



Association Européenne de Commerce d'Armes Civiles
The European Association of the Civil Commerce of Weapons

REPORT

ON

***AMENDMENT OF THE DIRECTIVE 91/477/CEE
on control of the acquisition and possession of weapons***



Association Européenne de Commerce d'Armes Civiles
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AMENDMENT OF THE DIRECTIVE 91/477/CEE

I.- Background

In 1991, the EU adopted the “**Firearms**” Directive (91/477/EEC *on control of the acquisition and possession of weapons*) to facilitate the **free movement of persons and goods** in the *Internal Market*, as an accompanying measure to the abolition of internal frontier controls between EU Member States. The Directive lays down a **minimum level of harmonisation** of rules for the legal acquisition and possession of civil firearms, based on a classification of firearms in 4 categories (A = prohibited; B = under authorisation; C = under registration; D = other weapons). Hunting firearms generally fall under Categories C or D. Member States are, however, entitled to take more stringent measures. The Directive also introduced the *European Firearms Pass*, facilitating those in legal possession of firearms to travel from one Member State to another. See the original text of the EU Directive in the AECAC comments document.

The implementation of the Directive is satisfactory - as highlighted in the Commission’s Report COM (2000)837 - without any problems for public security or order.

In 2001, the United Nations adopted the *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunitions*, to promote, facilitate and strengthen cooperation among States in these domains, under the *UN Convention against Trans-national Organized Crime*.

II. Procedure for the adoption of the modified Directive

1. In Plenary

As the Directive on control of the acquisition and possession of weapons is related to the regulation of the internal market, the applicable legislative procedure is the codecision procedure according to Articles 95.1., 251 of the Treaty establishing the EC. The **codecision procedure** (division of legislative power between Parliament and the Council of the European Union) is in three stages and gives Parliament a right of veto. (Attached **Annex 1, Codecision procedure**). The procedure begins with a **Commission proposal** which is presented to the European Parliament and the Council. If the Parliament adopts amendments to the Commission proposal during the **first reading** (as the case here having been):

- the **Council** may **approve** all the amendments and if it does not change the Commission proposal otherwise, the act is adopted by the Council by **qualified majority**.
- If the **Council does not approve** all the amendments or rejects them, the Council adopts a **common position** by qualified majority, which is forwarded to Parliament.



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During the **second reading** Parliament has three possibilities for action within three months:

- if it **approves** the Council's common position or if it does not deliver an opinion within that period, the act is deemed adopted in accordance with the common position.
- if it **rejects** the common position by an absolute majority of its Members, the act is deemed not to have been adopted (veto).
- if it adopts **amendments** to the common position by an absolute majority of its Members, the text is forwarded to the Council and Commission for their opinion on the amendments. In the last case:

▶ either the Council approves all Parliament's amendments by qualified majority, in which case the act is deemed adopted and signed by the Presidents of Parliament and the Council,

▶ or the Council informs Parliament that it does not approve all its amendments to the common position, in which case the President of the Council and the President of Parliament agree on a date and place for a first meeting of the **Conciliation Committee** within a six week period.

During the **third reading**, the Conciliation Committee, which comprises members of the Council and an equal number of MEPs, considers the common position voted at second reading on the basis of Parliament's amendments. It has six weeks to draw up a **joint text**. If the Conciliation Committee **does not approve** the joint text within the agreed time period, the act is deemed not to have been adopted and the procedure is terminated. If the Conciliation Committee **approves** the joint text, it is presented to the Council and Parliament for approval. The Council and Parliament have six weeks to approve it; the Council takes a decision by qualified majority and Parliament by a majority of the votes cast. The act is adopted if the Council and Parliament approve the joint text.

2. In Committees

- Proposals from the Commission are referred by the President of the Parliament to the **committee responsible** for consideration, here the **Committee for the Internal Market and Consumer Protection (IMCO, Rapporteur Ms Kallenbach)**.
- If the matter falls also under the competence of another committee, this one is designated as **associated committee** and shall submit an **opinion** on the discussed matter to the responsible committee. Such an opinion has been submitted by the **Committee of Civil Liberties and Home Affairs (LIBE, Rapporteur Mr Alvaro)**.

Unless otherwise decided, the rapporteur during **second reading** shall be the same as during first reading.

According to Article 95.1. of the Treaty (EC), the European Economic and Social Committee was also heard.

3. Entry into force

The text of acts adopted jointly by Parliament and the Council shall be signed by the President and by the Secretary-General, once it has been verified that all the procedures have been duly completed. Those



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acts shall be published in the Official Journal of the European Union by the Secretaries-General of Parliament and the Council.

III.- Start of the Amendment process. The Commission's Proposal

In March 2006, the Commission tabled a **Proposal (COM (2006)93 final)** for a minor amendment to the "Firearms" Directive in accordance with the UN *Protocol*. This Proposal takes account of the fact that the *Protocol* is linked to the fight against trans-national organized crime, while the Directive "*is applicable only to legal trade*" and "*solely in the context of the Internal Market*".

Before the emission of the proposal, AECAC initiated contacts with the European Commission to find out their targets. **Mr. Georges Martens** (European Commission), got in touch with AECAC to inform us about the proposal. The information received was that the Commission's intention was not to proceed with major amendments, to the Directive, but only the minimal changes required by the UN protocol. In fact, all amendments proposed by the commission were quite accurate and limited to the simple implementation of the UN Protocol to the European Legislation.

We highlight the main proposals affecting the Gun Trading, included in the Proposal dated **2.3.2006**:

- **Acquisition and possession of firearms:** The Proposal did not modify the Directive's provisions for the acquisition and possession of firearms, nor for the *European Firearms Pass*.
- **Marking of firearms:** According to the Proposal, Member States must "*at the time of manufacture of each firearm, either require unique marking providing the name of the manufacturer, the country or place of manufacture and the serial number, or maintain any alternative unique user-friendly marking*". European manufacturers already mark their firearms in this way.
Furthermore, the Proposal did not impose any marking obligation on EU Member States for firearms imported from third countries.
- **Record-keeping of firearms.** Under the Directive, dealers have an obligation to keep for five years a register, recording information concerning firearms received or disposed of by them. According to the Proposal, "*Each Member State shall ensure the maintenance of this information for not less than TEN YEARS*".
- **Deactivation of firearms.** The Directive does not apply to de-activated firearms, defined as those having been rendered permanently unfit for use by application of technical procedures guaranteed or recognized by an official body (e.g. a proof-house). The Proposal requires in addition that for a firearm to be considered de-activated, ALL ESSENTIAL PARTS of the firearm have been rendered permanently inoperable and incapable of removal, replacement or modification that would permit the firearm to be reactivated in any way.
- **Illicit manufacturing of and trafficking in firearms.** For the moment, the Directive only imposes on Member States the obligation to introduce sufficient penalties for failure to comply with its provisions. The Proposal introduces the concepts of "*illicit manufacturing*" and "*illicit trafficking*", considered criminal offences when committed intentionally.
 - "**Illicit manufacturing**" means the manufacturing or assembly of firearms, their parts and components or ammunition:



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- from parts and components illicitly trafficked
- or without a licence or authorisation issued by the competent national authority
- or without marking the firearms at the time of manufacture.
- ***“Illicit trafficking”*** shall mean *“the acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition from or across the territory of one Member State to that of another Member State if any one of the Member States concerned does not authorise it in accordance with the terms of this Directive or if the firearms are not marked.”*

IV.- European Economic and Social Committee

Once the Proposal was published, AECAC used the opportunity of the **Economic and Social Committee** debate to defend the traders position.

In **May 06**, the Economic and Social Committee (an EU **advisory body**) started developing a Working Document to issue a Draft Opinion to be used during the approval process.

In principle, AECAC agreed generally with the Draft however, we proposed minor amendments to avoid interpretations that could negatively affect the legal trading and the internal European market:

- **Definition of the “illicit manufacturing”.** According to the proposal **“illicit manufacturing”** includes also the **“assembly”** of firearms. **Assembly** is a very generic concept, which could even include the process of gun reparations, or modifications realized by any simple shop or gun owner. This should not be equal to a proper manufacturing.
- **“Illicit trafficking”.** According to the amendments “illicit trafficking” should be understood as any transfer of guns which are not correctly marked according to the new requirements. The marking obligation should only affect manufacturers and the member States. Not the legal dealers or gun owners. The wrong marking of a gun should only have consequences to the manufacturer that did not carry out its full marking obligations or to the Member State that did not require it.
- **Illicit trafficking and manufacturing as criminal offence.** AECAC supports any measure relating to the fight against, control of and prevention of organized crime. Our position has always been that legal trade and illicit trafficking are two totally different matters and the reality is that it is extremely rare for cases to exist where the gun trading community has any relation with criminality or illegal trafficking.

For us it is fundamental that this difference should always be clear and obvious. A simple mistake, infringement or failure to comply with a legal provision concerning the manufacturing or trading of guns, should not be immediately considered a criminal offence.

Dealers, gun owners and manufacturers could commit minor infringements that do not affect security nor support or help the international organized crime.

In our opinion to be considered a criminal offence trafficking or manufacturing should fulfil three conditions:

- That such a failure to complete with the necessary obligations or requirements was committed intentionally.



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- That it provoked an undisputable risk for the public security.
- That it was committed to support or help organized crime.

AECAC addressed a proposal to Mr. Pegado Liz responsible of the Committee including such positions and to.

We partially succeed, thanks to the support of the FACE and IEACS, which defended similar points. The final Draft Opinion of the Committee expressed the need that the Proposal specifies the concept of “illicit trafficking”, which “*should be viewed against the background of the fight against transnational organised crime, in such way as to limit the application of criminal sanctions to situations that fall exclusively within the specific scope of the United Nations convention*”.

Another important issue concerning the Draft Opinion was the authorisation system to own guns. In the Working Document, it was recommended that “*it be compulsory for Members States to register and licence arms under an administrative procedure that involves the national security organisations*”.

Finally the Draft Opinion provided that “*it should be recommended, that Member States be bound to require weapon owners to declare ownership, hold a permit OR comply with another administrative procedure authorising the use and carrying of a weapon*”.

V.- European Committee on Civil Liberties, Justice and Home Affairs (LIBE)

The *EP “Justice and Home Affairs” Committee*, prepared a (non-binding) *Draft Opinion* on the Proposal.

The Rapporteur for this Opinion was the MP **Mr. Alexander ALVARO**, from the **German Liberal Party**. In the last year AECAC report, you can see the Draft Opinion. It was worrying, that the rapporteur proposed to delete the existing firearm categories C and D of the Directive, so that all firearms would be subject to *single authorisation* (as it is now the case of firearms in category B).

During the ESSF meeting organized to coordinate the sectors answer, where both Mr. Gollety (AECAC Vice-president) and Mr. Fabregat (General Secretary) were present, all European gun and hunting associations (AECAC, FACE, IEACS, ANPAM, etc...) decided to adopt a common position against the proposals (Alvaro and also Kallenbach).

The resume of the position would be as follows:

- All Category B firearms would remain subject to *authorisation*.
- For Categories C and D the situation for persons already possessing such firearm(s) would not change, but for acquiring them in the future an *authorisation* would be required – except for registered hunters and sport-shooters (as the conditions for obtaining a hunting permit or sport-shooting licence is already some kind of "permanent" authorisation).



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Reminder

The Directive classifies firearms into 4 categories. The acquisition and possession of firearms in each category is subject to different minimum conditions:

- Category A (e.g. automatic firearms): in principle, *prohibited*.
- Category B, (e.g. handguns and most semi-automatic rifles and shotguns): subject to *authorization*
- Category C (e.g. single-shot and bolt-action rifles): subject to *declaration*
- Category D (single-shot, side-by-side and over-and-under shotguns): no specific requirements.

Member States may introduce more stringent measures (for instance, banning some firearms or requiring an *authorization* for all firearms).

The current classification is the result of a long political negotiation and was approved in 1990 by a large majority of the EP. It is part of the minimum level of harmonization of rules for the acquisition and possession of firearms, but leaves Member States the option to take more stringent measures.

Taking advantage of the open process, AECAC tabled through friendly MEP's, Members of the LIBE Committee, some amendments to the Commission's proposal.

The LIBE Committee adopted its *Final Opinion on 12th June 2007* ([Annex 2](#)).

