20% e 10% del fatturato, a seconda dei diversi reati, a fronte di 5% e 1/3% delle disposizioni standard). Sebbene il considerando 21 identifichi la ragione di questo forte aumento con la considerazione che le armi abbiano una lunga vita e una volta immesse nel mercato illegale possano moltiplicare i danni arrecati per un lungo arco tempo, non va trascurata la necessità di coerenza con altre direttive in materia penale, che pure riguardano reati i cui effetti nocivi possono continuare a prodursi per un tempo molto dilatato, se non perpetuo (si pensi, per tutti, ai reati ambientali). La forte disparità, oltre a violare il principio di proporzionalità e necessità del diritto dell'UE, rischierebbe di incidere negativamente sull'equilibrio dei sistemi sanzionatori interni degli Stati membri.

Tanto premesso, si ritiene dunque necessario, per coerenza con gli altri strumenti penali e al fine di garantire la proporzionalità e l'equilibrio dei sistemi sanzionatori degli Stati membri, di riallineare la formulazione alla disposizione modello, sia per quanto concerne gli importi e le percentuali, sia per quanto concerne l'alternatività senza vincoli dei sistemi di calcolo, che consente agli SM maggior margine di manovra per adeguare le sanzioni al contesto nazionale specifico.

5. **Se gli elenchi di circostanze aggravanti e attenuanti di cui agli articoli 8 e 9, così come formulati, siano accettabili.**

Preliminarmente, si rileva che dalle norme sulle circostanze aggravanti e attenuanti è stato eliminato l'inciso "*in accordance with national law*", previsto nelle disposizioni-tipo, e nell'introduzione è stata utilizzata una formulazione parzialmente diversa ("*Member States shall take the necessary measures to ensure*" anziché semplicemente "*Member States shall ensure*").

Atteso che non emergono specifiche giustificazioni per queste divergenze, si chiede il riallineamento alle disposizioni modello per entrambe le norme.

Con riguardo al contenuto delle singole circostanze, inoltre, si nota che nella disposizione sulle attenuanti non è presente un elenco facoltativo, introdotto dalla formula "one or more of the following", bensì viene indicata come obbligatoria la previsione dell'attenuante della collaborazione, definendone i presupposti necessari. Anche questa appare un ingiustificato discostamento dalla model provision, pertanto se ne chiede il riallineamento.

Quanto, infine, al contenuto dell'elenco delle aggravanti, alcune di queste sono di fatto elementi integranti reati di diversa natura, che possono intervenire in concorso con i reati in materia di armi. Tuttavia, l'articolo 8 fa espressamente salvi i casi in cui le aggravanti siano già elementi essenziali di un reato, e lascia comunque agli SM la facoltà di scelta di una o più delle circostanze elencate. Pertanto, su questo punto si ritiene di poter mostrare flessibilità, a condizione che l'elenco rimanga del tipo "pick and choose" (facoltativo).

PUBLIC

Courtesy translation

Proposal for a Directive of the European Parliament and of the Council on combating firearms trafficking and other firearms-related crimes and amending Directive (EU) 2024/1260 of the European Parliament and of the Council. Comments by Italy on discussion paper WK 4727/2026.

In view of the COPEN meeting of 8 April 2026, in response to the questions posed by the Presidency in document WK 4727/2026, Italy presents the following comments on certain articles of the proposed directive on combating firearms trafficking and other firearms-related crimes.

1. Whether Article 3(1) points (e) and (f) would need to be redrafted or possibly reduced

Regarding point (e): the criminal offence of creating, acquiring, possessing, or sharing a blueprint without authorization.

The purpose of the provision appears to be generally acceptable, as it aims to prevent the risk of autonomous manufacturing of firearms using 3D technologies outside of any authorization regime. However, the necessity and proportionality of such an advance incrimination should be carefully assessed, particularly with regard to creation and possession, where such conduct is in no way supported by the intention of subsequent illicit use.

Indeed, the creation of a blueprint in itself might possibly pose a risk not so high as to warrant such advance incrimination, when preventing completely private and individual research activities that stop at the design stage, with a view to possible subsequent use for lawful and authorized purposes, such as in the field of lawful weapons production. However, it might be appropriate to maintain control over such conduct, preventing it from being carried out without any regulation. Therefore, careful political reflection on this point appears necessary, aimed at defining limits that allow for criminal charges to be provided for where the conduct poses a concrete danger.

Conversely, the acquisition and sharing (with identified individuals) already involve the participation of more than one person and therefore the circulation of files, which, if not subject to any prior control or authorization, would entail an even greater risk of illicit use.

Regarding point f): the crime of disseminating modeling files.

In this case, the risk inherent in disseminating the file to the public certainly appears higher than in the other offenses described above, given that—once disseminated—the file could fall into the possession of an unlimited number of people in a very short time, without any selection. However, the wording of the provision raises some concerns.

Firstly, the clause "*knowing that the blueprints may be used for the purpose of committing any of the offenses referred to in points a, b, d, and e*" seems to add unnecessary content to the object of intention, if the purpose of the provision is precautionary. If a person makes available to the public, via the internet, a file that makes anyone capable of independently producing weapons using a 3D printer, the person’s awareness of the dissemination (that is, the awareness of having made the file available to anyone outside of his/her control) should be sufficient. The fact that anyone can access the file without any supervision implies, in itself, the possibility of making any use of it.

Secondly, the provision in Article 3, paragraph 2, requiring Member States to criminalize dissemination even when committed with serious negligence, raises doubts. The concept of serious negligence is not defined at the EU level and proves to be difficult to apply in concrete with regard to online dissemination, especially when combined with an intent qualified by the abovementioned phrase "knowing that...(etc.)".

PUBLIC

More simply, by criminalizing the intentional conduct of dissemination without further specification of the intention object, it would be sufficient to ascertain the fact that the author distributed the file to the public, knowing to be disseminating it. Liability could, however, be excluded in the presence of dissemination events beyond the agent's control, such as in case of malware infection.

