

Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition

## CHAPTER II

### **EXPORT AUTHORISATION, PROCEDURES AND CONTROLS AND IMPORT AND TRANSIT MEASURES**

#### *Article 4*

1 An export authorisation established in accordance with the form set out in Annex II shall be required for the export of firearms, their parts and essential components and ammunition listed in Annex I. Such authorisation shall be granted by the competent authorities of the Member State where the exporter is established and shall be issued in writing or by electronic means.

2 Where the export of firearms, their parts, essential components and ammunition requires an export authorisation pursuant to this Regulation and that export is also subject to authorisation requirements in accordance with Common Position 2008/944/CFSP, Member States may use a single procedure to carry out the obligations imposed on them by this Regulation and by that Common Position.

3 If the firearms, their parts and essential components and ammunition are located in one or more Member States other than the one where the application for export authorisation has been made, that fact shall be indicated on that application. The competent authorities of the Member State to which the application for export authorisation has been made shall immediately consult the competent authorities of the Member State or States in question and provide the relevant information. The Member State or States consulted shall make known within 10 working days any objections it or they may have to the granting of such an authorisation, which shall bind the Member State in which the application has been made.

#### *Article 5*

The Commission shall be empowered to adopt delegated acts in accordance with Article 6 to amend Annex I on the basis of the amendments to Annex I to Regulation (EEC) No 2658/87, and on the basis of the amendments to Annex I to Directive 91/477/EEC.

#### *Article 6*

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 5 shall be conferred on the Commission for an indeterminate period of time.

3 The delegation of power referred to in Article 5 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of

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the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5 A delegated act adopted pursuant to Article 5 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 7*

1 Before issuing an export authorisation for firearms, their parts and essential components and ammunition, the Member State concerned shall verify that:

- a the importing third country has authorised the relevant import; and
- b the third countries of transit, if any, have given notice in writing — and at the latest prior to shipment — that they have no objection to the transit. This provision does not apply:
  - to shipments by sea or air and through ports or airports of third countries provided that that there is no transshipment or change of means of transport,
  - in the case of temporary exports for verifiable lawful purposes, which include hunting, sport shooting, evaluation, exhibitions without sale, and repair.

2 Member States may decide that, if no objections to the transit are received within 20 working days from the day of the written request for no objection to the transit submitted by the exporter, the consulted third country of transit shall be regarded as having no objection to the transit.

3 The exporter shall supply the competent authority of the Member State responsible for issuing the export authorisation with the necessary documents proving that the importing third country has authorised the import and that the third country of transit had no objection to the transit.

4 Member States shall process applications for export authorisations within a period of time to be determined by national law or practice, which shall not exceed 60 working days, from the date on which all required information has been provided to the competent authorities. Under exceptional circumstances and for duly justified reasons, that period may be extended to 90 working days.

5 The period of validity of an export authorisation shall not exceed the period of validity of the import authorisation. Where the import authorisation does not specify a period of validity, except under exceptional circumstances and for duly justified reasons, the period of validity of an export authorisation shall be at least nine months.

6 Member States may decide to make use of electronic documents for the purpose of processing the applications for export authorisation.

#### *Article 8*

1 For the purpose of tracing, the export authorisation and the import licence or import authorisation issued by the importing third country and the accompanying documentation shall together contain information that includes:

- a the dates of issue and expiry;

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- b the place of issue;
- c the country of export;
- d the country of import;
- e whenever applicable, the third country or countries of transit;
- f the consignee;
- g the final recipient, if known at the time of the shipment;
- h particulars enabling the identification of the firearms, their parts and essential components and ammunition, and the quantity thereof including, at the latest prior to the shipment, the marking applied to the firearms.

2 The information referred to in paragraph 1, if contained in the import licence or import authorisation, shall be provided by the exporter in advance to the third countries of transit, at the latest prior to the shipment.