VI.- European Parliament Internal Market Committee (IMCO)

The EP "*Internal Market*" Committee, was designated to prepare a *Report* on the Commission's Proposal. **Mrs. G. KALLENBACH** (Greens, Germany) was appointed as Rapporteur for this purpose. As Annex to the last year AECAC report you will find attached Mrs. Kallenbach's Draft Proposal.

Considering that the Greens' stance with regard to hunting and firearms is highly critical, and in order to avoid future restrictions, FACE (in which we participate as Associate Members) convinced MEPs with more favourable views in other Political Groups to become *Shadow Rapporteurs*: **Italian G. PODESTÀ** for the Christian-democrat EPP-ED and **Fin L. LEHTINEN** ("Co-president" of the Hunting Intergroup) for the socialist PES. **German A. Graf LAMBSDORFF** in the ALDE (liberal) Group.

The *Rapporteur* for the responsible IMCO Committee, **Mrs. G. KALLENBACH** (Greens, Germany), saw an opportunity to make the 1991 Directive considerably more restrictive. Her position was more ideological and less technical.

Some of the amendments proposed by Kallenbach:

- o **Abolition of the 4 categories system.** This was one of the main issues in the AECAC negotiations in successful collaboration with ESSF, FACE and specially the French *Chambre Syndicale Nationale des Armuriers*, to maintain the existing classification



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system. Such a change would have negatively affected many countries. Directly: **France** and **Austria**, as they use the 4 categories classification system. But also **Spain** (the shotgun ammunition is not subject to any formality), **Lithuania** (Existing a D category), **UK** (Has a two licensing system: Firearms Certificate and Shotguns certificate, the second one giving the option to purchase several shotguns without further single authorization for each gun) **Germany** (Category C and D, do not need a single authorization, but a general one).

- **“Cooling-of” period.** Kallenbach proposed that to avoid compulsive purchases of guns it was necessary to implement a **15 working** day cooling-period before a gun could be delivered to a purchaser.
- **Legal age for gun possession.** Interdiction of **use, possession** or acquisition of fire guns under 18. Of course that was a complete disaster for the future of hunting and sport shooting
- **Non application of the CIP:** in the original Draft Report, there was no mention to the CIP convention. Kallenbach wanted to develop a new marking system forgetting the CIP which is used over all in Europe with very good results. Initially she proposed the marking of any single ammunition unit.
- Kallenbach included new requirements for the gun dealers: control over their professional ability and the **origin of their Financial means**. Of course such last proposal has been strongly fight by AECAC and finally not included in the text. The professional ability has been kept in the last version, instead of our proposal of adding “*or professional experience*”
- **Prohibition of acquisition through distance communication** (basically internet).
- **Interdiction of acquisition** of fire guns of any person convicted of **any criminal offence**.
- **Application of the Directive to Collectors.**
- **Definition of antique weapon:** till 1870
- **European transfers** of fire guns between authorised gun dealers (art. 11. 3), should be communicated to the authorities of the country from which the transfer is to be effected **5 days in advance**. That was very negative.

Many of those proposed amendments were abandoned before the voting of the final report, a great lobbying activity was made by AECAC and other international organisations.

AECAC distributed to friendly MEP a common voting position giving clear instructions of how to vote all the tabled amendments to be included in the Final Report of the IMCO committee. See [Annex 3](#).

The IMCO adopted its **Final Report** on **27th June 2007** (attached as [Annex 4](#)).

Due to the efforts of the AECAC in collaboration with other associations and organisations, the Final Report included many improvements and compromises compared with the original Draft Report Kallenbach.



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It is also important to mention that from the beginning Mrs. Kallenbach adopted a constructive position and was ready to hear and adapt her original point of view. During the next ESSF meeting due to be held in Nuremberg on the 15 of March, it will drafted a letter to be addressed to Mrs Kallenbach thanking her open mind and collaboration spirit.

VII.- Trilateral agreement

After the adoption of the **Final Report of the IMCO Committee**, taking into consideration the **Final Opinion of the LIBE** as associated committee, the rapport was referred to the **European Parliament**. On this basis the **EP** negotiated with the **Commission** and the **Council** the final text of the amendments in a **trilateral meeting of 16th October 2007**.

As consequence of the activity of AECAC in collaboration with the French *Chambre Syndicale Nationale des Armuriers* , the FACE, ESSF etc., to sensitise the Council and the Commission to the issues of the gun traders, and make them receptive therefore, the Council and the Commission defied the restrictive position of the IMCO- Committee in several issues.

In fact the Council has been very correct and has rejected ideological positions, staying mainly technical.

VIII.- Adoption by the Parliament

A political agreement having been reached between the three institutions in the frame of the TRILOGE, the EP adopted in **Plenary a Legislative Resolution on 29th November 2007**. See AECAC comments document including the full approved text.

The most important innovations of the new Directive are the following:

- Obligation of the Members States to keep a **computerised and centralised data** filing system **linking any fire gun to its owner**. The data will have to be kept at least during 20 years. For category D, only for guns newly placed in the market up to 2014.
- **Illicit trafficking**. Its definition is vague and not too clear, but at least the penalties do not need to be always criminal offences as originally provided, but “proportionate”.
- **Interdiction of acquisition** of fire guns of any person convicted for “**violent intentional crimes**”.
- **Deactivation**: **all essential parts** have been rendered **permanently** inoperable and **incapable of removal**.
- **Classification system**: The 4 categories will still be applicable for the countries which have such system, but the D category will need to be linked to their owners. Each country will decide the regulation of Categories C and D, as people will be allowed to own those guns if they are “*permitted to do so in accordance with national law*”.
- **Possibility to grant multiannual permissions** to Category B, instead of granting authorisations for each gun acquisition.
- **Tracing regulation**. the Member States “may choose” to apply the provisions of the *CIP Convention*.



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- **EU Firearms Pass:**
 - Charges will be abolished for use of the EU Firearms pass.
 - Before there was a possibility to grant it for 10 years for Fire guns Category D, now 5 years.
- **Gun traders** will need to notify to the national authorities “previously” to any EU transfer.
- **Data keeping obligation: 20 years.** Should not be negative for professionals as it is a governmental obligation.
- **Regulation of brokering:** Registration or authorisation.
- **Legal age:** 18 years, except for hunters and sport shooters. Limitation: Young hunters or shooters cannot purchase fire guns, they could get them as a present or inheritance.

IX.- Linguistic Office of the Parliament

The linguist offices of the Parliament (Tabling Office) and of the Council (DQL) elaborated a version of the adopted text with **legal- linguistic changes**. (See AECAC comments to the new text.)

AECAC pointed out the main problems arising from some linguistic changes in a letter addressed to several friendly MEP's (letter attached as **Annex 5**).

X.- Transposition and entry into force of the Directive

The Directive provides a **transposition term of two years from the date of its entry into force**. The Directive shall **enter into force** on the twentieth day following that of its publication in the Official Journal of the European Union.

The Member State's transposing acts can introduce more restrictive measure to reach the goals of the Directive, so that lobby activities during the transposition process can be of particular importance.

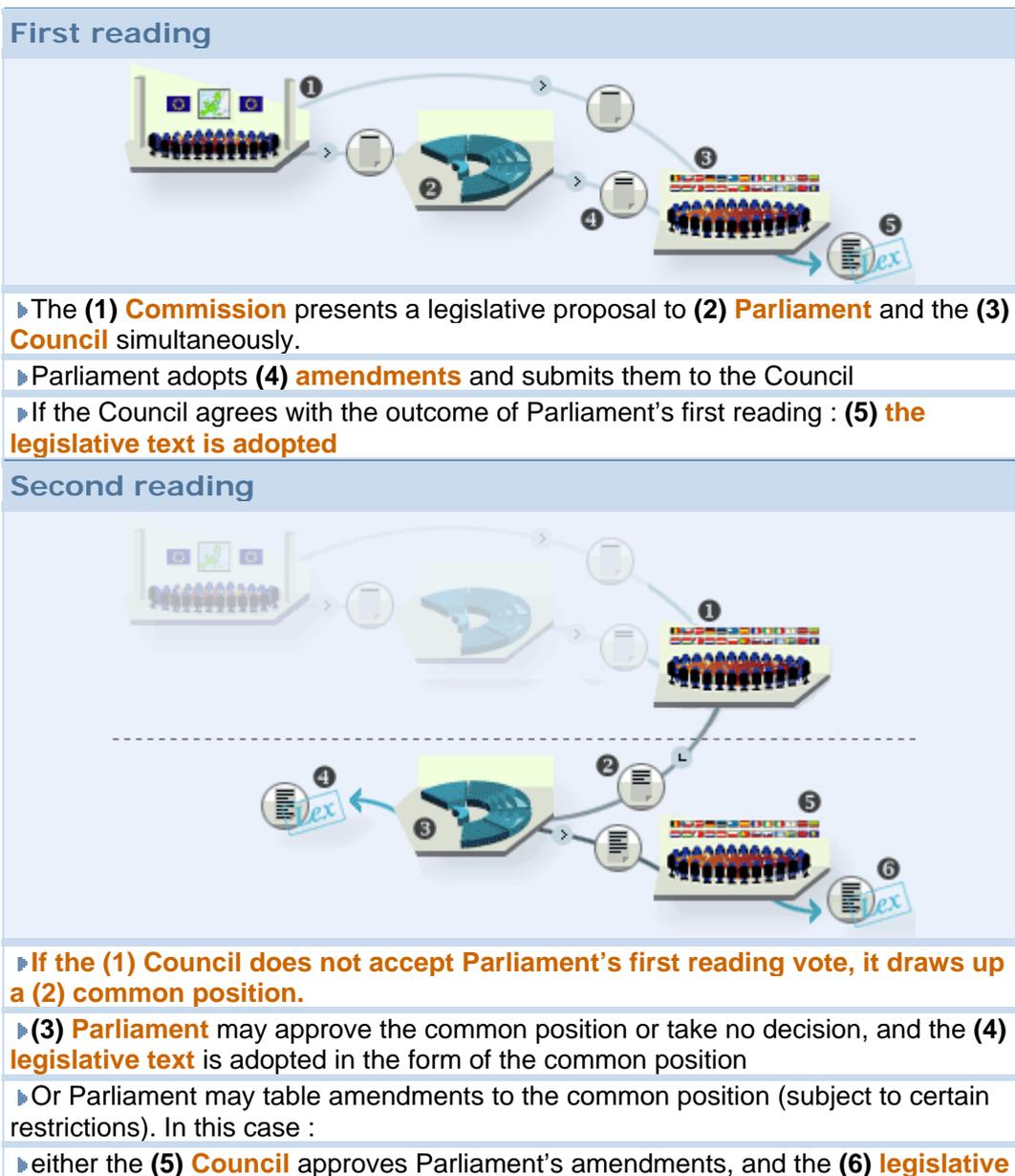
Brussels, March 2008



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ANNEX 1

Codecision procedure





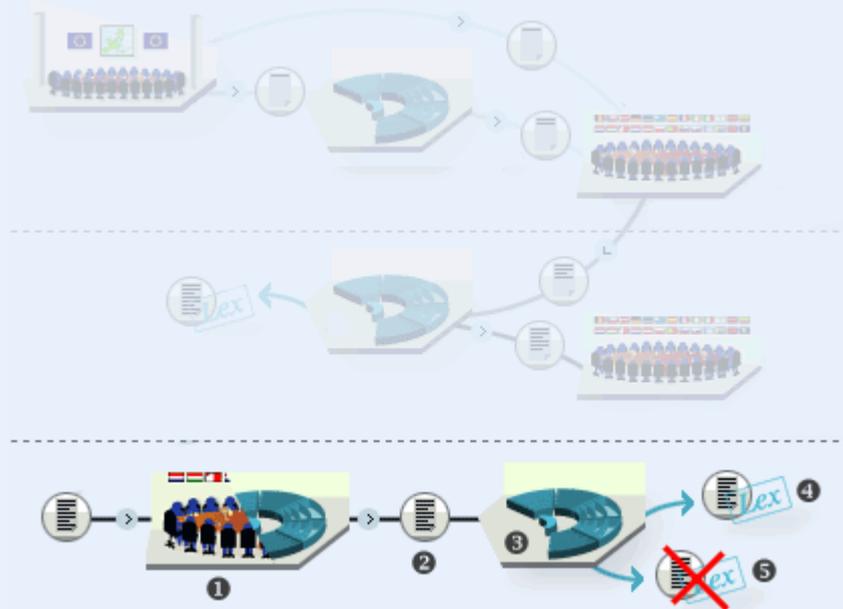
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text is adopted

► or the Council rejects them, and a Conciliation Committee (27 Members of Parliament and 27 Members of the Council) is convened to seek to reconcile the positions

► Parliament may reject the common position by an absolute majority of its members, in which case the legislative text is rejected

Third reading



► The **(1) Conciliation Committee** adopts a **(2) 'joint text'** based on the common position and the EP's second reading amendments.