In light of the above considerations, a possible solution would be to include in point (f) the criminalization of intentional dissemination without further specification, by deleting the phrase "*knowing that the blueprints may be used for the purpose of committing any of the offenses referred to in points a, b, d, and e* " and eliminating paragraph 2 of Article 3 (serious negligence).

Finally, if it were decided to criminalise both the conducts under points (e) and (f), it would be appropriate to explicitly define the concept of *sharing*, as opposed to *dissemination*, since the current text of the proposal only defines the latter.

Having said that, since the decision whether or not to introduce these new criminalizations and the definition of their limits presupposes a political assessment that is still ongoing at the national level, Italy reserves the right to express a position on this point following the outcome of internal consultations.

2. Their position on the notion of serious negligence and knowledge under Article 3(2);

Please see above, sub point 1.

3. Whether you agree with the wording and levels of penalties proposed in Articles 5 and 7, or, if not, what wording or level do they consider appropriate?

Regarding Article 5 (sanctions for natural persons), the following is noted.

With reference to the maximum custodial sentences referred to in Article 5, paragraph 2:

- The minimum maximum penalty of 8 years appears acceptable for the most serious conducts: manufacturing and assembly, import, export, and trade in weapons without authorization or weapons without marking or with tampered marking. Otherwise, it seems excessive to apply the same penalty to conduct only involving ammunition.

- The 5-year penalty established for the illegal possession of weapons also appears acceptable, while it does not seem appropriate to provide for the same penalty for the possession of ammunition;

- The 4-year sentence established for falsification, obscuring, removing, or altering the marking does not pose any problems;

- With regard to the two new offences relating to blueprints, Italy reserves the right to assess the appropriateness of the penalties only once the decision on the incrimination of such conducts has been taken and the limits thereof have been defined.

Regarding non-custodial sanctions:

Article 5, paragraph 3, introduces the list of non-custodial sanctions by the words "*including the following*" rather than the expression "*which may include*" used in the model provision. The substantial effect is to change the list from a "pick-and-choose" list, as envisaged in the model provision, into a mandatory list. The optional list has been preferred, until now, in order to take into account the different sensitivities of Member States with respect to each type of sanction and overcome the resulting difficulty in reaching an agreement on the content of a mandatory list.

PUBLIC

The provision also expressly defines these sanctions as "*accessory*". This term does not appear in the model provision, which more generally refers to "*other sanctions*".

Since there are no valid reasons to change the terminology, we therefore request that the paragraph be realigned with the model provisions.

Regarding Article 7, please refer to the answer in subsection 4.

4. Whether the levels of penalties proposed in Article 6 are acceptable, and whether it is acceptable to extend liability to a third person.

Preliminarly, it should be noted that Article 6 does not establish penalty levels but it establishes the conditions for the liability of legal persons, while Article 7 establishes the sanctions for the latter. Given the above, the following is noted.

Regarding the liability of legal persons, Article 6, paragraph 2 of the proposal, in the case of crimes committed by persons subject to the authority of others, due to a lack of supervision or control by the leading persons, extends the entity's liability to cases in which the crime was committed for the exclusive benefit of the perpetrator (natural person) or a third party. This provision, in addition to being unprecedented in other EU criminal law harmonization instruments, diverges markedly from the corresponding model provision, without the Commission having provided an adequate and convincing justification for such a novelty. Furthermore, the current provision would not comply with the principles established by the Italian law regarding the liability of legal persons, given that Article 5 of Legislative Decree 231/2001 requires the crime to be committed for the benefit or in the interest of the entity, as a condition for the liability of the latter. The mentioned law expressly excludes such liability if the natural person acted exclusively in his/her own interest or in the interest of a third party. Therefore, Italy asks to realign Article 6 with the model provision.

Also regarding sanctions for legal persons, Article 7 of the proposal deviates from the model provision in two respects.

Firstly, to introduce the two alternative methods for determining the amount of the penalty (percentage of turnover or fixed amount), art. 7 paragraph 4 reports the phrase "*one of the following amounts, whichever is higher*", while the words "*or, alternatively*", which appear after the first penalty option in the model provision, were removed. This amendment, as also confirmed by the Italian version of the text, indicates the purpose to require Member States to provide for both options as the maximum penalty, but to restrict the choice to the amount that is higher in the specific case.

Furthermore, Article 7, paragraphs 4 and 5, set percentage levels of global turnover far higher than those set out in the model provisions and other directives (20% and 10% of turnover, depending on the crime, compared to 5% and 1/3% under the model provisions). Although Recital 21 identifies the reason for this sharp increase as the consideration that weapons have a long lifespan and, once placed on the illegal market, can multiply the damage caused over a long period of time, the need for consistency with other criminal law directives should not be overlooked. Indeed, there are other crimes whose harmful effects can continue to be produced for a very long time, if not in perpetuity (e.g. environmental crimes). This significant disparity, in addition to violating the principles of proportionality and necessity under EU law, risks negatively impacting the balance of Member States' internal sanctioning systems. Given the above, with a view to consistency with other criminal law instruments and to respect of the proportionality and balance of Member States' sanctioning systems, Italy deems it necessary to

realign the wording with the model provision, both with regard to amounts and percentages and with regard to the unconstrained alternativeness of calculation systems. The latter would allow Member States greater flexibility to adapt sanctions to the specific national context.

5. Whether the lists of aggravating and mitigating circumstances in Articles 8 and 9 as currently drafted are acceptable.

First of all, it is noted that the clause "*in accordance with national law*" provided for in the model provisions, has been removed from the provisions on aggravating and mitigating circumstances, and a partially different wording has been used in the introduction ("*Member States shall take the necessary measures to ensure*" instead of simply "*Member States shall ensure*").

Given that no specific justification emerge for these divergences, Italy requests that both provisions be realigned with the model provisions.

Furthermore, regarding the content of individual circumstances, it is noted that the provision on mitigating circumstances does not include an optional list, introduced by the formula "*one or more of the following*" but rather specifies the mitigating circumstance of cooperation as mandatory, defining the necessary prerequisites. This also appears to be an unjustified deviation from the model provision, and therefore its realignment is requested.

