

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 18 June 1991

on control of the acquisition and possession of weapons

(91/477/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 8a of the Treaty provides that the internal market must be established by not later than 31 December 1992; whereas the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured, in accordance with the provisions of the Treaty;

Whereas, at its meeting in Fontainebleau on 25 and 26 June 1984, the European Council expressly set the objective of abolishing all police and customs formalities at intra-Community frontiers;

Whereas the total abolition of controls and formalities at intra-Community frontiers entails the fulfilment of certain fundamental conditions; whereas in its white paper 'Completing the internal market' the Commission stated that the abolition of controls on the safety of

objects transported and on persons entails, among other things, the approximation of weapons legislation;

Whereas abolition of controls on the possession of weapons at intra-Community frontiers necessitates the adoption of effective 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; whereas systematic controls must therefore be abolished at intra-Community frontiers;

Whereas the mutual confidence in the field of the protection of the safety of persons which these rules will generate between Member States will be the greater if they are underpinned by partially harmonized legislation; whereas it would therefore be useful to determine category of firearms whose acquisition and possession by private persons are to be prohibited, or subject to authorization, or subject to declaration;

Whereas passing from one Member State to another while in possession of a weapon should, in principle, be prohibited; whereas a derogation therefrom is acceptable only if a procedure is adopted that enables Member States to be notified that a firearm is to be brought into their territory;

Whereas, however, more flexible rules should be adopted in respect of hunting and target shooting in order to avoid impeding the free movement of persons more than is necessary;

Whereas the Directive does not affect the right of Member States to take measures to prevent illegal trade in weapons,

⁽¹⁾ OJ No C 235, 1. 9. 1987, p. 8 and OJ No C 299, 28. 11. 1989, p. 6.

⁽²⁾ OJ No C 231, 17. 9. 1990, p. 69 and OJ No C 158, 17. 6. 1991, p. 89.

⁽³⁾ OJ No C 35, 8. 2. 1988, p. 5.

HAS ADOPTED THIS DIRECTIVE :

Directive, subject to the rights conferred on residents of the Member States by Article 12 (2).

CHAPTER 1

CHAPTER 2

Scope

Harmonization of legislation concerning firearms

Article 1

Article 4

1. For the purposes of this Directive 'weapons' and 'firearms' shall have the meanings ascribed to them in Annex I. Firearms are classified and defined in section II of that Annex.

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 authorization 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 authorization shall make such activity subject to a declaration.

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.

Each dealer 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 him 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 supplier and the person acquiring the weapon. The Member States shall regularly check dealers' compliance with this obligation. The dealer shall conserve the register for a period of five years, even after he has ceased his activity.

3. For the purposes of this Directive, a person shall be deemed to be a resident of the country indicated by the address appearing on a document establishing his place of residence, such as a passport or an identity card, which, on a check on possession or on acquisition, is submitted to the authorities of a Member State or to a dealer.

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. Where only firearms classified in category D appear on the pass, the maximum period of validity thereof shall be ten years. 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.

Article 5

Without prejudice to Article 3, Member States shall allow the acquisition and possession of firearms classified in category B 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.

Article 2

1. This Directive is without prejudice to the application of national provisions concerning the carrying of weapons, hunting or target shooting.

Without prejudice to Article 3, Member States shall allow the possession of firearms classified in categories C and D only by persons satisfying the conditions in point (a) of the first paragraph.

2. This Directive shall not apply to the acquisition or possession of weapons and ammunition, in accordance with national law, by the armed forces, the police, the public authorities or by collectors and bodies concerned with the cultural and historical aspects of weapons and recognized as such by the Member State in whose territory they are established. Nor shall it apply to commercial transfers of weapons and ammunition of war.

Member States may withdraw authorization 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.

Article 3

Article 6

Member States may adopt in their legislation provisions which are more stringent than those provided for in this

Member States shall take all appropriate steps to prohibit the acquisition and the possession of the firearms and ammunition classified in category A. In special cases, the competent authorities may grant authorizations for such

firearms and ammunition where this is not contrary to public security or public order.

Article 7

1. No one may acquire a firearm classified in category B within the territory of a Member State unless that Member State has so authorized him.