#### *Article 9*

1 Simplified procedures for the temporary export or the re-export of firearms, their parts, essential components and ammunition shall apply as follows:

- a No export authorisation shall be required for:
  - (i) the temporary export by hunters or sport shooters as part of their accompanied personal effects, during a journey to a third country, provided that they substantiate to the competent authorities the reasons for the journey, in particular by producing an invitation or other proof of the hunting or sport shooting activities in the third country of destination, of:
    - one or more firearms,
    - their essential components, if marked, as well as parts,
    - their related ammunition, limited to a maximum of 800 rounds for hunters and a maximum of 1 200 rounds for sport shooters;
  - (ii) the re-export by hunters or sport shooters as part of their accompanied personal effects following temporary admission for hunting or sport shooting activities, provided that the firearms remain the property of a person established outside the customs territory of the Union and the firearms are re-exported to that person.
- b When leaving the customs territory of the Union through a Member State other than the Member State of their residence, hunters and sport shooters shall produce to the competent authorities a European Firearms Pass as provided for in Articles 1 and 12 of Directive 91/477/EEC. In the case of travel by air, the European Firearms Pass shall be produced to the competent authorities where the relevant items are handed over to the airline for transport out of the customs territory of the Union.

When leaving the customs territory of the Union through the Member State of their residence, hunters and sport shooters may, instead of a European Firearms Pass, choose to produce another document considered valid for this purpose by the competent authorities of that Member State.

- c The competent authorities of a Member State shall, for a period not exceeding 10 days, suspend the process of export or, if necessary, otherwise prevent firearms, their parts and essential components or ammunition from leaving the customs territory of the Union through that Member State, where they have grounds for suspicion that the reasons substantiated by hunters or sport shooters are not in conformity with the relevant considerations and the obligations laid down in Article 10. In exceptional circumstances

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and for duly justified reasons, the period referred to in this point may be extended to 30 days.

2 Member States shall, in accordance with national law, establish simplified procedures for:

- a the re-export of firearms following temporary admission for evaluation or exhibition without sale, or inward processing for repair, provided that the firearms remain the property of a person established outside the customs territory of the Union and the firearms are re-exported to that person;
- b the re-export of firearms, their parts and essential components and ammunition if they are held in temporary storage from the moment they enter the customs territory of the Union until their exit;
- c the temporary export of firearms for the purpose of evaluation and repair and exhibition without sale, provided that the exporter substantiates the lawful possession of these firearms and exports them under the outward processing or temporary exportation customs procedures.

#### *Article 10*

1 In deciding whether to grant an export authorisation under this Regulation, Member States shall take into account all relevant considerations including, where appropriate:

- a their obligations and commitments as parties to the relevant international export control arrangements or relevant international treaties;
- b considerations of national foreign and security policy, including those covered by Common Position 2008/944/CFSP;
- c considerations as to intended end use, consignee, identified final recipient and the risk of diversion.

2 In addition to the relevant considerations set out in paragraph 1, when assessing an application for an export authorisation, Member States shall take into account the application by the exporter of proportionate and adequate means and procedures to ensure compliance with the provisions and objectives of this Regulation and with the terms and conditions of the authorisation.

In deciding whether to grant an export authorisation under this Regulation, Member States shall respect their obligations with regard to sanctions imposed by decisions adopted by the Council or by a decision of the Organisation for Security and Cooperation in Europe (OSCE) or by a binding resolution of the Security Council of the United Nations, in particular as regards arms embargoes.

#### *Article 11*

1 Member States shall:

- a refuse to grant an export authorisation if the applicant has a criminal record concerning conduct constituting an offence listed in Article 2(2) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States<sup>(1)</sup>, or concerning any other conduct provided that it constituted an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;
- b annul, suspend, modify or revoke an export authorisation if the conditions for granting it are not met or are no longer met.

This paragraph is without prejudice to stricter rules under national legislation.