Finally, regarding the content of the list of aggravating circumstances, some of these are in fact constituent elements of different crimes, which may occur in conjunction with weapons-related crimes. However, Article 8 expressly excludes cases in which the aggravating circumstances are already essential elements of a crime, and in any case leaves Member States free to choose one or more of the circumstances listed. Therefore, on this specific point, Italy can express flexibility, provided that the optional nature of the list ("pick-and-choose") remains.

PUBLIC

PUBLIC

LATVIA

Latvia kindly informs that the written comments of Latvia at this stage are preliminary as we have a scrutiny reserve over all the proposal of Firearms, please find below written comments of Latvia regarding document number 7439/26:

1. *Preliminary Latvia can support the criminalisation of the crimes which are in the draft Directive.*
2. *Latvia agrees with the definition of blueprint proposed in the draft Directive as well as with the introduction of criminal liability for serious negligence of such blueprints.*
3. *Latvia could support approach to establishing common minimum limitation periods for criminal liability for offences under the draft Directive.*
4. *Latvia has no objections against designated single National Firearms Focal point, at the same time it must be noted that creation of such focal point will require both financial and time resources, as currently at the national level there are no ready solutions for collecting and analysing such information and such information is currently accumulated in separate registers/systems.*
5. *Latvia could support the proposal to register seized weapons and could support the amount of data to be accumulated for the seized firearm.*
6. *Latvia has no conceptual objections to the proposal, as regards the preparation of statistics on domestic offences, however, it is not clear from the document whether these statistics will specifically cover offences relating to firearms offences or the total national crime statistics. We must note that nationally not all the statistics indicated are currently available, so that both financial and time resources will have to be provided for the compilation of all the statistics required.*
7. *Latvia has no objections for Commission to be empowered to adopt delegated acts to amend the minimum dataset for registering seized firearms.*

PUBLIC

LUXEMBOURG

Written observations from the Luxembourg delegation regarding Draft Directive on Firearms trafficking, in view of COPEN of 8 April 2026

Luxembourg welcomes the proposal for this directive which addresses, among others, a very important aspect of the transnational fight against organized crime. Luxembourg would like to thank the Commission and the Presidency for pushing this matter forward.

*

This note is intended to provide written observations in response to the questions asked by the Presidency in document WK 4727/2026 of 27 March 2026, in view of the COPEN meeting of 8 April 2026.

- **Whether Article 3(1) points e and f would need to be redrafted or possibly reduced**

We confirm that the offences listed under paragraph 1., subparagraphs (a) to (d) are currently incriminated under Luxembourg law. We can therefore agree with such list of offences. We do however maintain a scrutiny reservation with regard to the concrete wording of the provisions.

With regard to subparagraphs (e) and (f), we believe a redrafting is necessary. In the current form of the text, it is not sufficiently clear what differentiates the offence of “sharing a blueprint without authorization” from the offence of “dissemination”.

- **Their position on the notions of serious negligence and knowledge under Article 3(2)**

We oppose to the incrimination of “serious negligence” with regard to the dissemination of blueprints as it is currently drafted. The cases of application and the concrete behavior to be incriminated do not clearly emerge from the text.

With regard to the definition of “blueprints”, we maintain a scrutiny reservation, as we have not yet been able to coordinate with the competent authorities on that subject.

- **Whether you agree with the wordin and the levels of penalties proposed in Articles 5 and 7, or, if not, what wording or level they consider appropriate**

We provisionally agree with the proposed levels of penalties for natural persons and for legal persons, as well as with the proposed accessory penalties.

- **Whether the levels of penalties proposed in Article 6 are acceptable, and whether it is acceptable to extend liability to a third person**

We agree with Article 6, to the extent that it outlines the mechanism of the criminal liability of legal persons.

- **Whether the list of aggravating and mitigating circumstances in Articles 8 and 9 as drafted are acceptable**

We can provisionally agree with the lists of aggravating and mitigating circumstances.

*

PUBLIC

In addition, we would like to issue the following comments on some of the remaining provisions:

Article 12: We agree with paragraph 1, but we are not convinced that the detailed rules provided for in paragraphs 2 to 5 are necessary. We are however flexible towards maintaining such rules, subject to a scrutiny reservation.

Article 15: We are not opposed to the idea of having each Member State designate a single focal point in order to facilitate cooperation and coordination. We do however maintain a scrutiny reservation regarding the organization and the missions of such focal point, as we have not yet been able to coordinate with the competent authorities. At the previous COPEN meeting, the Commission explained that they have elaborated a table with relevant information about the national bodies they currently considered to be such focal points and that the Commission is willing to share such table. We would be interested in receiving a copy of such table.

Article 17: We maintain a scrutiny reservation regarding the information to be registered in case of a seizure of a firearm, as we have not yet been able to coordinate with the competent authorities.

Article 18: We maintain a scrutiny reservation regarding the statistical data to be collected, as we have not been able to coordinate with the competent authorities. As a general principle, only data which is strictly necessary should need to be collected and any administrative burden which is not strictly necessary must absolutely be avoided.

PUBLIC

NETHERLANDS

Firearms Directive – Written contribution by the Netherlands

The Netherlands would like to thank the Presidency for the opportunity to comment on the correlation between the proposal and the model provisions on EU substantive Criminal law and the recent acquis as regards issues not covered by the Model provisions. The Netherlands is pleased to take make use of this opportunity and expresses her appreciation to the Presidency for its work in this regard.

These remarks focus solely on the differences between the provisions in the proposal and the Model provisions and cannot be interpreted in any way as a position on the substance of the different provisions in the proposal.

The Netherlands considers the recent adoption of the Council Conclusions regarding Model provisions for EU criminal law of great importance, since these are important tools to enable constructive negotiations, to promote legal consistency and to achieve efficient legislative outcomes. We also refer to the letter from December 2025 signed by Members States, calling on the Commission to actively make use of these Model provisions. Against this background we consider it important that the proposal aligns as closely as possible with the Model provisions and other recently adopted substantive Criminal law directives. In addition to the divergations in the proposal identified by the Presidency, we would like to draw particular attention to the following points.