No such authorization may be given to a resident of another Member State without the latter's prior agreement.

2. No one may be in possession of a firearm classified in category B within the territory of a Member State unless that Member State has so authorized him. If he is a resident of another Member State, that other Member State shall be informed accordingly.

3. An authorization to acquire and an authorization to possess a firearm classified in category B may take the form of a single administrative decision.

Article 8

1. No one may be in possession of a firearm classified in category C unless he has declared it to the authorities of the Member State in which that firearm is held.

The Member States shall provide for the compulsory declaration of all firearms classified in category C at present held within their territories but not previously declared within one year of the entry into force of the national provisions transposing this Directive.

2. Every seller, dealer or private person shall inform the authorities of the Member State in which it takes place of every transfer or handing over of a firearm classified in category C, giving the particulars by which the firearm and the person acquiring it may be identified. If the person acquiring such a firearm is a resident of another Member State, that other Member State shall be informed of the acquisition by the Member State in which it took place and by the person acquiring the firearm.

3. If a Member State prohibits or makes subject to authorization the acquisition and possession within its territory of a firearm classified in category B, C or D, 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).

Article 9

1. The handing over of a firearm classified in category A, B or C to a person who is not resident in the Member State in question shall be permitted, subject to compliance with the obligations laid down in Articles 6, 7 and 8:

— where the person acquiring it has been authorized in accordance with Article 11 himself to effect a transfer to his country of residence,

— where the person acquiring it submits a written declaration testifying to and justifying his intention to be in possession of the firearm in the Member State of acquisition, provided that he fulfils the legal conditions for possession in that Member State.

2. Member States may authorize the temporary handing over of firearms in accordance with procedures which they shall lay down.

Article 10

The arrangements for the acquisition and possession of ammunition shall be the same as those for the possession of the firearms for which the ammunition is intended.

CHAPTER 3

Formalities for the movement of weapons within the Community

Article 11

1. Firearms may, without prejudice to Article 12, be transferred from one Member State to another only in accordance with the procedure laid down in the following paragraphs. These provisions shall also apply to transfers of firearms following a mail order sale.

2. Where a firearm is to be transferred to another Member State, the person concerned shall, before it is taken there, supply the following particulars to the Member State in which such firearm is situated:

- the names and addresses of the person selling or disposing of the firearm and of the person purchasing or acquiring it or, where appropriate, of the owner,
- the address to which the firearm is to be consigned or transported,
- the number of firearms to be consigned or transported,
- the particulars enabling the firearm to be identified and also an indication that the firearm has undergone a check in accordance with the Convention of 1 July 1969 on the Reciprocal Recognition of Proofmarks on Small Arms,
- the means of transfer,
- the date of departure and the estimated date of arrival.

The information referred to in the last two indents need not be supplied where the transfer takes place between dealers.

The Member State shall examine the conditions under which the transfer is to be carried out, in particular with regard to security.

Where the Member State authorizes such transfer, it shall issue a licence incorporating all the particulars referred to in the first subparagraph. Such licence shall accompany the firearm until it reaches its destination; it shall be produced whenever so required by the authorities of the Member States.

3. In the case of transfer of the firearms, other than weapons of war, excluded from the scope of this Directive pursuant to Article 2 (2), each Member State may grant dealers the right to effect transfers of firearms from its territory to a dealer established in another Member State without the prior authorization referred to in paragraph 2. To that end it shall issue an authorization valid for no more than three years, which may at any time be suspended or cancelled by reasoned decision. A document referring to that authorization must accompany the firearm until it reaches its destination; it must be produced whenever so required by the authorities of the Member States.

Not later than the time 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.

4. Each Member State shall supply the other Member States with a list of firearms the transfer of which to its territory may not be authorized without its prior consent.

Such lists of firearms shall be communicated to dealers who have obtained approval for transferring firearms without prior authorization under the procedure laid down in paragraph 3.

Article 12

1. If the procedure provided for in Article 11 is not employed, the possession of a firearm during a journey through two or more Member States shall not be permitted unless the person concerned has obtained the authorization of each of those Member States.