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2 Where Member States refuse, annul, suspend, modify or revoke an export authorisation, they shall notify the competent authorities of the other Member States thereof and share the relevant information with them. Where the competent authorities of a Member State have suspended an export authorisation, their final assessment shall be communicated to the other Member States at the end of the period of suspension.

3 Before the competent authorities of a Member State grant an export authorisation under this Regulation, they shall take into account all refusals under this Regulation of which they have been notified, in order to ascertain whether an authorisation has been refused by the competent authorities of another Member State or Member States for an essentially identical transaction (concerning an item with essentially identical parameters or technical characteristics and in respect of the same importer or consignee).

They may first consult the competent authorities of the Member State or Member States which issued refusals, annulments, suspensions, modifications or revocations under paragraphs 1 and 2. If, following such consultation, the competent authorities of the Member State decide to grant an authorisation, they shall notify the competent authorities of the other Member States, providing all relevant information to explain the decision.

4 All information shared in accordance with the provisions of this Article shall be in compliance with the provisions of Article 19(2) concerning its confidentiality.

#### *Article 12*

In accordance with their national law or practice in force, Member States shall keep, for not less than 20 years, all information relating to firearms and, where appropriate and feasible, their parts and essential components and ammunition, which is necessary to trace and identify those firearms, their parts and essential components and ammunition, and to prevent and detect illicit trafficking therein. That information shall include the place, dates of issue and expiry of the export authorisation; the country of export; the country of import; where applicable, the third country of transit; the consignee; the final recipient if known at the time of export; and the description and quantity of the items, including any markings applied to them.

This Article shall not apply to exports as referred to in Article 9.

#### *Article 13*

1 Member States shall, in case of suspicion, request the importing third country to confirm receipt of the dispatched shipment of firearms, their parts and essential components or ammunition.

2 Upon request of a third country of export which is a Party to the UN Firearms Protocol at the time of the export, Member States shall confirm the receipt within the customs territory of the Union of the dispatched shipment of firearms, their parts and essential components or ammunition, which shall be ensured in principle by producing the relevant customs importation documents.

3 Member States shall comply with paragraphs 1 and 2 in accordance with their national law or practice in force. In particular, with regard to exports, the competent authority of the Member State may decide either to address the exporter or to contact the importing third country directly.

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#### *Article 14*

Member States shall take such measures as may be necessary to ensure that their authorisation procedures are secure and that the authenticity of authorisation documents can be verified or validated.

Verification and validation may also, where appropriate, be ensured by means of diplomatic channels.

#### *Article 15*

In order to ensure that this Regulation is properly applied, Member States shall take necessary and proportionate measures to enable their competent authorities to:

- (a) gather information on any order or transaction involving firearms, their parts and essential components and ammunition; and
- (b) establish that the export control measures are being properly applied, which may, in particular, include the power to enter the premises of persons with an interest in an export transaction.

#### *Article 16*

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

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(1) [OJ L 190, 18.7.2002, p. 1.](#)

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**Changes and effects yet to be applied to the whole legislation item and associated provisions**