- In Article 4(1) and 4(2), the word “intentional” before “criminal offense” in the model provisions is not included in the proposal. We think it is relevant to include this word in Article 4(1), since Article 3 also refers to ‘serious negligence’.
- Article 5(3) uses “including the following,” while the model provision uses “which may include the following.”
- Article 7(4) and 7(5) of the proposal use “whichever is higher” in relation to the minimum maximum fine for legal persons; the model provisions use “or alternatively.” In addition, the proposed minimum maximum fines for legal persons in the proposal diverge substantially from the model provision. We point out that the Model provisions as a reference mentions percentages of 1,

3 and 5%. Recent EU-legislation, such as the Envicrime-directive (2024/1203) and the VURM (2024/1226), also use percentages of 1, 3 and 5 %.

- Article 14 uses the phrase “shall take the necessary measures to ensure that specialized regular training is provided,” whereas the model provisions use the phrase “shall promote specialized training.”

The above mentioned points could potentially lead to more far-reaching obligations for Member States compared to the Model provisions and other recently adopted substantive criminal law directives. In addition to the Presidency's observations, we have noted that the proposal diverges from the model provisions also in some other instances, in terms of (slightly different) wording or structure. Reference is made in this regard to Articles 5(1) and 5(2), 6(1) and 6(2), 7(3)(h), 9, 12(1), 12(2), 12(3), and 13(3).

PUBLIC

PUBLIC

POLAND

regarding Doc. 13705/2026 REV 1 – Directive on Firearms trafficking – Presidency note

Poland welcomes the Presidency's initiative aimed at facilitating the examination of the draft Directive by identifying issues requiring further reflection, in particular as regards its consistency with the model provisions on EU substantive criminal law and with the most recent acquis.

Poland consistently maintains the position that the model provisions endorsed in the Council conclusions of December 2025 constitute a useful legislative tool to ensure greater coherence, predictability and efficiency of EU criminal law. At the same time, Poland underlines that their application should be assessed on a case-by-case basis, taking into account the specificities of the legislative act concerned and its objectives, while preserving their non-binding nature as a "toolbox".

With regard to the first question raised by the Presidency concerning the correlation between the proposal and the model provisions, Poland supports aligning the draft Directive, to the greatest extent possible, with the agreed model provisions, in particular as regards the structure of the provisions and the terminology used. At the same time, Poland considers that, in certain areas, divergences may be justified by the specific nature of the subject matter, especially in the context of firearms-related offences, which are associated with a high level of risk to public security.

In this context, Poland can accept the approach taken in the proposal whereby criminal liability also extends to conduct committed with at least serious negligence, notwithstanding that the model provisions generally refer to intentional conduct. This approach is also reflected in other EU legal instruments, in particular in Directive (EU) 2024/1203 on the protection of the environment through criminal law, which provides for the possibility of criminalising conduct committed with at least serious negligence in relation to the most serious offences.

At the same time, Poland supports maintaining the highest possible degree of consistency with the model provisions in respect of standard legislative constructions, such as liability of legal persons, penalties and measures, as well as aggravating and mitigating circumstances. In particular, Poland considers that it would be appropriate to retain references to the application of such provisions "in accordance with national law", thereby preserving the necessary flexibility for implementation by the Member States.

As regards terminological and drafting differences (such as the use of the formula "take the necessary measures" or "referred to" instead of "covered by"), Poland considers that these do not have substantial normative implications. However, their alignment with the model provisions would be desirable from the perspective of clarity and consistency of EU legislation.

With regard to the second question raised by the Presidency concerning the correlation between the proposal and the most recent acquis, Poland emphasises the importance of ensuring consistency with existing EU criminal law instruments, in particular Directive (EU) 2024/1203 on environmental crime and Directive (EU) 2024/1226 on the violation of Union restrictive measures. Such consistency

PUBLIC

facilitates uniform transposition, enhances legal certainty and contributes to more effective cross-border cooperation.

In this context, Poland is inclined to align the draft Directive with the solutions adopted in the most recent acquis as regards both terminology and legislative techniques, in particular through the use of established drafting formulas (such as “without prejudice”), as well as by ensuring consistency in provisions relating to cooperation between competent authorities, jurisdiction and exchange of information.

At the same time, Poland notes that the environmental crime Directive provides for a high level of harmonisation as regards the definition of offences, liability and penalties, while leaving a certain margin of discretion to the Member States in terms of implementation. In Poland’s view, a similar approach, combining harmonisation with flexibility, should also be followed in relation to the proposed Directive on firearms-related offences.

In conclusion, Poland supports further work on the draft Directive, while advocating for ensuring its consistency both with the model provisions on EU substantive criminal law and with the most recent acquis, with due regard to the need for appropriate legislative flexibility and respect for the competences of the Member States.

PUBLIC

SLOVENIA

Proposal for a Directive of the European Parliament and of the Council on combating firearms trafficking and other firearms-related offences and amending Directive (EU) 2024/1260 of the European Parliament and of the Council

Written comments of Slovenia

WK 6849/26

All the preliminary positions outlined in this document are still subject to parliamentary scrutiny. Slovenia reserves the right to amend all the positions at the later stage of the negotiations.

1. **Definitions of firearms-related criminal offences**

Under the understanding that the exact wording of the articles may need to be revisited, would you agree with the substance of the list of offences set out in Article 3 of the proposal?

We support the proposed scope of criminal offences. Nevertheless, the categories of criminal offences will need to be clearly and appropriately defined and delineated, while taking into account the level of threat posed by each specific act, in order to establish proportionate criminal penalties.

2. **Specifically on the offence of dissemination of blueprint**

   a. *Would you agree with the definition of blueprint proposed in the draft Directive?*

Yes

   b. *Would you agree with the introduction of criminal responsibility for serious negligence, with regard to the offence of dissemination of blueprints?*

No. Criminal responsibility should be established without mixing the element of serious negligence into the concept of intent based criminal liability. We propose to further explore the reformulation of point (f) paragraph 1 of Article 3.

3. **Limitation periods**

Do you agree that there is a need for the detailed rules on limitation periods contained in Article 12(2)-(5)?