Member States may grant such authorization for one or more journeys for a maximum period of one year, subject to renewal. Such authorizations shall be entered on the European firearms pass, which the traveller must produce whenever so required by the authorities of the Member States.

2. Notwithstanding paragraph 1, hunters, in respect of categories C and D, and marksmen, in respect of category B, C and D, may without prior authorization be in possession of one or more firearms classified in these categories during a journey through two or more Member States with a view to engaging in their activities, provided that they are in possession of a European firearms pass listing such firearm or firearms and provided that they are able to substantiate the reasons for their journey, in particular by producing an invitation.

However, this derogation shall not apply to journeys to a Member State which prohibits the acquisition and possession of the firearm in question or which, pursuant to Article 8 (3), makes it subject to authorization; in that case, an express statement to that effect shall be entered on the European firearms pass.

In the context of the report referred to in Article 17, the Commission in consultation with the Member States, will also consider the effects of applying the second subparagraph, particularly as regards its impact on public order and public security.

3. Under agreements for the mutual recognition of national documents, two or more Member States may provide for arrangements more flexible than those prescribed in this Article for movement with firearms within their territories.

Article 13

1. Each Member State shall communicate all useful information at its disposal concerning definitive transfers of firearms to the Member State to the territory of which such a transfer has been effected.

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) and Article 8 (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 destination and, where appropriate, not later than the time of transfer to the Member States of transit.

3. Member States shall set up, by 1 January 1993 at the latest, networks for the exchange of information for the purposes of applying this Article. They shall inform the other Member States and the Commission of the national authorities responsible for transmitting and receiving information and for applying the formalities referred to in Article 11 (4).

Article 14

Member States shall adopt all relevant provisions prohibiting entry into their territory:

- of a firearm except in the cases defined in Articles 11 and 12 and provided the conditions laid down therein are met,
- of a weapon other than a firearm provided that the national provisions of the Member State in question so permit.

CHAPTER 4

Final provisions

Article 15

1. Member States shall intensify controls on the possession of weapons at external Community frontiers. They shall in particular ensure that travellers from third countries who intend to proceed to another Member State comply with Article 12.

2. This Directive shall not preclude the carrying out of controls by Member States or by the carrier at the time of boarding of a means of transport.

3. Member States shall inform the Commission of the manner in which the controls referred to in paragraphs 1 and 2 are carried out. The Commission shall collate this information and make it available to all Member States.

4. Member States shall notify the Commission of their national provisions, including changes relating to the acquisition and possession of weapons, where the national law is more stringent than the minimum standard they are required to adopt. The Commission shall pass on such information to the other Member States.

Article 16

Member States shall introduce penalties for failure to comply with the provisions adopted pursuant to this Directive. Such penalties must be sufficient to promote compliance with such provisions.

Article 17

Within five years from the date of transposition of this Directive into national law, 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.

Article 18

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with

this Directive in good time so that the measures provided for by this Directive may be put into effect not later than 1 January 1993. They shall forthwith inform the Commission and the other Member States of the measures taken.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 19

This Directive is addressed to the Member States.

Done at Luxembourg, 18 June 1991.