- Signature words omitted by virtue of S.I. 2019/771, reg. 4(17A) (as inserted) by [S.I. 2019/806 reg. 2\(7\)](#)
- Art. 2(4) words substituted by [S.I. 2019/771 reg. 4\(2\)\(a\)](#)
- Art. 2(5) words omitted by [S.I. 2019/771 reg. 4\(2\)\(b\)](#)
- Art. 2(5) words substituted by [S.I. 2019/771 reg. 4\(2\)\(b\)](#)
- Art. 2(6) substituted by [S.I. 2019/771 reg. 4\(2\)\(c\)](#)
- Art. 2(7) omitted by [S.I. 2019/771 reg. 4\(2\)\(d\)](#)
- Art. 2(8) words inserted by [S.I. 2019/771 reg. 4\(2\)\(e\)\(i\)\(aa\)](#)
- Art. 2(8) words substituted by [S.I. 2019/771 reg. 4\(2\)\(e\)\(i\)\(bb\)](#)
- Art. 2(8) words substituted by [S.I. 2019/771 reg. 4\(2\)\(e\)\(i\)\(cc\)](#)
- Art. 2(8) words substituted by [S.I. 2019/771 reg. 4\(2\)\(e\)\(i\)\(dd\)](#)
- Art. 2(8) words substituted by [S.I. 2019/771 reg. 4\(2\)\(e\)\(ii\)](#)
- Art. 2(9) omitted by [S.I. 2019/771 reg. 4\(2\)\(f\)](#)
- Art. 2(10) word substituted by [S.I. 2019/771 reg. 4\(2\)\(g\)](#)
- Art. 2(10) words omitted by [S.I. 2019/771 reg. 4\(2\)\(g\)](#)
- Art. 2(11) words substituted by [S.I. 2019/771 reg. 4\(2\)\(h\)](#)
- Art. 2(11a) inserted by [S.I. 2019/771 reg. 4\(2\)\(i\)](#)
- Art. 2(12) words substituted by [S.I. 2019/771 reg. 4\(2\)\(j\)](#)
- Art. 2(13) word substituted by [S.I. 2019/771 reg. 4\(2\)\(k\)](#)
- Art. 2(15) words substituted by [S.I. 2019/771 reg. 4\(2\)\(l\)\(i\)](#)
- Art. 2(15)(a) words substituted by [S.I. 2019/771 reg. 4\(2\)\(l\)\(ii\)](#)
- Art. 2(15)(c) omitted by [S.I. 2019/771 reg. 4\(2\)\(l\)\(iii\)](#)
- Art. 2(16) words substituted by [S.I. 2019/771 reg. 4\(2\)\(m\)](#)
- Art. 3(1)(c) words substituted by [S.I. 2019/771 reg. 4\(3\)\(a\)](#)
- Art. 3(1)(d) words substituted by [S.I. 2019/771 reg. 4\(3\)\(b\)](#)
- Art. 9(1)(a)(i) words substituted by [S.I. 2019/771 reg. 4\(8\)\(b\)](#)
- Art. 9(1)(a)(ii) word substituted by [S.I. 2019/771 reg. 4\(8\)\(c\)\(i\)](#)
- Art. 9(1)(a)(ii) word substituted by [S.I. 2019/771 reg. 4\(8\)\(c\)\(iii\)](#)
- Art. 9(1)(a)(ii) words substituted by [S.I. 2019/771 reg. 4\(8\)\(c\)\(ii\)](#)
- Art. 9(1)(b) omitted by [S.I. 2019/771 reg. 4\(8\)\(d\)](#)
- Art. 9(1)(c) words substituted by [S.I. 2019/771 reg. 4\(8\)\(e\)\(i\)](#)
- Art. 9(1)(c) words substituted by [S.I. 2019/771 reg. 4\(8\)\(e\)\(ii\)](#)
- Art. 9(2)(a) word substituted by [S.I. 2019/771 reg. 4\(8\)\(g\)\(i\)](#)
- Art. 9(2)(a) word substituted by [S.I. 2019/771 reg. 4\(8\)\(g\)\(ii\)](#)
- Art. 9(2)(a) words substituted by [S.I. 2019/771 reg. 4\(8\)\(g\)\(iii\)](#)
- Art. 9(2)(b) word substituted by [S.I. 2019/771 reg. 4\(8\)\(h\)\(i\)](#)
- Art. 9(2)(b) words substituted by [S.I. 2019/771 reg. 4\(8\)\(h\)\(ii\)](#)
- Art. 10(1)(a) words substituted by [S.I. 2019/771 reg. 4\(9\)\(b\)](#)
- Art. 10(1)(b) words substituted by [S.I. 2019/771 reg. 4\(9\)\(c\)](#)
- Art. 11(1)(a) words substituted by [S.I. 2019/771 reg. 4\(10\)\(b\)](#)
- Art. 11(1)(b) words omitted by [S.I. 2019/771 reg. 4\(10\)\(c\)](#)