We agree with adopting rules on limitation periods; however, we do not support the approach to make the rules too detailed. We should adhere to the approach as outlined in the model provisions after we have reached an agreement on the definitions and penalties.

4. **National Firearms Focal points**

   a. *Do you agree that there should be an obligation for a Member States to designate a single National Firearms Focal point for coordination and cooperation among all its competent authorities involved in the prevention of and fight against all firearms-related criminal offences, and, if so,*

Member States should have a single entry point of such kind on a national level. Such an approach would minimize the potential for errors and overlap of competences.

   b. *Do you agree with the substance of the list of tasks that the Focal points should "at least have"?*

We agree with the list of tasks, however the tasks should not overlap with the competences of other national authorities, such as the judiciary and state prosecutors.

5. **Minimum dataset of registering seized firearms**

   a. *Do you agree with the obligation to register seized firearms under a minimum dataset?*

We agree with this obligation.

   b. *If so, do you agree with the minimum dataset set out in the annex to the proposal?*

The proposed minimum set of data would be sufficient.

6. **Statistical data**

Do you agree with the list of data that should be submitted to the Commission, as indicated above?

No, we should adhere to model provisions.

7. **Delegation**

Do you agree that the Commission should be empowered to adopt delegated acts to amend the minimum dataset for registering seized firearms?

Yes.

PUBLIC

PUBLIC

SWEDEN

General remarks

This is the first directive being negotiated following the Council's adoption of the conclusions on the new model provisions in December last year. Although the provisions largely reflect what has been agreed with the European Parliament over recent years, this is the first time that the Commission itself applies them so extensively in a new legislative proposal in the field of criminal law. It is therefore essential that the model provisions are now followed meticulously. By relying on language and formulations that have already been agreed upon at the EU level, we can work in a more streamlined and constructive way.

Regarding Article 3, point 1, (e) and (f), Sweden has specific constitutional rules on freedom of the press and freedom of expression in other media. The purpose of these constitutional rules is, *inter alia*, to secure the free exchange of opinion but they also provide a way for the public to exercise control over the public administration. These rules include e.g. the principle of sole responsibility, meaning that only one person (often the editor) can be held responsible for the content in, for example, a newspaper. Therefore, that person is also the one who decides on the content of the newspaper (in this example).

Any crime that involves e.g. statements or images could, at least in theory, be committed through media that are covered by these constitutional rules. For instance, proposals to criminalise the publication of blueprints for 3D-printed weapons could potentially raise such issues, as these rules may collide with the constitutional rules afforded to expressions in certain media. While any difficulties are unlikely to arise in practice, the merely theoretical conflict with our Constitutional laws needs to be resolved.

It is therefore necessary to insert an article in line with language included in other EU instruments that may have an impact on the freedom of expression, for example Article 7 in the Framework Decision on Racism and Xenophobia and Article 47 in the Directive on combating violence against women and domestic violence.

In conclusion, our suggestion is to add a new article (e.g. Article 1bis), which reads as follows:

Freedom of the press and freedom of expression in other media

This Directive shall not affect special liability regimes relating to fundamental principles on the freedom of the press and the freedom of expression in media which exist in Member States as of

PUBLIC

[the date of entry into force of this Directive], provided that such regimes can be applied in full compliance with the Charter.

Detailed comments

Article 2

Definitions

[…]

6. 'legal person' means any ~~legal~~ entity having ~~such status~~ **legal personality** under ~~the~~ applicable national law, except **for** States or public bodies [**in the] that** exercise State authority and **for** public international organisations;

Commented [A1]: Not model provision, but could be aligned with Article 2.8 Directive on corrution.

Article 3

Firearms-related criminal offences

1. **Each** Member States shall ensure that, ~~where it is intentional, any of~~ the following ~~acts~~ **conduct** constitute**s** a criminal offence, **when committed intentionally,** irrespective of whether it was committed online or offline:

Commented [A2]: Adjustments according to the model provisions.

Not a model provision, but **if serious negligence remains in**, Article 3 ENVI could be used to reformulate serious negligence in paragraph 1.

Member States shall ensure that the conduct listed in point (a) to (e), when committed intentional, and the conduct listed in point (f), when carried out with at least serious negligence, constitutes a criminal, irrespective of whether it was committed online or offline.

(a) the manufacturing or assembly of firearms, their essential components or ammunition carried out under any of the following circumstances:

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

(ii) without an authorisation issued in accordance with Article 4 of Directive (EU) 2021/555 by a competent authority of the Member State where the manufacture or assembly takes place; or

(iii) without marking firearms and essential components at the time of manufacture in accordance with Article 4 of Directive (EU) 2021/555;

(b) firearms trafficking, meaning the import, export, acquisition, sale, delivery, movement or transfer of firearms, essential components or ammunition from or through the territory of one Member State, or third country, to that of another Member State or third country, carried out under any of the following circumstances:

Commented [A3]: This para should rather figure under article 2, Definitions.

(i) any of the Member States or third countries concerned does not authorise it in accordance with Directive (EU) 2021/555, Regulation (EU) 2025/41, the UN Firearms Protocol or applicable national laws; or

(ii) the firearms, essential components or ammunition are not marked in accordance with Article 4 of Directive (EU) 2021/555 or Article 6 of Regulation (EU) 2025/41;

(a) falsifying or illicitly obliterating, removing or altering the marking(s) on firearms and essential components;

(b) possession of firearms, their essential components and ammunition without authorisation or declaration in accordance with Directive (EU) 2021/555;

(c) creating, acquiring, possessing or sharing, a blueprint without authorisation;

(d) dissemination of blueprints knowing that the blueprints may be used for the purpose of committing any of the offences referred to in points (a), (b), (d) and (e).

1. Member States shall ensure that the conduct referred to in paragraph 1 point (f), also constitutes a criminal offence where it is committed with at least serious negligence.

Commented [A4]: See above.