► If the Council and **(3) Parliament** approve the 'joint text' in its entirety, the **(4) act** is adopted.

► If the Conciliation Committee cannot agree on a 'joint text', or if Parliament or the Council does not approve it, the **(5) act** is deemed not to have been adopted.



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ANNEX 2

EUROPEAN PARLIAMENT

2004



2009

Committee on Civil Liberties, Justice and Home Affairs

2006/0031(COD)

12.6.2007

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on the Internal Market and Consumer Protection

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (COM(2006)0093 – C6-0081/2006 – 2006/0031(COD))

Draftsman: Alexander Alvaro



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Enhanced cooperation between committees – Rule 47 of the Rules of Procedure

PA_Legam

SHORT JUSTIFICATION

Background to the directive

The purpose of the directive amending Directive 91/477/EEC is to transpose at Community level the 'United Nations Protocol on the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition, annexed to the Convention against transnational organised crime', signed by the Commission.

Directive 91/477/EEC aimed to establish minimum standards for the marking of weapons, the storing of records of the manufacture of and trade in weapons (registers), the deactivation of fire arms and the definition and introduction of punishable offences.

The Commission's specific objectives

The proposed directive amends the existing legislation in the following ways:

- Definition, within the scope of application of the Directive, of the notions of 'illicit manufacturing and trafficking of firearms';
- Provisions stipulating the marking of weapons;
- Extension of the period for keeping registers prescribed by Directive 91/477/EEC;
- Clarification of the applicable penalties;
- Inclusion of the general principles on the deactivation of weapons defined by the United Nations Protocol.

Commission report to the European Parliament and the Council (COM(2000)837)

In its report COM(2000)837, the Commission assesses the application of Directive 91/477/EEC, the conclusions on which are essentially positive, although improvements are needed in some areas.

It is agreed that the directive should lay down the following principle:

Travel from one Member States is not permitted if the passenger is in possession of a fire arm. Any deviation from this principle is only possible in compliance with a clearly defined procedure whereby the Member State in question is informed that a fire arm is to be brought onto its sovereign territory.



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According to the Commission, there are serious shortcomings with regard to the exchange of information, resulting in a lack of detailed information and inadequate cooperation between Member States. Difficulties have also emerged with the use of the European Firearms Pass, even though, in the Commission's view, it is a suitable means for hunters and marksmen to travel from one Member State to another for the purposes of hunting or target shooting.

With regard to the classification, acquisition and possession of firearms, it has become apparent that the separation of firearms into categories A, B, C and D, defined by the Commission, is unnecessary in the large majority of Member States. In most Member States there is a distinction made only between prohibited firearms and those that are subject to authorisation.

Those affected by the Directive have not signalled any shortcomings or need to amend it and so the view prevails that the Directive has been sensibly transposed and fulfils its objectives.

Draftsman's position

The draftsman shares the basic opinion of those concerned and the Commission and consequently supports the amendment of Directive 91/477/EEC in line with the Commission's wishes. In order to clarify the remaining imperfections, however, the Commission's amendments have been fleshed out with provisions of the Schengen Agreement and the UN Protocol.

The draftsman also supports the inclusion in the scope of the directive of internet trade and the provision of internet platforms for trade in arms.

Since the transposition of the Directive in 1993, the Internet has developed considerably and become an electronic market place. The Directive's aim of stopping trade in fire arms can only be achieved, therefore, if all trading opportunities are covered.

The draftsman further specifies that the failure to carry a European Firearms Pass when transporting fire arms from one Member State to another should not be subject to penalties, so as to prevent disproportionate restrictions on the free movement of persons

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

¹ Not yet published in OJ.



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Amendment 1
RECITAL 3 A (new)

(3a) Given that intelligence evidence shows an increase in the use of converted weapons within the EU, it is essential to ensure that such convertible weapons are brought within the definition of 'firearm' in this Directive.

Amendment 2
RECITAL 5

(5) Furthermore, the Protocol establishes an obligation to mark weapons at the time of manufacture, and at the time of transfer from government stocks to permanent civilian use, whereas Directive 91/477 refers only indirectly to the marking obligation.

(5) Furthermore, the Protocol establishes an obligation to mark weapons at the time of manufacture, and at the time of transfer from government stocks to permanent civilian use, whereas Directive 91/477 refers only indirectly to the marking obligation. ***Given that the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms includes all the requirements of the Protocol, the application of the Convention to the European Union as a whole should be envisaged.***

Justification

The Convention on Reciprocal Recognition of Proofmarks on Small Arms is in force in a large number of EU Member States, thus providing a marking and control system, which includes all the guarantees and requirements set out in the UN Protocol.

Amendment 3
RECITAL 6

(6) Moreover, the period during which the registers containing information on the weapons are kept must be increased to at least ten years, ***as specified by the Protocol.***

(6) Moreover, ***while the Protocol provides that*** the period during which the registers containing information on the weapons are kept must be increased to at least ten years, ***it is necessary to prolong this period up to***



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at least 20 years in order to allow a proper tracing of firearms. It is also necessary that Member States keep a computerised and centralised data filing system in which each firearm is attributed a unique identification number and in which the name and address of every successive owner is mentioned. Access by police and judicial authorities to the information contained in the central register must be subject to compliance with Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Justification

The Protocol provides for the maintenance of information "for not less than ten years", but a 10-year period is inadequate given the very long lifespan of firearms. Therefore the information should be kept for at least 20 years. Furthermore, the Protocol provides that the maintenance of information is the responsibility of public authorities. Appropriate tracing of firearms requires centralised registration systems monitoring the weapon rather than the person. Automation of registers is imperative in the 21st Century. It is important to ensure that access to the information contained in this central register is subject to rules guaranteeing respect for private and family life.

Amendment 4 RECITAL 6 A (new)

(6a) To facilitate the tracing of firearms and effectively combat the illicit manufacturing and trafficking of firearms, their parts, components and ammunition, steps should also be taken to improve the exchange of information between Member States.

Amendment 5 RECITAL 6 B (new)

(6b) The maintenance and exchange of information are subject to compliance with Directive 95/46/EC of the European Parliament and of the Council, of 24 October 1995, on the protection of individuals with regard to the processing of



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personal data and on the free movement of such data.

¹ OJ L 281, 23.11.1995, p. 31.

Justification

It is important to emphasise the need to comply with the framework directive on the protection of personal data.

Amendment 6
RECITAL 9 A (new)

(9a) Due to the special nature of the activity of dealers and brokers, a strict control over this activity is necessary, in particular to verify the professional abilities and integrity of the dealers and brokers.

Justification

Until now, pursuit of the activity of dealer has not been properly regulated, unlike many other professions, although it is a very specific activity that requires strict controls. Therefore, it is desirable that dealers and brokers provide evidence of their professional

Amendment 7
RECITAL 9 B (new)

(9b) The European Firearms Pass functions in a satisfactory way in principle and should be regarded as the only document needed by hunters and marksmen to transfer a firearm to another Member State.

Justification

As mentioned in the Commission's 2000 report and in view of a proper functioning of the internal market, Member States should not be allowed to require documents or fees other than the European Firearms Pass regarding the circulation of hunters and marksmen.

Amendment 8
RECITAL 9 C (new)

(9c) The Commission should as soon as possible draw up a cost-benefit study of the impact which a reduction in the number of



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categories of arms would have on the functioning of the internal market.

Amendment 9

ARTICLE 1, POINT -1 A (new)

Article 1, paragraph 1 (Directive 91/477/EEC)

(-1a) Article 1(1) is replaced by the following:

'For the purposes of this Directive, 'firearm' shall mean any portable barrelled weapon that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of an explosive, unless it meets the definition but is excluded for one of the reasons listed in section III of Annex I. Firearms are classified in section II of Annex I'.

Justification

The definition of a firearm is consistent with the Protocol. However, the definition should acknowledge the increase in the use of converted weapons in criminal activity across Europe, and the increase in cross-border smuggling of convertible weapons, including since the signing of the Protocol in 2001. The definition of 'readily convertible' used in the Protocol is weak, and risks differing interpretation across Member States, and therefore opens potential loopholes in the control of weapons used in criminal activities for criminal exploitation. Police also cite increasingly advanced techniques used by criminals in order to convert weapons, and therefore weapons may be used for conversion that are not considered 'readily convertible'. Furthermore the definition should be consistent with the exclusion of deactivated firearms, antique weapons and some other firearms mentioned in Annex 1, section III of the Directive.

Amendment 10

ARTICLE 1 POINT -1 B (new)

Article 1, paragraph 2 (Directive 91/477/EEC)

(-1b) Article 1(2) is replaced by the following:

'2.For the purposes of this Directive 'dealer' shall mean any natural person whose trade or business consists wholly or partly in the manufacture, trade, or providing a platform for that purpose,



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exchange, hiring out, repair or conversion of firearms.'

Amendment 11

ARTICLE 1, POINT -1 C (new)

Article 1, paragraph 1 a (new) (Directive 91/477/EEC)

(-1c) In Article 1, the following paragraph 1a shall be inserted:

"1a. For the purposes of this Directive, 'antique weapon' shall mean either a weapon manufactured before 1900, or any weapon manufactured after that defined as an antique weapon by a Member State according to technical criteria."

Justification

A definition of "antique weapon" is needed for legal certainty reasons because these weapons are not covered by this Directive. On the other hand, other definitions by Member States should be allowed provided they are based on technical criteria.

Amendment 12

ARTICLE 1, POINT 1

Article 1, paragraph 2b (Directive 91/477/EEC)

4. For the purposes of this Directive, "illicit trafficking" shall mean the acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition ***from or across*** the territory of ***one*** Member State ***to that of another*** Member State if any one of the Member States concerned does not authorise it in accordance with the terms of this Directive or if the firearms ***are*** not marked in accordance with Article 4(1).

2b. For the purposes of this Directive, "illicit trafficking" shall mean the acquisition, sale, delivery, movement, transfer of firearms, their parts and components and ammunition ***in violation of this Directive to*** the territory of ***a*** Member State if any one of the Member States concerned does not authorise it in accordance with the terms of this Directive or if the firearms, ***their parts and components and ammunition are not registered in accordance with Article 4(3) or*** not marked in accordance with Article 4(1). ***The acquisition, sale, delivery, movement or transfer of firearms shall however not be considered illicit trafficking for the sole reason that they are not marked in accordance with Article 4(1) if they were***



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manufactured or transferred from government stocks to permanent civilian use before ...*, provided that the marking meets the relevant requirements applicable before that date.

**** [Date of transposition of this Directive by the Member States]***

Justification

The absence of registration should be included as a requisite of illicit trafficking. The insertion of the words "in violation of this Directive" will allow legal certainty by defining as an illicit trafficking any trafficking that is not in compliance with all the provisions of the Directive, and ensure that all firearms present on the EU territory are equally treated. However, transactions with firearms meeting current marking standards should not be considered illicit if they concern firearms manufactured or transferred before the date for transposition of this Directive.

Amendment 13

ARTICLE 1, POINT 1 A (new)

Article 1, paragraph 4 (Directive 91/477/EEC)

(1a) Article 1(4) is replaced by the following:

'4. The 'European firearms pass' is a document which is issued on request by the authorities of a Member State to a person lawfully entering into possession of and using a firearm. It shall be valid for a maximum period of five years. The period of validity may be extended. It shall contain the information set out in Annex II. The 'European firearms pass' is a non-transferable document, on which shall be entered the firearm or firearms possessed and used by the holder of the pass. The pass must always be in the possession of the person using the firearm. Changes in the possession or characteristics of the firearms shall be indicated on the pass, as well as the loss or theft of the firearm.'