For the Council

The President

G. WOHLFART

ANNEX I

- I. For the purposes of this Directive, 'weapon' means :
- any firearm as defined in section II of this Annex,
 - weapons other than firearms as defined in national legislation.
- II. For the purposes of this Directive, 'firearm' means :
- A. Any object which falls into one of the following categories, unless it meets the definition but is excluded for one of the reasons listed in section III.
- Category A — Prohibited firearms*
1. Explosive military missiles and launchers.
 2. Automatic firearms.
 3. Firearms disguised as other objects.
 4. Ammunition with penetrating, explosive or incendiary projectiles, and the projectiles for such ammunition.
 5. Pistol and revolver ammunition with expanding projectiles and the projectiles for such ammunition, except in the case of weapons for hunting or for target shooting, for persons entitled to use them.
- Category B — Firearms subject to authorization*
1. Semi-automatic or repeating short firearms.
 2. Single-shot short firearms with centre-fire percussion.
 3. Single-shot short firearms with rimfire percussion whose overall length is less than 28 cm.
 4. Semi-automatic long firearms whose magazine and chamber can together hold more than three rounds.
 5. Semi-automatic long firearms whose magazine and chamber cannot together hold more than three rounds, where the loading device is removable or where it is not certain that the weapon cannot be converted, with ordinary tools, into a weapon whose magazine and chamber can together hold more than three rounds.
 6. Repeating and semi-automatic long firearms with smooth-bore barrels not exceeding 60 cm in length.
 7. Semi-automatic firearms for civilian use which resemble weapons with automatic mechanisms.
- Category C — Firearms subject to declaration*
1. Repeating long firearms other than those listed in category B, point 6.
 2. Long firearms with single-shot rifled barrels.
 3. Semi-automatic long firearms other than those in category B, points 4 to 7.
 4. Single-shot short firearms with rimfire percussion whose overall length is not less than 28 cm.
- Category D — Other firearms*
- Single-shot long firearms with smooth-bore barrels.
- B. Any essential component of such firearms :
- The breach-closing mechanism, the chamber and the barrel of a firearm which, being separate objects, are included in the category of the firearms on which they are or are intended to be mounted.
- III. For the purposes of this Annex objects which correspond to the definition of a 'firearm' shall not be included in that definition if they :
- (a) have been rendered permanently unfit for use by the application of technical procedures which are guaranteed by an official body or recognized by such a body;
 - (b) are designed for alarm, signalling, life-saving, animal slaughter or harpoon fishing or for industrial or technical purposes provided that they can be used for the stated purpose only;
 - (c) are regarded as antique weapons or reproductions of such where these have not been included in the previous categories and are subject to national laws.

Pending coordination throughout the Community, Member States may apply their national laws to the firearms listed in this Section.

IV. For the purposes of this Annex :

- (a) 'short firearm' means a firearm with a barrel not exceeding 30 centimetres or whose overall length does not exceed 60 centimetres ;
- (b) 'long firearm' means any firearm other than a short firearm ;
- (c) 'automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire more than one round with one pull on the trigger ;
- (d) 'semi-automatic firearm' means a firearm which reloads automatically each time a round is fired and can fire only one round with one pull on the trigger ;
- (e) 'repeating firearm' means a firearm which after a round has been fired is designed to be reloaded from a magazine or cylinder by means of a manually-operated action ;
- (f) 'single-shot firearm' means a firearm with no magazine which is loaded before each shot by the manual insertion of a round into the chamber or a loading recess at the breech of the barrel ;
- (g) 'ammunition with penetrating projectiles' means ammunition for military use where the projectile is jacketed and has a penetrating hard core ;
- (h) 'ammunition with explosive projectiles' means ammunition for military use where the projectile contains a charge which explodes on impact ;
- (i) 'ammunition with incendiary projectiles' means ammunition for military use where the projectile contains a chemical mixture which bursts into flame on contact with the air or on impact.

ANNEX II

EUROPEAN FIREARMS PASS

The pass must include the following sections :

- (a) identity of the holder ;
- (b) identification of the weapon or firearm, including a reference to the category within the meaning of the Directive ;
- (c) period of validity of the pass ;
- (d) section for use by the Member State issuing the pass (type and references of authorizations, etc.) ;
- (e) section for entries by other Member States (authorizations to enter their territory, etc.) ;
- (f) the statements :

'The right to travel to another Member State with one or more of the firearms in categories B, C or D mentioned in this pass shall be subject to one or more prior corresponding authorizations from the Member State visited. This or these authorizations may be recorded on the pass.

The prior authorization referred to above is not in principle necessary in order to travel with a firearm in categories C or D with a view to engaging in hunting or with a firearm in categories B, C or D for the purpose of taking part in target shooting, on condition that the traveller is in possession of the firearms pass and can establish the reason for the journey.'

Where a Member State has informed the other Member States, in accordance with Article 8 (3), that the possession of certain firearms in categories B, C or D is prohibited or subject to authorization, one of the following statements shall be added :

'A journey to ... (State(s) concerned) with the firearm ... (identification) shall be prohibited.'

'A journey to ... (State(s) concerned) with the firearm ... (identification) shall be subject to authorization.'