Article 4

Inciting, aiding and abetting, and attempting

1. Member States shall ensure that inciting, **and** aiding and abetting, the commission of a criminal offence **covered by** ~~referred to in~~ Article 3 is punishable as a criminal offence, ~~irrespective of whether it was committed online or offline.~~

Commented [A5]: Adjustments according to the model provisions.

"Irrespective of […]" already follows from Article 4.

~~2.~~ Member States shall ensure that an attempt to commit a criminal offence **covered by** ~~referred to in~~ Article 3(1) is punishable as a criminal offence~~., irrespective of whether it was committed online or offline.~~

Article 5

Penalties for natural persons

1. Member States shall ~~take the necessary measures to~~ ensure that **where a natural person commits an offence covered by** ~~he criminal offences referred to in~~ Articles 3 and 4, **the criminal offence is** ~~are~~ punishable by effective, proportionate and dissuasive criminal penalties.

Commented [A6]: Model provision.

2. Member States shall ~~take the necessary measures to~~ ensure that:

(a) the criminal offences referred to **by** ~~in~~ Article 3(1), points (a) and (b) are punishable by a maximum **penalty** ~~term~~ of imprisonment of at least eight years;

PUBLIC

(b) the criminal offence referred to **by** ~~in~~ Article 3(1), point (c), is punishable by a maximum **penalty** ~~term~~ of imprisonment of at least four years;

(c) the criminal offence referred to **by** ~~in~~ Article 3(1), point (d) is punishable by a maximum **penalty** ~~term~~ of imprisonment of at least five years;

(d) the criminal offences referred to **by** ~~in~~ Article 3(1), points (e) and (f)**,** are punishable by a maximum **penalty** ~~term~~ of imprisonment of at least two years.

3. Member States shall ensure that natural persons who have committed the criminal offences **covered by** ~~as referred to in~~ Articles 3 and 4 may be subject to **other** ~~accessory~~ criminal or non-criminal penalties or measures **which may** include **e** ~~ing~~ the following:

~~(a)~~ fines that are proportionate to the gravity of the **conduct;** ~~, act and to the individual financial and other circumstances of the natural person concerned and, where relevant, that are determined taking due account of the gravity and duration of the damage caused;~~

(b) exclusion from access to public funding, including tender procedures, grants, concessions and licences;

(c) disqualification from holding, within a legal person, a leading position of the same type used for committing the criminal offence;

(d) withdrawal of permits and authorisations to possess and use any firearm, essential component or ammunition;

(e) temporary bans on running for public office;

(f) where there is a public interest, following a case-by-case assessment, publication of all or part of the judicial decision that relates to the criminal offence committed and the penalties or measures imposed, which may include the personal data of convicted persons only in duly justified exceptional cases.

Article 6

Commented [A7]: Aligned with the model provisions.

Liability of legal persons

1. Member States shall ensure that legal persons can be held liable for the criminal offences **covered by** Articles 3 and 4 where the criminal offences have been committed for the benefit of those legal persons by a **natural** person who has a leading position **within** ~~therein~~ **that legal person** ~~(the 'leading person')~~ and who acts individually or as part of an organ of that legal person on the basis of any of the following **(the "legal person")**:

(a) a power of representation of the legal person;

(b) an authority to take decisions on behalf of the legal person; **or**

(c) an authority to exercise control within the legal person.

2. Member States shall ensure that legal persons can be held liable for criminal offences **covered by** ~~referred to in~~ Articles 3 and 4 where the lack of supervision or control by a leading person has made possible, by a **natural** person under their authority, the commission of a criminal offence **covered by** ~~referred to in~~ Articles 3 and 4, for the benefit of ~~that person, a third person, or~~ that legal person.

3. The liability of legal persons under paragraphs 1 or 2 shall not preclude criminal proceedings against natural persons who commit, incite or are accessories to the criminal offences **covered by** ~~referred to in~~ Articles 3 and 4.

Article 7

Commented [A8]: Aligned with the model provisions.

Penalties for legal persons

1. Member States shall ensure that where a legal person is held liable pursuant to Article 6(1) and (2), the criminal offence is punishable by effective, proportionate and dissuasive criminal or non- criminal penalties or measures.

2. Effective, proportionate and dissuasive criminal or non-criminal penalties or measures **shall** ~~may~~ include criminal or non-criminal fines and **may** ~~shall~~ include **other** ~~accessory~~ criminal or non-criminal penalties or measures, such as:

(a) exclusion from entitlement to public benefits or aid;

(b) exclusion from access to public funding, including tender procedures, grants and concessions;

(c) disqualification from the practice of business activities;

(d) withdrawal of permits and authorisations to pursue activities which have resulted in the criminal offence;

(e) placing under judicial supervision;

(f) judicial winding-up;

(g) closure of establishments used for committing the criminal offence;

PUBLIC

(h) where there is a public interest, publication of all or part of the judicial decision relating to the criminal offence committed and the penalties or measures imposed, without **prejudice to** ~~affecting the~~ rules on privacy and the protection of personal data.

3. Member States shall ensure that where a legal person is held liable pursuant to Article 6 for criminal offences **covered by** ~~referred to in~~ Article 3, **it** ~~the criminal offence~~ is punishable by criminal or non-criminal fines. The amount of such fines shall be proportionate to the gravity of the **conduct** ~~act~~ and to the individual, financial and other circumstances of the legal person **concerned**. **Member States shall ensure that the maximum level of such fines is not less than**

~~4. Member States shall ensure that~~ for criminal offences **covered by** ~~referred to in~~ Article 3(1), points (a) and (b~~), the maximum level of fines referred to in paragraph 3 of this Article is not less than one of the following amounts, whichever is higher:~~

(a) 20% of the total worldwide turnover of the legal person, either in the business year preceding that in which the criminal offence was committed or in the business year preceding the decision to impose the fine**, or alternatively**;

(b) an amount corresponding to EUR 10 **000 000**~~million~~;

5. ~~Member States shall ensure that~~ for criminal offences **covered by** ~~referred to in~~ Article 3(1), points (c) to (f), ~~the maximum level of fines referred to in paragraph 3 of this Article is not less than one of the following amounts, whichever is higher~~:

(a) 10% of the total worldwide turnover of the legal person, either in the business year preceding that in which the criminal offence was committed or in the business year preceding that of the decision to impose the fine**, or alternatively**;

(b) an amount corresponding to EUR 5 **000 000**~~million~~.