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Amendment 14

ARTICLE 1, POINT 2

Article 4, paragraph 1, subparagraph 1 (Directive 91/477/EEC)

1. For the purpose of identifying and tracing each firearm, the Member States, at the time of manufacture of each firearm, either require unique marking **providing** the name of the **manufacturer**, the country or place of manufacture and the serial number, or maintain any alternative unique user-friendly marking with simple geometric symbols in combination with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture.

1. For the purpose of identifying and tracing each firearm, the Member States, at the time of manufacture of each firearm, either require unique marking, **including** the name **or mark** of the **producer**, the country or place of manufacture and the serial number, **for example as laid down in the Convention of 1 July 1969 on Reciprocal Recognition of Proof Marks on Small Arms**, or maintain any alternative unique user-friendly marking with simple geometric symbols in combination with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture.

Amendment 15

ARTICLE 1, POINT 2

Article 4, paragraph 2 (Directive 91/477/EEC)

2. **At least in respect of categories A and B**, each Member State shall make the pursuit of the activity of dealer within its territory conditional upon authorisation on the basis of at least a check on the private and professional integrity of the dealer. In the case of a legal person, the check shall be on the person who directs the undertaking. **In respect of categories C and D, each Member State which does not make the pursuit of the activity of dealer conditional upon authorisation shall make such activity subject to a declaration.**

2. Each Member State shall make the pursuit of the activity of dealer within its territory conditional upon authorisation on the basis of at least a check on the private and professional integrity of the dealer. In the case of a legal person, the check shall be on the person who directs the undertaking.

Amendment 16

ARTICLE 1, POINT 2

Article 4, paragraph 3 (Directive 91/477/CEE)



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3. Dealers shall be required to keep a register in which information concerning all firearms **classified in category A, B or C** received or disposed of by them shall be recorded, **including** such particulars as enable the weapon to be identified, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the person acquiring the weapon. The dealer shall conserve the register for a period of five years, even after he has ceased his activity. Each Member State shall ensure the maintenance of **this** information for not less than **ten** years.

3. Dealers shall be required to keep a register in which information concerning all firearms received or disposed of by them shall be recorded, **as well as** such particulars as enable the weapon to be identified, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the person acquiring the weapon. The dealer shall conserve the register for a period of five years, even after he has ceased his activity. Each Member State shall ensure the maintenance of **the aforementioned** information **in a centralised and computerised registration system** for not less than **twenty** years.

Justification

The existence in each Member State of a centralised and computerised registration system would facilitate information tracing and exchanges. Moreover, in view of a firearm's lifetime, the period for maintenance of information, which is ten years in the proposal for a directive, should be extended to twenty years.

Amendment 17

ARTICLE 1, POINT 2 A (new)

Article 4, paragraph 3 a (new) (Directive 91/477/EEC)

(3a) Member States shall ensure that all firearms classified in categories A, B, C and D may be linked to their current owners.

Amendment 18

ARTICLE 1, POINT 2 B (new)

Article 4a (new) (Directive 91/477/EEC)

(2b) The following Article shall be added after Article 4:

"Article 4a



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Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms classified in categories A, B, C or D only by persons who were granted a licence or a permit to do so in accordance with national legislation.'

Amendment 19
ARTICLE 1, POINT 2 C (new)
[Article 5](#) (Directive 91/477/EEC)

(2c) Article 5 is replaced by the following:

'Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms only by persons who have good cause and who:

(a) are 18 years old or more, except for hunting or target shooting;

(b) are not likely to be a danger to themselves, to public order or to public safety.

Without prejudice to Article 3, Member States shall allow the possession of firearms only by persons who have not been convicted of a serious offence (e.g. murder, robbery or arson) or of involvement therein.

Member States may withdraw authorisation for possession of the firearm if any of the conditions in point (b) of the first paragraph is no longer satisfied.

Member States may not prohibit persons resident within their territories from possessing a weapon acquired in another Member State unless they prohibit the acquisition of the same weapon within their own territories.'



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Justification

The inserted text is intended to clarify the provision, so as to reflect Article 83(c) of the Schengen Agreement.

Amendment 20
ARTICLE 1, POINT 2 D (new)
Article 6 (Directive 91/477/EEC)

(2d) In Article 6, the following paragraph is added:

"The acquisition of firearms, their parts and components and of ammunition through means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts¹, shall be fully subject to the provisions of this Directive.

¹ OJ L 144, 4.6.1997, p. 19."

Amendment 21
ARTICLE 1, POINT 2 E (new)
Article 12, paragraph 2 (Directive 91/477/EEC)

(2e) Article 12, paragraph 2 is amended as follows:

(a) The first subparagraph is replaced by the following:

"2. Notwithstanding paragraph 1, hunters and marksmen may without prior authorization be in possession of one or more firearms during a journey through two or more Member States with a view to engaging in their activities, provided that they are in possession of a European firearms pass listing such firearm or firearms. No other document than the European firearms pass shall be required by Member States to that end. Member



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States may not make acceptance of a European firearms pass conditional upon any additional registration requirement or the payment of any fee or charge."

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

"However, this derogation shall not apply to journeys to a Member State which prohibits the acquisition and possession of the firearm in question; in that case, an express statement to that effect shall be entered on the European firearms pass."

Justification

As mentioned in the Commission's 2000 report and in view of a proper functioning of the internal market, Member States should not be allowed to require documents or fees other than the European firearms pass regarding the circulation of hunters and marksmen.

Amendment 22
ARTICLE 1, POINT 2 F (new)
Article 13, paragraph 3 (Directive 91/477/EEC)

(2f) Article 13(3) is replaced by the following:

"3. Member States shall establish networks for the exchange, on a regular basis, of all information at their disposal.

The Commission shall establish, no later than one year after the entry into force of this Directive, a contact group for the exchange of information for the purpose of applying this article.

Each Member State shall inform the other Member States and the Commission of the authorities responsible for forwarding and receiving the information and applying the formality under Article 11(4)."



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Amendment 23

ARTICLE 1, POINT 3

Article 16, paragraph 1, subparagraph 3 (Directive 91/477/EEC)

Such attempts, or participation as an accomplice in the latter shall also be considered as criminal offences, when committed intentionally.

Organising, directing, aiding, abetting, facilitating or counselling the commission of an offence defined by this Article shall be considered as a criminal offence, when committed intentionally.

Justification

This wording is taken from the UN Protocol, which forms the basis of the Directive, and is intended to clarify the provision.

Amendment 24

ARTICLE 1, POINT 3

Article 16, paragraph 1, subparagraph 3 a (new) (Directive 91/477/EEC)

The failure to carry a European firearms pass shall not be subject to a custodial sentence.

Justification

This addition is to prevent lawful owners of weapons risking prison if they travel to another Member State and are unable to present a European firearms pass but are in possession of all other necessary documents.

Amendment 25

ARTICLE 1, POINT 4 A (new)

Annex I, point (f) (Directive 91/477/EEC)

***4a) In Annex II, point (f), the second paragraph is amended as follows:
"The prior authorisation referred to above is not in principle necessary in order to travel with a firearm with a view to engaging in hunting or for the purpose of taking part in target shooting, on condition that the traveller is in possession of the European firearm pass".***



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Amendment 26
ARTICLE 2, POINT 2 A (new)

(2a) Within five years from the date of transposition of this Directive into national law, and every fifth year thereafter, the Commission shall submit a report to the European Parliament and to the Council on the situation resulting from the application of this Directive, accompanied, if appropriate, by proposals.

The Commission shall undertake a study on the marketing of replica weapons within the European Community and report on this to the European Parliament and to the Council by [...] * at the latest.

**** One year after the date of entry into force of this Directive.***

Justification

In line with better regulation the requirement for reporting included in Directive 91/477/EEC should be updated and made regular. In addition the Commission should conduct a study on the complex issue of replica weapons and their marketing, including their sale on the internet, within the European Community.



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PROCEDURE

Title	Control of the acquisition and possession of weapons			
References	COM(2006)0093 - C6-0081/2006 - 2006/0031(COD)			
Committee responsible	IMCO			
Opinion by Date announced in plenary	LIBE 3.4.2006			
Enhanced cooperation - date announced in plenary	3.4.2006			
Drafts(wo)man Date appointed	Alexander Alvaro 13.9.2006			
Discussed in committee	23.11.2006	25.1.2007	1.2.2007	8.5.2007
	5.6.2007	11.6.2007		
Date adopted	11.6.2007			
Result of final vote	+: -: 0:	26 2 0		
Members present for the final vote	Alexander Alvaro, Philip Bradbourn, Mihael Brejc, Maria Carlshamre, Carlos Coelho, Esther De Lange, Panayiotis Demetriou, Claudio Fava, Kinga Gál, Jeanine Hennis-Plasschaert, Lívia Járóka, Wolfgang Kreissl-Dörfler, Stavros Lambrinidis, Kartika Tamara Liotard, Sarah Ludford, Claude Moraes, Javier Moreno Sánchez, Athanasios Pafilis, Martine Roure, Ioannis Varvitsiotis			
Substitute(s) present for the final vote	Inés Ayala Sender, Gérard Deprez, Ignasi Guardans Cambó, Ona Juknevičienė			
Substitute(s) under Rule 178(2) present for the final vote	Luis de Grandes Pascual, Véronique Mathieu, Arlene McCarthy, Gisela Kallenbach			



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ANNEX 3

NOTE SUR LES AMENDEMENTS KALLENBACH

Amendement 1 :

- Pas d'accord. (La Directive a eu un très bon résultat et application d'accord avec la propre Commission)

Amendement 2 :

- Pas d'accord. (Le traçage c'est un concept clair et dans tout cas déjà défini dans le protocole)

Amendement 3 :

- Pas d'accord pour le traçage des armes, pièces et munitions hors du protocole c'est-à-dire hors transfert de stocks gouvernementaux. **Il suffirait l'application au niveau Européen du Convention C.I.P.** déjà en vigueur dans tous les états producteurs.

Amendement 4 :

- D'accord pour la tenue et conservation des registres pendant 10 ans sous la responsabilité des Etats Membres.
- Mais pas d'accord sur l'obligation autoritaire d'un Fichier Centralisé sans concertation technique entre les Etats Membres, ce n'est pas raisonnable car inapplicable.

Amendement 5

- Pas d'accord.

Amendement 6

- Pas d'accord. Une vérification de l'honorabilité et histoire des Armuriers est déjà prévue dans la Directive. Une vérification de l'origine de leurs moyens financiers peut seul se produire dans un cas d'infraction pénale ou des impôts à travers les autorités fiscales de chaque état mais jamais d'une façon régulière ou antérieure. Une vérification spécifique de la part des autorités policières de chaque professionnel ne semble pas compatible avec les principes basiques d'un état de Droit.

Amendement 7 :

- Pas d'accord pour l'interdiction de vente à distance de principe. Les Etats Membres gèrent cette question avec leur propre réglementation. L'interdire totalement engendrerait un trafic d'armes illicite non contrôlable.
- Pas d'accord sur le délai de « renonciation » car les acheteurs sont tous des « habilités » (tireurs, chasseurs, sécurité...) selon la classification proposée sous « Autorisation ».



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Amendement 8 : (European Fire Arm Pass)

- D'accord.

Amendement 9 et 34 :

Cette disposition existe déjà.

Amendements 10 et 37:

- Pas d'accord. La modification du system de classification des armes n'est pas de tout une exigence du Protocole. La classification des armes et tout le cadre minimal qui suppose la Directive à eu de très bons résultats dans ces ans. Celle est aussi l'opinion de la Commission qui n'a pas de tout envisage un changement du système. Des pays comme la France, la Grande Bretagne, l'Autriche, la Belgique ou même l'Allemagne devront changer toute sa réglementation en matière des armes. Dans quelques cas (Allemagne, Belgique) des nouvelles normes vient de se publier avec total consensus de tous les groups politiques. En plus :
 - a. De nombreux pays utilisent la catégorie C et au moins deux la catégorie D. Les réglementations des Etats prévoient différents régimes de classement afin de ne pas alourdir inutilement les procédures de détention et d'acquisition.
 - b. La plupart des armes à feu ne peuvent être acquises que par des « ayant droit » utilisateurs encadrés : chasseurs, tireurs, et sécurité professionnelle.
 - c. De plus, les munitions suivent le régime des armes. Comment enregistrer les ventes de plus d'un milliard de cartouches de chasse et de tir sportif et dans quel intérêt ? Cette mesure n'est pas réaliste car n'apportant rien au niveau de la sécurité. Au contraire, cela engendrera un stockage important – dû à des achats plus conséquents – qui sera préjudiciable à la sécurité civile (car au delà des autorisations de détention de matières dangereuses ainsi que sujet à vols facilités).
 - d. Il n'y a pas de régime standard commun à tous les pays de l'Union Européenne de la notion d'Autorisation d'Acquisition ce qui pénalisera de fait les pays dont la réglementation est stricte dans ce domaine comme la France (de 6 mois à 1 an pour obtenir une autorisation de catégorie B). De plus les armes dites antiques ou de collections de modèles antérieurs à 1870 dont les répliques de ces modèles utilisées pour pratiquer le tir sportif « Armes Anciennes » sont actuellement en catégorie D ou C dans de nombreux pays de l'Union Européenne. Leur classement en catégorie B serait inutile en terme de sécurité et dramatique en terme sportif et économique (voir amendement 17).

Amendement 13 :

- Pas d'accord. L'extension du concept de munition a tous les éléments séparées provoquerait des graves problèmes aux sportifs qui rechargent sa propre munition. Cela peut causer des conflits d'interprétation et d'incompatibilité avec d'autres normes relatives aux explosives et matériels dangereux.



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Amendement 14 et 15:

- Pas d'accord. Il faut rédiger un texte qui empêche l'application du protocole à d'autres objectifs différents de celles relatifs au **crime organisé avec une relation extracommunautaire.**

Amendements 16, 23, 24:

- Pas d'accord. Le system proposé par le Rapport KALLENBACH est simplement inapplicable. Il serait envisagé d'appliquer au niveau Européen la **Convention C.I.P.** déjà en vigueur dans tous les états producteurs, qui garantis un system très efficace de marquage et traçage.

Amendement 17

- Pas d'accord. D'accord avec le Protocole UN (9° session Vienne 5-16 juin 2000 A/AC.254/4/Add.2/Rev.5) la date devrait être 1.900. Jusqu'à celle époque les armes à feu sont réellement obsolètes. Par ailleurs, d'autres définitions établies par les États membres devraient être autorisées pour autant qu'elles reposent sur des critères techniques.

Amendement 18

- Pas d'accord.

Amendement 19 :

- D'accord.

Amendement 20 :

- Pas d'accord sur la présentation de la Carte Européenne d'Armes à Feu comme un document obligatoire pour tout possesseur d'armes à feu. Elle reste un document intra communautaire.

Amendement 21 :

- D'accord.

Amendement 22, 23 et 24:

- Pas d'accord. Suffit avec application CIP (Voir 16).

Amendement 25 :

- Pas d'accord.

Amendement 26 :

- Pas d'accord sur l'obligation sans étude de faisabilité de la tenue d'un registre national réaliste et opérationnel.

Amendement 27 :

- Pas d'accord. Irréaliste techniquement.

Amendement 28 :



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- Pas d'accord sur la limite d'âge à 18 ans ! Comment fait-on pour chasser à 16 ans sans fusil ? A chaque pays ses règles et responsabilités.

Amendement 29 :

- Pas d'accord. Ce délai de 15 jours est incohérent avec la notion d'Autorisation Préalable d'Acquisition et actuellement pour les C et D ne se justifie pas non plus car concernant des personnes déjà habilitées.
(Voir amendement 7)

Amendement 30-31 :

- Pas d'accord. Sans objet.

Amendement 32 :

- Sans objet. Tout Etat peut toujours effectuer ce type de contrôle aléatoire.

Amendement 33-40 :

- La Carte Européenne d'Arme à Feu prévoit déjà que l'on ne peut se rendre dans un pays de l'Union avec une arme interdite sur ce territoire.
- D'accord pour l'obligation des Etats à reconnaître ce document de transport intra communautaire. Supprimer le « en principe » de l'amendement 40 devrait aider à la bonne fonction de cette carte.

Amendement 37 :

- Pas d'accord. (Voir 10)

Amendement 38 :

- D'accord.



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ANNEX 4

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0000/2007

27.6.2007

*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (COM(2006)0093 – C6-0081/2006 – 2006/0031(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Gisela Kallenbach



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Draftsman (*): Alexander Alvaro, Committee on Civil Liberties, Justice and Home Affairs

(*) Enhanced cooperation between committees - Rule 47 of the Rules of Procedure

PR_COD_1am

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***.
Highlighting in *normal italics* is an indication for the relevant departments



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showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURE.....	;Error! Marcador no definido.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (COM(2006)0093 – C6-0081/2006 – 2006/0031(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0093)²,
- having regard to Article 251(2) and Article 95 (1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0081/2006),

² Not yet published in OJ.



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- having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0000/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 3

(3) The accession of the Community to the Protocol *makes it necessary to amend* certain provisions of Directive 91/477/EEC. Indeed, it is important to ensure the coherent, effective and rapid application of the international commitments affecting the Directive.

(3) ***The Commission signed the Protocol on behalf of the Community on 16 January 2002.*** The accession of the Community to the Protocol ***requires amendments to*** certain provisions of Directive 91/477/EEC. Indeed, it is important to ensure the coherent, effective and rapid application of the international commitments affecting the Directive. ***Furthermore, it is necessary to seize the opportunity of this revision in order to bring to the Directive improvements to address certain issues, in particular those that were identified in the report of the Commission to the European Parliament and the Council of 15 December 2000 on the implementation of Directive 91/477/EEC (COM(2000)0837).***

(This amendment replaces the previous AM 1. Wording is similar and the justification is the same)

Justification

In its report of 15 December 2000 on the implementation of the 91/477/EEC Directive, the European



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Commission identified a series of problems encountered in the implementation of the Directive, and therefore envisaged a series of improvements. In accordance with the principle of better legislation, the current revision process should be used not only to adapt the Directive to the UN Protocol, but also to bring to the Directive the improvements that are needed.

Amendment 2
RECITAL 3 A (new)

(3a) Given that intelligence evidence shows an increase in the use of converted weapons within the EU, it is essential to ensure that such convertible weapons are brought within the definition of 'firearm' in this Directive.

Amendment 3
RECITAL 4

(4) The notions of illicit manufacturing and trafficking of firearms, their parts and ammunition, ***as well as the notion of tracing*** should therefore be defined for the purposes of this Directive.

(This Compromise amendment replaces AM 2; wording is similar)

Amendment 4
RECITAL 5

(5) Furthermore, the Protocol establishes an obligation to mark weapons at the time of manufacture, and at the time of transfer from government stocks to permanent civilian use, whereas Directive 91/477 refers only indirectly to the marking obligation.

(5) Furthermore, the Protocol establishes an obligation to mark weapons at the time of manufacture, and at the time of transfer from government stocks to permanent civilian use, whereas Directive 91/477 refers only indirectly to the marking obligation. ***In order to facilitate the tracing of weapons, it is necessary to use only alphanumeric symbols and to include in the marking the year of manufacture of the weapon (if not part of the serial number). The Convention of 1 July 1969***



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on Reciprocal Recognition of Proofmarks on Small Arms should be envisaged as a reference for the marking system in an the European Union as a whole.

(This Compromise amendment replaces AM 3; wording is similar)

Amendment 5
RECITAL 6

(6) Moreover, the period during which the registers containing information on the weapons are kept must be increased to at least ten years, ***as specified by the Protocol.***

(6) Moreover, ***while the Protocol provides that*** the period during which the registers containing information on the weapons are kept must be increased to at least ten years, ***it is necessary to prolong this period up to not less than 20 years in order to allow a proper tracing of firearms. It is also necessary that Member States keep a computerised and centralised data filing system in which each firearm is attributed a unique identification number and in which the name and address of every successive owner is mentioned. Access by police and judicial authorities to the information contained in the central register must be subject to compliance with Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.***

(This Compromise amendment replaces AM 4; wording is similar)

Amendment 6
RECITAL 7

(7) It must also be specified that brokering activities mentioned in Article 15 of the Protocol ***should be defined for the purpose of this Directive.***



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(This Compromise amendment replaces AM 5; wording is similar)

Amendment 7
RECITAL 7

(7) Va inoltre precisato che le attività di intermediazione, secondo la descrizione dell'articolo 15 del Protocollo, rientrano nella definizione di **armaiolo** fornita dalla direttiva.

(7) Va inoltre precisato che le attività di intermediazione, secondo la descrizione dell'articolo 15 del Protocollo, rientrano nella definizione di **armiere** fornita dalla direttiva.

(Linguistic amendment not affecting English version. Rule 151 (d))

Justification

Il concetto di “broker” (“intermediario”) è estraneo al mercato delle armi civili, mentre appartiene al mondo dei materiali d’armamento, esclusi dalla competenza della direttiva. Le attività di intermediazione sono quindi sostanzialmente estranee al suo campo di applicazione.

Amendment 7
RECITAL 9 A (NEW)

(9a) Due to the special nature of the activity of dealers and brokers, a strict control by the Member States over this activity is necessary, in particular to verify their professional integrity and abilities.

(This Compromise amendment replaces AM 6; wording is similar)

Amendment 8
RECITAL 9 B (new)

(9b) Additional measures are needed to reduce the risks of violent deaths and injuries due to small arms, one important factor influencing the use of small arms being their easy availability. In particular, the acquisition of firearms through means of distance communication, for example via the internet, should be forbidden and Member States should lay down detailed arrangements regarding the interdiction of the acquisition of firearms by persons formerly convicted of a criminal offence



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by a final court judgment.

Justification

The acquisition of firearms through distance communication does not allow appropriate control. Furthermore, a cooling-off period, as applied for example in certain US States such as California, would contribute to avoiding the perpetration of crimes under temporary state of mental disorder. The acquisition of firearms by persons convicted of criminal offences is dangerous and should be regulated.

Amendment 9

RECITAL 9 B (new)

(9b) The acquisition of firearms by private individuals through means of distant communication, for example via the Internet, should be subject to the rules laid down in this directive. Member States should lay down detailed arrangements regarding the prohibition on the acquisition of firearms by persons previously convicted of serious and violent crimes against the person by a final court judgment.

Justification

The acquisition of firearms through distant communications by private individuals should be subject to stringent control, and any such acquisition should be subject to the rules laid down by the directive. In view of the harmonisation of the Member States' respective rules on the acquisition and possession of firearms, the acquisition of firearms by individuals who have been convicted of serious offences against the person should be prohibited.

Amendment 10

RECITAL 9 C (NEW)

(9c) The European Firearms Pass functions in a satisfactory way in the main and should be regarded as the only document needed by hunters, and marksmen to transfer a firearm to another Member State



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(This Compromise amendment replaces AM 8; wording is similar)

Amendment 11
RECITAL 9 D (NEW)

(9d) In order to facilitate the tracing of firearms and to efficiently combat illicit trafficking and manufacturing of firearms, their parts and ammunition, it is necessary to improve the exchange of information among Member States.

The maintenance and exchange of information are subject to compliance with Directive 95/46/EC of the European Parliament and of the Council, of 24 October 1995, on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(This Compromise amendment replaces AM 9; wording is similar)

Amendment 12
RECITAL 9 E (new)

(9e) Several Member States have recently simplified the way they classify firearms by switching from four categories to the following two: prohibited firearms and firearms subject to authorisation. The Member States should fall into line with this simplified classification, although countries which currently divide firearms in to a different set of categories may, in accordance with the principle of subsidiarity maintain their existing classification and authorisation systems.

Justification

The Member States' respective special features and traditions must be respected in line with the principle of subsidiarity, which is always upheld in the EU's policies.



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Amendment 13
ARTICLE 1, POINT -1/-1 A (NEW)

Article 1, paragraph 1 (Directive 91/477/EEC)

-1) In Article 1, paragraph 1 shall be replaced by the following:

"1. For the purposes of this Directive, 'firearm' shall mean any portable barreled weapon that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of an explosive, unless it meets the definition but is excluded for one of the reasons listed in Annex I section III. Firearms are classified in section II of Annex I."

(This Compromise amendment 9 replaces AMs 11, 53, 54 and LIBE 9; wording is similar)

Amendment 14
ARTICLE 1, POINT -1 A (NEW)

Article 1, paragraph 1 a (Directive 91/477/EEC)

-1a) In Article 1, the following paragraph 1a shall be inserted:

"1a. For the purposes of this Directive, 'parts' shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech lock, and any device designed or adapted to diminish the sound caused by firing a firearm."