6. Member States may establish rules for cases where it is not possible to determine the amount of the fine on the basis of the total worldwide turnover of the legal person in the business year preceding that in which the criminal offence was committed or in the business year preceding that of the decision to impose the fine.

Article 8

Commented [A9]: Aligned with the model provisons.

Aggravating circumstances

To the extent that the following circumstances do not form part of the constituent elements of the criminal offences **covered by** ~~referred to in~~ Articles 3 and 4, Member States shall ~~take the necessary~~

~~measures to~~ ensure that, in relation to the criminal offences **covered by** ~~referred to in~~ Articles 3, one or more of the following circumstances can, **in accordance with national law,** be regarded as an aggravating circumstance:

(a) the criminal offence involves 10 or more firearms;

(b) the criminal offence involves Category A firearms, as set out in Annex I of Directive (EU) 2021/555;

(c) the criminal offence relates to a terrorist offence as defined in Article 3 of Directive (EU) 2017/541 of the European Parliament and of the Council[(12)];

(d) the criminal offence was committed in the framework of a criminal organisation as defined in Article 1, point 1 ofCouncil Framework Decision 2008/841/JHA;

(e) the criminal offence caused serious physical injury to a person;

(f) the criminal offence caused the death of a person;

(g) the criminal offence involves the corruption of public officials;

(h) the criminal offence was committed by a public official when performing his or her duties;

(i) the criminal offence was committed by a natural or legal person that had previously been convicted by a final judgment of criminal offences referred to in Article 3 or Article 4;

(j) the firearms are trafficked to or from a conflict or post-conflict area.

Article 9

Mitigating circumstances

Member States shall ~~take the necessary measures~~ to ensure that, in relation to the criminal offences **covered by** ~~referred to in~~ Articles 3 and 4, one or more of the following ~~providing the administrative or judicial authorities with information which they would not otherwise be able to obtain can be regarded as a mitigating~~ circumstance**s can, in accordance with national law, be regarded as a mitigating circumstance**~~, provided that the information is capable of contributing to any of the following~~:

Commented [A10]: Model provisions.

(12) Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

(a) **the offender provides the competent authorities with information which they would not otherwise have been able to obtain, helping them to**

Commented [A11]: See Article 16 Directive on Corruption.

(1) prevent~~ing~~ or mitigate~~ing~~ the effects of the criminal offence;

(b) **(2)** identify~~ing~~ or bring~~ing~~ to justice other offenders;

(c) **(3)** find~~ing~~ evidence;

(d) **(4)** prevent~~ing~~ further criminal offences referred to in Article 3.

Article 10

Investigative tools

Member States shall ~~take the necessary measures to~~ ensure that effective and proportionate investigative tools, including tools which **can be** used **to investigate** organised crime or other serious crime, are available to persons, units or services responsible for investigating or prosecuting the criminal offences **covered by** ~~referred to in~~ Articles 3 and 4.

Article 11

Management and disposal

Member States shall adopt, within their national legal systems, the measures necessary to prevent illicitly manufactured and trafficked firearms, essential components and ammunition seized and confiscated by their authorities from falling into the hands of unauthorised persons including measures to destroy those firearms, essential components and ammunition. Member States may decide on other ways of disposal, provided that the firearms or essential components have been marked and the methods of disposal of those firearms, essential components and ammunition have been recorded.

Article 12

Limitation periods

1. Member States shall ~~take the necessary measures to~~ provide for a ~~sufficient~~ limitation period ~~after the commission of criminal offences referred to in Articles 3 and 4,~~ which is commensurate to the gravity of the criminal offences and that enables the investigation, prosecution, trial and adjudication of ~~those~~ criminal offences **covered by Article 3 and 4** ~~to be tackled effectively~~. ~~Member States shall take the necessary measures to provide~~ for a sufficient ~~limitation~~ period **of time after the commission of those** ~~following a final~~

~~conviction for~~ criminal offences ~~referred to in Articles 3 and 4 that enables the enforcement of the penalties imposed~~ **to be tackled effectively**.

2. The limitation period **covered by** ~~referred to in~~ paragraph 1, ~~first sentence, for the criminal offences referred to in Article 3~~ shall be ~~as follows~~of:

Commented [A12]: Aligned with the model provisions.

(a) at least eight years from the commission of a criminal offence punishable by a maximum term of imprisonment of at least eight years;

(b) at least five years from the commission of a criminal offence punishable by a maximum term of imprisonment of at least five years;

(c) at least four years from the commission of a criminal offence punishable by a maximum term of imprisonment of at least four years;

(d) at least two years from the commission of a criminal offence punishable by a maximum term of imprisonment of at least two years.

3. The limitation period referred to in paragraph 1, second sentence, for the criminal offences referred to in Article 3 shall be as follows:

(a) at least eight years from the date of the final conviction in either of the following cases:

(9) a penalty of imprisonment of more than five years,

(ii) a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least eight years;

(b) at least five years from the date of the final conviction in either of the the following cases:

(9) a penalty of imprisonment of more than one year,

(ii) a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least five years;

(c) at least four years from the date of the final conviction in either of the following cases:

(9) a penalty of imprisonment of up to one year,

(ii) a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least four years.

(d) at least two years from the date of the final conviction in either of the following cases:

(9) a penalty of imprisonment of up to one year,

(ii) a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least two years.

4. The limitation periods for the criminal offences referred to in Article 4 shall correspond to the limitation period established for the related criminal offence referred to in Article 3.

5. By way of derogation from paragraph 2, point (a) and paragraph 3, point (a), Member States may establish a limitation period that is shorter than eight years, but not shorter than four years, provided that such limitation period may be interrupted or suspended in the event specified acts.

Article 13

Jurisdiction

Commented [A13]: Aligned with the model provisions.