(This Compromise amendment 10 replaces AMs 12 and 61; wording is similar)

Amendment 15
ARTICLE 1, POINT -1 B (NEW)



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Article 1, paragraph 1 b (new) (Directive 91/477/EEC)

-1b) In Article 1, the following paragraph 1b shall be inserted:

"1b. For the purposes of this Directive, 'ammunition' shall mean the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorization in the respective Member State."

(This Compromise amendment replaces AMs 13, 56, 60 and 62; wording is similar)

Amendment 16
ARTICLE 1, POINT 1 A (NEW)

Article 1, paragraph 1 c (new) (Directive 91/477/EEC)

1a) In Article 1, the following paragraph 1a shall be inserted:

"1c. For the purposes of this Directive, 'tracing' shall mean the systematic tracking of firearms and, where possible, their parts and ammunition from manufacturer to purchaser for the purpose of assisting the competent authorities of Member States in detecting, investigating and analysing illicit manufacturing and illicit trafficking."

(This Compromise amendment 2 replaces AMs 16, 55 and 67; wording is similar)

Amendment 17
ARTICLE 1, POINT 1 B (NEW)

Article 1, paragraph 1 d (new)/4 b (new) (Directive 91/477/EEC)



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1b) In Article 1, the following paragraph 1c shall be inserted:

"1d. For the purposes of the Directive, 'antique weapon' shall mean either any weapon manufactured before 1900, including replicas, or any newer weapon defined as an antique weapon by a Member State according to technical criteria. The relevant technical criteria shall meet at least the standards determined in accordance with Article 13(4)."

(This Compromise amendment 14 replaces AMs 17, 57, 68 and LIBE 10; wording is similar)

Amendment 18
ARTICLE 1, POINT 1 C (NEW)

Article 1, paragraph 1 e (new) (Directive 91/477/EEC)

1c) In Article 1, the following paragraph 1g shall be inserted:

"1e. For the purposes of this Directive, 'broker' shall mean any natural or legal person who creates, with or without remuneration, the conditions necessary to conclude a contract relating to the manufacture, trade, exchange, hiring out, repair or conversion of firearms, their parts and ammunition. Agents and representatives operating in the name or on behalf of authorized dealers on the basis of standard contracts conferring a mandate may not be regarded as 'brokers' for the purpose of implementing this Directive"

(This Compromise amendment replaces AMs 18 and 63; wording is similar)

Amendment 19
ARTICLE 1, POINT 1 D (NEW)



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Article 1, paragraph 2 (Directive 91/477/EEC)

1d) In Article 1, paragraph 2 shall be replaced by the following:

"2. For the purposes of this Directive, 'dealer' shall mean any natural or legal person whose trade or business consists wholly or partly in the manufacture, trade, exchange, hiring out, repair or conversion of firearms, their parts and ammunition."

(This Compromise amendment replaces AMs 19, 64 and LIBE 11; wording is similar)

Amendment 20
ARTICLE 1, POINT 1

Article 1, paragraph 3, introductory part (Directive 91/477/EEC)

1) In Article 1, ***after paragraph 2***, the following two paragraphs shall be ***added***:

3. For the purposes of this Directive, “illicit manufacturing” shall mean the manufacturing or assembly of firearms, ***their parts and components or ammunition***:

1) In Article 1, the following two paragraphs shall be ***inserted***:

1c. For the purposes of this Directive, “illicit manufacturing” shall mean the manufacturing or assembly ***in violation of this Directive*** of firearms, their parts and ammunition, ***including with parts imported from third countries***:

(This Compromise amendment replaces AMs 14 and 65; wording is similar)

Amendment 21
ARTICLE 1, POINT 1

Article 1, paragraph 2b (Directive 91/477/EEC)

4. For the purposes of this Directive, “illicit trafficking” shall mean the acquisition, sale, delivery, movement or transfer of firearms, their parts ***and components*** and ammunition ***from or across*** the territory of ***one*** Member State ***to that of another*** Member State if any one of the Member States concerned does

2b. For the purposes of this Directive, “illicit trafficking” shall mean the acquisition, sale, delivery, movement, transfer of firearms, their parts and ammunition ***in violation of this Directive to*** the territory of ***a*** Member State if any one of the Member States concerned does not authorise it in



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not authorise it in accordance with the terms of this Directive or if the firearms **are** not marked in accordance with Article 4(1).

accordance with the terms of this Directive or if the firearms, ***their parts and ammunition are not registered in accordance with Article 4(3) or not marked in accordance with Article 4(1). The acquisition, sale, delivery, movement or transfer of firearms shall however not be considered illicit trafficking for the sole reason that they are not marked in accordance with Article 4(1) if they were manufactured or transferred from government stocks to permanent civilian use before ...****, provided that the marking meets the relevant requirements applicable before that date.

* [Date of transposition of this Directive by the Member States]

Justification

The absence of registration should be included as a requisite of illicit trafficking. The insertion of the words "in violation of this Directive" will allow legal certainty by defining as an illicit trafficking any trafficking that is not in compliance with all the provisions of the Directive, and ensure that all firearms present on the EU territory are equally treated. However, transactions with firearms meeting current marking standards should not be considered illicit if they concern firearms manufactured or transferred before the date for transposition of this Directive.

Amendment 22 ARTICLE 1, POINT 1 E (NEW)

Article 1, paragraph 4 (Directive 91/477/EEC)

1e) In Article 1, paragraph 4 shall be replaced by the following:

"4. The 'European firearms pass' is a document which is issued on request by the authorities of a Member State to a person lawfully entering into possession of and using a firearm. It shall be valid for a maximum period of five years. The period of validity may be extended. It shall contain the information set out in Annex II. The 'European firearms pass' is a



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nontransferable document, on which shall be entered the firearm or firearms possessed and used by the holder of the pass. The pass must always be in the possession of the person using the firearm. Changes in the possession or characteristics of the firearms shall be indicated on the pass, as well as the loss or theft of the firearm."

(This Compromise amendment 7 replaces AM 20; wording is similar)

Amendment 23
ARTICLE 1, POINT 1 F (NEW)

Article 1, paragraph 4 a (new) (Directive 91/477/EEC)

4a. "A natural or legal person who carries out brokering activities involving the transfer of firearms, their parts or ammunition shall be subject to the same system of authorization as dealers."

(This Compromise amendment 5 replaces AM 69; wording is similar)

Amendment 24
ARTICLE 1, POINT 1 G (NEW)

Article 2, paragraph 3 (Directive 91/477/EEC)

1g) In Article 2, after paragraph 2, the following paragraph shall be added:

"3. This Directive shall also apply to parts and ammunition of firearms, including those imported from third countries.

The rules covering the acquisition and possession of ammunition capable of being used shall be identical to the rules covering the possession of the firearms for which ammunition is intended."



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(This Compromise amendment 18 replaces AMs 22, 70 and 88 (Art. 10); wording is similar)

Amendment 25

ARTICLE 1, POINT 2 D (new)
Article 6 (Directive 91/477/EEC)

(2d) In Article 6, the following paragraph is added:

"The acquisition of firearms, their parts and components and of ammunition through means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts¹, shall be fully subject to the provisions of this Directive.

¹ OJ L 144, 4.6.1997, p. 19."

Amendment 26

ARTICLE 1, POINT 2

Article 4, paragraph 1, subparagraph 1 (Directive 91/477/EEC)

1. For the purpose of identifying and tracing each firearm, the Member States, at the time of manufacture of each firearm, either require unique marking ***providing*** the name of the manufacturer, the country or place of manufacture and the serial number, or maintain any alternative unique user-friendly marking with ***simple geometric symbols in combination with*** a number or alphanumeric code, permitting ready identification by all States of the country of manufacture.

1. For the purpose of identifying and tracing each ***assembled*** firearm, the Member States ***shall***, at the time of manufacture of each firearm, either require unique marking ***including*** the name ***or trademark*** of the manufacturer, the country or place of manufacture, the serial number ***and the year of manufacture (if not part of the serial number)***, for example as laid down in the ***Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms***, or maintain any alternative unique user-friendly marking with a number or alphanumeric code, permitting ready identification by all States of the country of manufacture. ***The marking***



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shall be affixed on an essential or structural part of the firearm, the destruction of which would render the firearm unusable.

(This Compromise amendment 3 replaces AMs 23W, 72, 73, 74, LIBE 2 and LIBE 14; wording is similar)

Amendment 27
ARTICLE 1, POINT 2

Article 4, paragraph 1, subparagraph 1 a (new) (Directive 91/477/EEC)

1a. Member States shall require the marking of every single elementary package of complete ammunition, providing the name of the manufacturer, the identification batch (lot) number, the calibre and the type of ammunition, for example as laid down in the provisions of the Convention of 1 July 1969 on the Reciprocal Recognition of Proof marks on Small arms (CIP).

(This Compromise amendment 16 replaces AMs 24, 76W and 77; wording is similar)

Amendment 28
ARTICLE 1, POINT 2

Article 4, paragraph 2 (Directive 91/477/EEC)

2. At least in respect of categories A and B, each Member State shall make the pursuit of the activity of dealer within its territory conditional upon authorisation on the basis of at least a check on the private and professional integrity of the dealer. In the case of a legal person, the check shall be on the person who directs the undertaking. ***In respect of categories C and D, each Member State which does not make the pursuit of the activity of dealer***

2. Each Member State shall make the pursuit of the activity of dealer ***and of the activity of broker*** within its territory conditional upon authorisation on the basis of at least a check on the private and professional integrity ***and abilities*** of the dealer ***and of the broker***. In the case of a legal person, the check shall be on the person who directs the undertaking.



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conditional upon authorisation shall make such activity subject to a declaration.

(This Compromise amendment 6 replaces AMs 25, 44, LIBE 6 and LIBE 15; wording is similar)

Amendment 29
ARTICLE 1, POINT 2

Article 4, paragraph 3 (Directive 91/477/EEC)

3. Dealers shall be required to keep a register in which information concerning all firearms classified in category A, B or C received or disposed of by them shall be recorded, including such particulars as enable the weapon to be identified, in particular the type, make, model, calibre and serial number thereof and the names and addresses of the person acquiring the weapon. The dealer shall conserve the register for a period of five years, even after he has ceased his activity. Each Member State shall ensure the maintenance of this information for not less than ten years.

3. Each Member State shall ensure the maintenance of a computerised and centralised data filing system, in which each firearm subject to this Directive is attributed a unique identification number. The filing system shall record and maintain for not less than 20 years each firearm's type, make, model, calibre, serial number and year of manufacture (if not part of the serial number), the name and address of the manufacturer and former and current owner of the firearm, any trade or transfer, exchange, hiring out, repair or conversion of the firearm, and such other information that is necessary to enable tracing of the firearm. The filing system shall also contain information enabling tracing of parts and ammunition.

Dealers and brokers, throughout their period of activity, shall be required to maintain a register in which all firearms covered by the Directive which are received or disposed of by them shall be recorded, together with such particulars as enable the weapon to be identified and traced, in particular the type, make, model, calibre, serial number and year of manufacture (if not part of the serial number) thereof and the names and addresses of the persons supplying and acquiring the weapon. Upon cessation of



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activities, the dealer or broker shall deliver the register to the national authority responsible for the registration provided for in subparagraph 1.

(This Compromise amendment 4 replaces AMs 26, 75, LIBE 3 and LIBE 16; wording is similar)

Amendment
ARTICLE 1, POINT 2 A (new)
Article 4, paragraph 3 a (new) (Directive 91/477/EEC)

(3a) Member States shall ensure that all firearms classified in categories A, B, C and D may be linked to their current owners.

Amendment31
ARTICLE 1, POINT 2 B (new)
Article 4a (new) (Directive 91/477/EEC)

(2b) The following Article shall be added after Article 4:

"Article 4a

Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms classified in categories A, B, C or D only by persons who were granted a licence or a permit to do so in accordance with national legislation."

Amendment 32
ARTICLE 1, POINT 2
Article 4, paragraph 3, subparagraph 1 a (new) (Directive 91/477/EEC)

1a. Member States shall ensure that any firearm or part found on their territory is



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marked and registered in compliance with this Directive, or deactivated. Any firearms imported from a third country must be marked in compliance with this Directive.

(This Compromise amendment 19 replaces AMs 27 and 79; wording is similar)

Amendment 33

ARTICLE 1, POINT 2 A (new)

Article 5, paragraph 1, introductory part (Directive 91/477/EEC)

(2c) Article 5 is replaced by the following:

'Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms only by persons who have good cause and who:

Justification

The inserted text is intended to clarify the provision, so as to reflect Article 83(c) of the Schengen Agreement.

Amendment 33

ARTICLE 1, POINT 2 B (new)

Article 5, paragraph 1, point (a) (Directive 91/477/EEC)

2e) Article 5, paragraph 1, point (a) is replaced by the following:

"(a) are 18 years old or more, except for hunting and target shooting, provided that persons less than 18 years of age are under the supervision and guidance of an adult with a valid firearms license or within a licensed training centre;"

(This Oral amendment 5 is identical to AM 83 except for changing "a qualified trainer" to "an adult with a valid firearms license")



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Amendment 34

ARTICLE 1, POINT 2 C (new)

Article 5, paragraph 1, point (b a) (new) (Directive 91/477/EEC)

Without prejudice to Article 3, Member States shall allow the possession of firearms only by persons who have not been convicted of a serious offence (e.g. murder, robbery or arson) or of involvement therein.

Justification

The inserted text is intended to clarify the provision, so as to reflect Article 83(c) of the Schengen Agreement.

Amendment 35

ARTICLE 1, POINT 2 D (new)

Article 5, paragraph 3 (Directive 91/477/EEC)

b) Paragraph 3 is replaced by the following:

'Member States may withdraw authorisation of possession of the firearm if any of the conditions on the basis of which it was granted are no longer satisfied.'

(Wording similar to the Directive)

Justification

The derogation of the age limit for the acquisition and possession of firearms for hunting or target shooting activities is essential and should be maintained, to encourage young people to take part in target shooting and related sports. The criterion of commission of an offence against the person with



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intent is the only one that should be used to ascertain whether a person is a potential danger to society and so should be prohibited from possessing firearms.

Amendment 36

ARTICLE 1, POINT 2 E (new)

Article 6, paragraph 1 a (new) (Directive 91/477/EEC)

2f) In Article 6, the following paragraph 1a shall be added:

"1a. Except with respect to dealers and brokers, Member States shall strictly control the acquisition of firearms, their parts and components and of ammunition through means of distance communication, as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts¹."

¹ OJ L 144, 4.6.1997, p. 19.

Justification

The acquisition of firearms through distance communication shall be strictly controlled by the Member States.

Amendment 37

ARTICLE 1, POINT 2 F (new)

Article 7, point 3 (a) (new) (Directive 91/477/EEC)

3a. Member States may grant persons in respect of whom it has been established that they still satisfy the conditions for the granting of firearm authorisations a multiannual license for the acquisition and possession of all firearms subject to authorisation, without prejudice to the obligation to notify the competent authorities of transfers, the periodic verification that they continue to satisfy the conditions and the maximum limits



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for possession laid down in the respective national laws.

(This Oral amendment 11 replaces part of AM 86)

Amendment 38
ARTICLE 1, POINT 2 G (new)
Article 7, paragraph 3 (Directive 91/477/EEC)

2i) In Article 7, paragraph 3 is replaced by the following:

3. Authorisations to acquire and possess firearms shall generally involve a single administrative procedure.

Justification

Merging authorisation procedures for the acquisition and possession of firearms is logical, given that the purpose of acquisition is normally possession.

Amendment 39
ARTICLE 1, POINT 2 H (new)
Article 8, paragraph 3 (Directive 91/477/EEC)

c) Paragraph 3 is replaced by the following:

"If a Member State prohibits the acquisition and possession within its territory of a firearm classified in category B, it shall so inform the other Member States, which shall expressly include a statement to that effect on any European firearms pass they issue for such a firearm, pursuant to Article 12(2)."



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Justification

This amendment is consistent with the new proposed classification of firearms.

Amendment 40

ARTICLE 1, POINT 2 I (new)

Article 11, paragraph 3, subparagraph 2 (Directive 91/477/EEC)

2e) In Article 11, paragraph 3, subparagraph 2 is replaced by the following:

"At least five working days prior to the date of transfer, the dealer shall communicate to the authorities of the Member State from which the transfer is to be effected all the particulars listed in the first subparagraph of paragraph 2. The public authorities of the Member States concerned shall carry out random on-spot inspections to verify the correspondence between the information communicated by the dealer and the actual characteristics of the transfer."

Justification

As mentioned in the Protocol, transfers must undergo physical inspection, at least on a random basis, by the authorities at the time of shipment or upon arrival with the recipient to ensure that the information corresponds to the actual consignment. In order to allow such inspections, authorities should be informed at least 5 working days prior to the transfer.

Amendment 41

ARTICLE 1, POINT 2 J (NEW)

Article 12, paragraph 2 (Directive 91/477/EEC)

2f) Article 12, paragraph 2 is amended as follows:

a) The first subparagraph is replaced by the following:



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"Notwithstanding paragraph 1, hunters and marksmen may without prior authorization be in possession of one or more firearms during a journey through two or more Member States with a view to engaging in their activities, provided that they are in possession of a European firearms pass listing such firearm or firearms. No other document than the European Firearms Pass shall be required by Member States to that end.

Member States may not make acceptance of a European firearms pass conditional upon any additional registration requirement or the payment of any fee or charge"

b) The second subparagraph is replaced by the following:

"However, this derogation shall not apply to journeys to a Member State which prohibits the acquisition and possession of the firearm in question; in that case, an express statement to that effect shall be entered on the European firearms pass."

(This Compromise amendment 7 replaces AMs 33, 46, 49, 50W, 89, 90W, 98W, LIBE 7, LIBE 13 and LIBE 21; wording is similar)

Amendment 42
ARTICLE 1, POINT 2 K (new)

Article 12, paragraph 3, subparagraph 1 a (new) (Directive 91/477/EEC)

Im Falle von Aktivitäten kulturhistorischer Einrichtungen und Vereine, die den friedlichen Umgang und die friedliche Benutzung von Waffen vorsehen, soll für die grenzübergreifende Mitnahme und Benutzung von Waffen und Knallmunition eine gegenseitige Anerkennung nationaler Dokumente, wie zum Beispiel im bilateralen Abkommen zwischen Deutschland und Österreich



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vom 28. Juni 2002¹ vorgesehen, umgesetzt werden.

¹ Abkommen zwischen der Republik Österreich und der Bundesrepublik Deutschland über die gegenseitige Anerkennung von Dokumenten für die Mitnahme von Schusswaffen und Munition durch Angehörige traditioneller Schützenvereinigungen und Sportschützen, Berlin am 28. Juni 2002 (Bundesgesetzblatt für die Republik Österreich (Teil III) vom 13. Mai 2004.

(This Oral amendment 2 replaces AM 52)

Justification

Zur Erhaltung und Pflege der kulturellen Vielfalt und der historischen Brauchtumserhaltung in der Europäischen Union soll kultur-historischen Einrichtungen und Verbände zu diesem Zwecke der Umgang und Gebrauch von Brauchtumswaffen so weit wie möglich erleichtert werden. Diese Lösung konnte bereits im Falle des zitierten "Abkommens zwischen der Republik Österreich und der Bundesrepublik Deutschland über die gegenseitige Anerkennung von Dokumenten für die Mitnahme von Schusswaffen und Munition" mit Erfolg in die Praxis umgesetzt werden und resultierte entgegen mancher Befürchtungen nicht in einen unkontrollierten oder gar gefährlichen Umgang mit Waffen.

Amendment 43

ARTICLE 1, POINT 2 L (NEW)

Article 13 (Directive 91/477/EEC)

2g) Article 13 is amended as follows:

a) Paragraph 2 is replaced by the following:

"2. All information that Member States receive by way of the procedures laid down in Article 11 for transfers of firearms and in Article 7(2) for the acquisition and possession of firearms by non-residents shall be communicated, not later than the time of the relevant transfers, to the Member States of



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destination and, where appropriate, not later than the time of transfer to the Member States of transit."

b) Paragraph 3 is replaced by the following:

"3. Member States shall on a regular basis exchange information relating to marking systems and techniques, the number of authorised dealers and brokers, transfers of firearms, their parts and ammunition, national legislation and practices, existing stocks on their territories, confiscated firearms and deactivation methods and techniques. Member States shall also, in accordance with the European Convention on Mutual Assistance in Criminal Matters of 1959 and any later instrument wholly or partially amending, replacing or supplementing that Convention, exchange information on persons having been found guilty of a serious criminal offence defined in this Directive by a final court judgment. The Commission shall set up, by [...] at the latest, a contact group for the exchange of information for the purposes of applying this Article, and for the cooperation regarding the tracing of illicit firearms, their parts and ammunition. Each Member State shall inform the other Member States and the Commission of the national authorities responsible for transmitting and receiving information and for complying with the obligations set out in Article 11(4). The Commission, acting in accordance with paragraph 4, shall take the appropriate measures for the purpose of applying this paragraph."

c) After paragraph 3, the following paragraph is added:

"4. The Commission, acting in accordance with the regulatory procedure



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with scrutiny set out in Article 5a(1) to (4) and Article 7, and having regard to the provisions of Article 8, of Decision 1999/468/EC, as amended by Decision 2006/512/EC, shall take the appropriate measures pursuant to

- Article 1, paragraph 7, and - Annex I, Point III (a), paragraph 2.

The Commission, acting in accordance with the procedure set out in Article 3 and 7, and having regard to the provisions of Article 8, of Decision 1999/468/EC, as amended by Decision 2006/512/EC, shall take the appropriate measures pursuant to paragraph 3 of this Article."

** One year after the date of entry into force of this Directive*

(This Compromise amendment 8 replaces AMs 34, 47, 91, LIBE 4 and LIBE 22; wording is similar)

Amendment 44

ARTICLE 1, POINT 3

Article 16, paragraph 1, subparagraph 3 (Directive 91/477/EEC)

Such attempts, or participation as an accomplice in the latter shall also be considered as criminal offences, when committed intentionally.

Organising, directing, aiding, abetting, facilitating or counselling the commission of an offence defined by this Article shall be considered as a criminal offence, when committed intentionally.

Justification

This wording is taken from the UN Protocol, which forms the basis of the Directive, and is intended to clarify the provision.

Amendment 45

ARTICLE 1, POINT 3

Article 16, paragraph 1, subparagraph 3 a (new) (Directive 91/477/EEC)

The failure to carry a European firearms



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pass shall not be subject to a custodial sentence.

Justification

This addition is to prevent lawful owners of weapons risking prison if they travel to another Member State and are unable to present a European firearms pass but are in possession of all other necessary documents.

Amendment 46

ARTICLE 1, POINT 2 M (new)
Article 17 (Directive 91/477/EEC)

2h) Article 17 is replaced by the following:

"Within five years from the date of transposition of this Directive into national law, and every fifth year thereafter, the Commission shall submit a report to the European Parliament and to the Council on the situation resulting from the application of this Directive, accompanied, if appropriate, by proposals."

The Commission shall undertake a study on the marketing of replica weapons within the European Community and report on this to the European Parliament and to the Council by [...] * at the latest."

**** One year after the date of entry into force of this Directive.***

(The additional text comes from LIBE AD, AM 26)

Justification

The Commission's report mentioned in article 17 of the 91/477/EEC Directive should be provided regularly.



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Amendment 47
ARTICLE 1, POINT 2 N (NEW)

Article 17 (is it a new paragraph?) (Directive 91/477/EEC)

2n) The Commission shall also undertake a study on the simplification and better functioning of the internal market of firearms. On the basis of this study, the Commission shall if appropriate submit to the European Parliament and to the Council, by at the latest [...], a proposal aimed at the reduction of the classification of firearms to two categories with eventual derogation for hunters and sportsmen.*

** Three years after the date of entry into force of this Directive.*

Justification

Amendment 48
ARTICLE 1, POINT 4, POINT (-A) (NEW)

Annex I, Part I, first indent (Directive 91/477/EEC)

-a) In Part I, the first indent is replaced by the following:

"- any firearm as defined in Article 1,"

(This Compromise amendment 9 replaces AM 36; wording is similar)

Amendment 49
ARTICLE 1, POINT 2 O (NEW)

Article 7, point 3 b (new) (Directive 91/477/EEC)



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3b. *Member States shall adopt rules to ensure that those recognized under national law as hunters, marksmen or collectors and holding authorizations for weapons in category B under national law at the time of entry into force of this Directive do not need to apply for authorisation for weapons they hold in categories C or D due to the entry into force of this Directive. However, any subsequent transfer of such weapons shall be subject to the transferee obtaining or having authorisation for such weapons.*

(This Oral amendment 3 replaces part of AM 86)

Justification

Amendment 50

ARTICLE 1, POINT 4, POINT (-A) (new)
Annex I, part II, letter A, point 5 (Directive 91/477/EEC)

-a) In Annex I, part II, section A, point 5 is replaced by the following:

“5. Pistol and revolver ammunition with expanding projectiles and the projectiles for such ammunition, except in the case of weapons for hunting or for recreational shooting, for persons entitled to use them.”