1. Each Member State shall establish its jurisdiction over the criminal offences **covered by** ~~referred to in~~ Articles 3 and 4 where ~~any of the following applies~~:

(a) the criminal offence was committed in whole or in part within its territory;

(b) the criminal offence was committed on board a ship or an aircraft registered in that Member State or flying its flag;

(c) the offender is one of its nationals.

2. A Member State shall inform the Commission where it decides to extend its jurisdiction to one or more criminal offences referred to in Articles 3 and 4 which have been committed outside its territory, where ~~any of the following applies~~:

(a) the offender is a habitual resident in its territory;

(b) the criminal offence is committed for the benefit of a legal person established in its territory;

(c) the criminal offence is committed for the benefit of a legal person in respect of any business done in whole or in part on its territory;

(d) the criminal offence is committed against one or more of its nationals or habitual residents.

PUBLIC

PUBLIC

3. In cases **covered by** ~~referred to in~~ paragraph 1(c), ~~each~~ Member States shall ~~take the necessary measures to~~ ensure that the exercise of their jurisdiction is not subject to ~~either of~~ the ~~following~~ condition:

   (a) ~~the acts are a criminal offence at the place where they were carried out~~;

   (b) **that a** ~~the~~ prosecution can be initiated only following a complaint by the victim **in the place where** ~~transmission of information from the State of the place where~~ the criminal offence was committed **or a denunciation from the State of the place where the criminal offence was committed**.

4. Where a criminal offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, those Member States shall cooperate to determine which Member State is to conduct the criminal proceedings. The matter shall, where appropriate and in accordance with Article 12(2) of Council Framework Decision 2009/948/JHA[13] , be referred to Eurojust.

Article 14

Commented [A14]: Aligned with the model provisions.

Training

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall **promote** ~~take the necessary measures to ensure that~~ specialised ~~regular~~ training for judges, prosecutors, police and judicial staff and to competent authorities' staff involved in criminal proceedings and investigations with regard to the **objectives** ~~scope~~ of this Directive ~~as referred to in Article 1~~ and appropriate to the functions of such judges, prosecutors, police and judicial staff and competent authorities' staff.

Article 15

Coordination and cooperation between competent authorities within a Member State

1. Each Member State shall designate a single National Firearms Focal Point, for coordination and cooperation at strategic and operational levels among all its competent authorities involved in the prevention of, and the fight against, firearms-related criminal offences. The National Firearms Focal Point shall perform at least the following tasks:

(13) Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42, ELI: http://data.europa.eu/eli/dec_framw/2009/948/oj).

PUBLIC

(a) gather, analyse and exchange information on firearms, their essential components, ammunition, and blueprints for strategic and operational purposes, within the limits set out in Union and national law;

(b) ensure the creation and regular update of an intelligence picture of the threat related to firearms-related criminal offences;

(c) ensure the collection and recording of all information regarding seizures of firearms linked to criminal offences. This also requires all necessary access to national and international databases for the corresponding exchange of information, including the duties established in Article 17;

(d) support criminal investigations, within the limits set out in applicable Union and national law, with particular emphasis on the tracing of firearms, as defined in Article 1(1), point 13, of Directive (EU) 2021/555;

(e) be the national point of contact at technical level for the requests of international assistance, specifically those from the European groups of practitioners working on matters relevant to combating firearms-related criminal offences and related infringements;

(f) promote international cooperation.

2. Member States shall ensure that the National Firearms Focal Points are established with an appropriate structure such as a dedicated unit, department, or centre, and allocated with sufficient staff and resources to ensure their continuous operation and effective functioning.

Article 16

Cooperation between Member States and the Commission, and Union bodies, offices or agencies

1. Where the criminal offences referred to in Articles 3 and 4 are suspected to be of a cross-border nature, the competent authorities of the Member States concerned shall refer the information related to those offences to appropriate competent entities.

2. Without affecting the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member States, Eurojust, Europol, the European Public Prosecutor's Office, and the Commission shall, within their respective scope of competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end, Eurojust shall, where appropriate, provide the technical and operational assistance needed by the competent national authorities to facilitate coordination of their investigations. The Commission may, where appropriate, provide assistance.

3. Member States may decide to facilitate the joint testing of blueprints suspected to be designed for manufacturing firearms, essential components or ammunition.

Article 17

Registration of seized firearms

1. Member States shall ensure that seized firearms are registered using the minimum dataset set out in the Annex.

2. The Commission is empowered to adopt delegated acts, in accordance with Article 19, to amend the minimum dataset set out in the Annex, if analysis carried out on the gathered data show there is a data element lacking to obtain an intelligence picture on the threats.

Article 18

Statistical data

1. Member States shall ensure that ~~a digital~~ system is in place for the collection, ~~development,~~ productions and dissemination of **existing** anonymised statistical data on the criminal offences **covered by** ~~referred to in~~ Articles 3 and 4.

2. **Without prejudice to reporting obligations laid down in other Union legal acts, Member States shall**, by 31 July of the sixth year following transposition, and then every five years thereafter **and if they are available at central level**, ~~Member States shall~~ submit to the Commission the statistical data **covered by** ~~referred to in~~ paragraph 1 for the five preceding years. Member States may submit to the Commission those data on a yearly basis. Those data shall, as a minimum, include existing data on:

   (a) the number of criminal offences registered and adjudicated by the Member States~~, disaggregated by criminal offence~~;

   (b) the number of court cases that are dismissed, including on the grounds of expiry of the limitation period for the criminal offence concerned~~, disaggregated by criminal offence~~;

   (c) the number of ~~prosecuted~~ natural persons **that are prosecuted**~~, disaggregated by criminal offence~~

   (d) the number of convicted natural persons, ~~disaggregated by criminal offence~~;

(e) the number of prosecuted legal persons, disaggregated by criminal offence;

(f) the number of convicted legal persons, disaggregated by criminal offence;

(g) types and levels of penalties imposed;

(h) the number of seized firearms.

3. Member States shall provide, in a digital manner, the data on seized firearms registered in accordance with Article 17(1) to Europol, at least once a month.

4. Member States shall keep the data referred to in paragraph 2, for at least 20 years

Commented [A15]: Does not exist in model provision.

PUBLIC