(Wording similar to the Directive)

Justification

The expression 'recreational shooting' is more accurate and appropriate than 'target shooting', as it includes all gun sports, including those which do not involve shooting at targets.

Amendment 51

ARTICLE 1, POINT 4, POINT (B)

Annex I, part III, paragraph 1 a (new) (Directive 91/477/EEC)



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b) **The** following paragraph is inserted after the first paragraph:

"The Member States shall make arrangements for the deactivation measures set out under (a) to be verified by a competent authority, to ensure that the modifications made to a firearm render it **permanently** inoperable. The Member States shall provide, in the context of this verification, for the issue of a certificate or record attesting to the deactivation of the firearm or a clearly visible mark to that effect stamped on the firearm."

b) **In part III, the** following paragraph is inserted after the first paragraph

"The Member States shall make arrangements for the deactivation measures set out under (a) to be verified by a competent authority, to ensure that the modifications made to a firearm render it **irreversibly** inoperable. The Member States shall provide, in the context of this verification, for the issue of a certificate or record attesting to the deactivation of the firearm or a clearly visible mark to that effect stamped on the firearm. **The Commission shall issue common guidelines, following the procedure set out in Article 13(4), on deactivation standards and techniques to ensure that deactivated firearms are permanently inoperable.**"

(This Compromise amendment 17 replaces AMs 38, 94 and 95; wording is similar)

Justification

Amendment 52

ARTICLE 1, POINT 4, POINT (B A) (new)
Annex I, part IV, point (b) (Directive 91/477/EEC)

ba) In point IV, point b) is replaced by the following:

b) "long firearm" means a firearm with a barrel exceeding 30 cm, or whose overall length exceeds 60 cm;

(Wording similar to the Directive)

Justification

Although the wording of point a) in Annex 1 point 4 seems fairly clear, nevertheless the failure to specifically define long firearms in point b) has created certain difficulties of interpretation; the



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misguided practice has arisen of regarding as 'short firearms' firearms whose overall length is less than 60 cm but which have a barrel whose total length exceeds 30 cm. The proposed wording is clearer, therefore, and would avoid conflicting interpretations.

Amendment 53

ARTICLE 1, POINT 4, POINT (B B) (NEW)
Annex II, point (f) (Directive 91/477/EEC)

***bb) In Annex II, point (f), the second paragraph is amended as follows:
"The prior authorisation referred to above is not necessary in order to travel with a firearm with a view to engaging in hunting or for the purpose of taking part in target shooting, on condition that the traveller is in possession of the European firearm pass".***

Amendment 54

ARTICLE 2, PARAGRAPH 1, SUBPARAGRAPH 1

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest. They shall forthwith communicate to the ***European Parliament and the*** Commission the text of those provisions and a correlation table between those provisions and this Directive.

Justification

In order to be able to monitor the transposition of this Directive together with the other EU Institutions, the Parliament should be given the same information as the Commission of the national transposition measures.

EXPLANATORY STATEMENT

Background information



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Necessitated by the elimination of internal borders in the Community on January 1st 1993, the 91/477/EEC directive on control of the acquisition and possession of weapons sets common rules enabling controls to be carried out within Member States on the acquisition and possession of firearms and on their transfer to another Member State. The directive defines four categories of firearms (prohibited, subject to authorisation, subject to declaration, and subject to no authorisation or declaration), requires records of transfers of firearms to be kept for 5 years, creates a European firearms pass for the movement of weapons in the Community and encourages exchange of information between Member States.

In December 2000, the Commission released a report on the implementation of this directive. The report did not conclude that substantial modifications of the 1991 directive were needed, but did identify a number of problems and possible solutions, in particular concerning information exchange between Member States (for instance through the creation of a contact group), the simplification of the categories of weapons, the European firearms pass (simplification of the derogation for hunters, mutual agreements between Member States, harmonised conditions to obtain the pass, rules regarding temporary transfers of weapons), the definition of common technical specifications regarding neutralisation and a common definition of antique weapons.

In December 2001, the European Commission signed, on behalf of the European Community, the UN Protocol against the illicit manufacturing and trafficking of firearms.

In March 2006, the Commission issued a proposal to amend the 1991 directive in order to adapt it to the requirements of the 2001 UN Protocol. The proposal covers 6 aspects: definition of illicit manufacturing and trafficking in line with the UN Protocol ; explicit obligation of marking firearms ; extension to 10 years of the period in which information on firearms must be kept in registers ; brokering activities ; obligation to consider illicit manufacturing or trafficking as intentional criminal offences ; and measures regarding the deactivation of firearms. The Commission decided to only cover points arising from the UN Protocol. Therefore, a series of points mentioned in the 2000 report as possible improvements of the 1991 directive were not included in the proposal.

On September 13th 2006, the European Economic and Social Committee issued an Opinion on the Commission's proposal in which it is emphasised that transnational crime constitutes one of the most serious threats to the integrity of States. The EESC suggests to adopt harmonised preventive and punitive legislation and integrated common policies and to provide a definition of antique weapons, and recommends that Member States be bound to require weapons owners to declare ownership, hold a permit or comply with another administrative procedures authorising the use and carrying of a weapon.

The Centre for European Policy Studies was asked by the IMCO Committee to draft a briefing note reviewing the state of transposition of the Directive in ten EU Member States. The study shows that in most Member States : dealers must already keep records for ten years or more ; there is a uniform marking system ; additional requirements concerning the acquisition of firearms are imposed ; holders of a European firearms pass are required to present an invitation when entering the territory of most Member States ; brokers are covered by the national firearms legislation ; dealers are required to have an authorisation for trade in weapons of all categories ; and deactivation of weapons is generally delegated



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to a Proof House or to certain other bodies. Some Member States do not have categories C and D of firearms.

The IMCO Committee organised a mini-hearing on October 4th 2006 in order to examine on which points the 1991 Directive would need to be modified and to clarify the appropriate level of harmonisation on EU level. The experts invited in the hearing expressed contrasting views concerning the possible content of the revised directive. Some of them emphasised the already existing wide testing measures being part of the manufacturing process and aiming at consumer safety, and the existing control system in force in 11 EU States which are members of the International Permanent Commission (CIP)³. Others highlighted the threat caused by converted and reactivated firearms, pointed out that these weapons are not covered by the current directive, and therefore called for stricter rules, in particular: an indestructible marking of weapons ; a ban on geometric marking ; strict requirements for qualifications of dealers ; a clear definition of brokers ; the keeping of digitised data for an unlimited period ; guidelines for deactivation of weapons ; the incorporation in the directive of the import of weapons into the EU ; the limitation to two categories of firearms (prohibited or subject to authorisation) ; restrictions on how many firearms a single person is allowed to own ; and physical inspections in case of transfer of weapons.

The rapporteur's proposals

It should be noted that 5 years after the UN Protocol was signed, it is high time to incorporate into EU law the provisions of this Protocol. Illicit manufacturing and trafficking of firearms, their parts and components and ammunition have harmful effects on the security of all inhabitants of the EU. Additional measures are needed in order to prevent, combat and eradicate these activities. The issue of illicit possession of firearms cannot be separated from the issue of violent deaths due to small firearms, whether these are illicit or not. Readily available, cheap, portable and easy to use, small arms are tools of violence in society. According to World Health Organisation (WHO) data, interpersonal violence and suicide rank third and fourth among people aged 15–44 years, respectively among the world's leading causes of ill-health and premature mortality, while war-related injuries rank sixth. A large proportion of these occur through the use of firearms. Factors influencing the use of small arms include the availability of these weapons. The easy availability of firearms has been associated with higher firearm mortality rates. Furthermore, 15 years after the adoption of the 1991 directive, and 6 years after the European Commission's report on the implementation of this directive, it would be appropriate to include in the current revision all the relevant elements which could improve the effect of this directive on the safety of persons. In this respect, the current revision process of the 1991 directive should not be limited to the points mentioned in the UN Protocol. It should also examine, amongst other things in light of the Commission 2000 report and developments in national legislation, whether it would now be useful to make additional modifications to the directive, to reduce the need for additional changes in the near term. Indeed, in view of the EU's efforts on better legislation, it is in the citizens' interest to avoid the need for several successive revisions of a single legislation.

³ In this respect, it should be noted that a coherent concept for tracing firearms and ammunition does not exist in the EU so far. Therefore, the transfer of CIP regulations into EU legislation would be desirable, with simultaneous consideration of a special inclusion of the non EU Members Russia and Chile. But as this would request a long negotiation process a more efficient solution is needed.



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In view of these considerations, the rapporteur puts forward amendment proposals in particular concerning the:

1. scope of the directive (to include not only firearms, but also their parts and ammunition, and to cover collectors and bodies concerned with cultural or historical aspects) ;
2. marking system (use of alphanumeric symbols, data on the year of fabrication ; marking on essential and structural parts of the weapons) ;
3. record keeping (extension of the period, responsibility of public authorities, computerisation, centralised data-keeping system at national level for each firearm with a unique identification number) ;
4. exchange of information between Member States (data on marking systems and techniques, transfers, existing stocks and confiscated firearms, creation of an official contact group) ;
5. profession of a dealer (professional abilities, financial means) ;
6. brokering activities (definition) ;
7. classification of firearms (keep only two categories : forbidden and subject to authorisation) ;
8. control (physical inspections in case of intra-community transfers) ;
9. the European firearms pass (recognition that the Pass is the only appropriate instrument to allow for valid journeys to another Member States, deletion of the derogation for hunters under 18 years regarding acquisition and possession of firearms, rules in case of temporary transfer for repairs or for exhibitions) ,
10. deactivation of firearms (EU guidelines containing technical specifications, measures to avoid reactivation) ;
11. antique weapons (definition) ; and
12. additional security measures (forbid the acquisition through distance communication, introduce a cooling-off period when someone wants to buy a weapon and forbid the acquisition of a firearm by persons convicted of criminal offences).

The rapporteur considers that the issue of sanctions and criminal offences are issues to be addressed by the Parliaments' Committee for Civil Liberties, Justice and Home Affairs and therefore does not make precise suggestions in this regard. The rapporteur would also appreciate suggestions by the LIBE Committee concerning her own proposals as regards the additional security measures mentioned in point 12 above.



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ANNEX 5

Dear Sirs,

Our association has been very active and attentive during the negotiation of the Amendment of the *Fire Guns Directive*. We consider that the result of the amendment procedure has been correct and will provide a long period of stability concerning the civil gun ownership and trading in Europe.

Recently we have received the proposal from the Parliament linguistic services which to our point of view includes several mistakes or issues that could change deeply some of the compromises so widely voted and adopted by the Parliament, the Council and the Commission.

For this reason we would like to point some of the questions that we consider could cause such effect:

Art. 1 para 1. The definition of firearms and essential parts, is the exact one of the UN Protocol, and therefore should not be changed. Technically it is not appropriate to change “*explosive*” by “*combustive propellant*”, is not the same.

Art. 1 para 1a. The linguistic proposal includes again the definition of “*essential component*”. Technically this is not necessary, as the previous **paragraph 1.a** provides a clear definition of “parts of firearms”, providing that such are any “*element essential to its operation*”.

The inclusion of another definition of essential component could cause confusions.

Art. 5 para 1. The proposal of the linguistic services is absolutely unacceptable. It changes completely the meaning of the compromised and widely voted text. Young hunters or sport shooters can practise their sport if they are under parental guidance or have their permissions or are under the guidance of another adult not being their parent but holding a valid gun holder authorisation. By changing or by and, sons from not hunters or sport shooters could not practise their sport without their parents. **This is a main change absolutely against the compromised text.**

We hope that such comments will be taken into consideration.

Sincerely yours,

Víctor Fabregat