

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(87) 383 final

Brussels, 28 July 1987

Proposal for a
COUNCIL DIRECTIVE
on the control of the acquisition and possession
of weapons

(presented by the Commission)

COM(87) 383 final

I. EXPLANATORY MEMORANDUM

1. In its White Paper "Completing the internal market", the Commission stated that in 1986 it would submit a proposal concerning the approximation of arms legislation (White Paper, point 55).

This proposal forms part of the work on the abolition of internal Community frontiers, in particular the work on the proposals whereby, by 1992, a stage will be reached when police checks on the identity of individuals crossing frontiers and on the safety of articles transported will be abolished as far as Community citizens are concerned.

Thus, the proposal for a Directive in the field of weapons is only one of a number of measures intended collectively to create the conditions in which the objective of eliminating internal frontiers, as foreseen in the White Paper, can be attained.

2. The objective of the approximation of weapons legislation is, therefore, to afford the Member States the requisite guarantees for them to agree to abstain from police checks on the possession of weapons when internal Community frontiers are crossed. As the White Paper emphasizes (points 53-54), police checks at internal frontiers are closely bound up with the legitimate concerns of the political authorities in their fight against terrorism, drugs and crime.

To enable frontier checks to be abolished and thus to confer on European citizens the right to travel freely within the Community without formalities or controls, it will have to be possible to guarantee the Member States that the degree of protection against terrorism and crime which they have established will not be diminished.

An important factor in this context, besides increased cooperation between police authorities, the stepping-up of controls at external frontiers, etc., is an approximation of the Member States' weapons legislation. Such an approximation would have to be effected in such a way as to ensure that each Member State would no longer regard itself as solely responsible for combating terrorism and crime in its territory but responsible by means of its legislation, applicable in its territory, for security throughout the Community.

While each Member State bears prime responsibility for and is primarily concerned with security in its territory, and while it is, accordingly, for it to decide in the first place on the level of security that should apply in its territory, i.e. the restrictions to be placed on the purchase and possession of weapons, this responsibility for security throughout the territory of the Community should be reflected in measures designed to enable other Member States having a stricter conception of security to apply their legislation in their territory.

The objective of the Commission's proposal is not, therefore, to secure harmonization of weapons legislation on the ground that this would be desirable or useful for Community citizens; nor is the objective to make the possession of weapons subject, throughout the Community, to the same restrictions in order to establish the same level of security everywhere.

The sole objective of the Commission's proposal is to create conditions enabling the abolition of controls at frontiers, a major obstacle to freedom of movement for persons, even where those controls are not, in fact, now carried out systematically. Moreover, approximation of legislation, with the safeguards it will afford Member States as far as movement within the Community is concerned, will result in a greater degree of security for Europe and its citizens than at present.

3. The twelve Member States all have weapons legislation. The present situation may be described as involving a very wide variety of technical rules. It is almost impossible to carry out an exhaustive comparison of the different national rules on the subject. Certain conclusions may, however, be drawn if attention is focused on the rules that apply to crossing frontiers with weapons

It should be noted that the scope of all the national bodies of legislation encompasses national territory and the individuals situated within that territory, whether or not they are residents. The concept of nationality plays virtually no part in the matter. Under all the national bodies of legislation, very little attention is paid to the problems which may be faced by people who wish to purchase a weapon abroad, transfer their habitual residence to another country or travel with weapons. Such problems are generally viewed from the standpoint of importing or exporting weapons.

4. The effects of this situation on the internal market are clear. The twelve bodies of national law constitute isolated sets of rules which - although they do not differ widely as regards their substance - are very different from one another from a technical standpoint and which, above all, take no account of the laws of neighbouring countries. The result is that the Member States take the view that in order to uphold their national laws, which are based on the principle of territoriality, it is necessary to carry out checks at the point of entry into, and in certain cases, departure from their territory or, in any event, they must have the right to carry out such controls in order to satisfy themselves that their laws, which pertain to the sensitive area of the maintenance of law and order and public safety, are observed.

The establishment of the internal market will result, as provided for in the White Paper, in "the removal of physical barriers". The guarantees currently afforded by the possibility of carrying out border checks will therefore have to be replaced on 31 December 1992 at the latest by guarantees based on procedures put into effect within the Member States, rather than at the internal borders. In order to link these procedures and make them effective, some measure of approximation of arms legislation is required, especially of the national provisions governing the acquisition and possession of weapons.

5. a. To this end, the Commission is proposing a set of rules. The proposal for a Directive prohibits the possession of weapons when passing from one Member State to another, except when the procedure for a definitive transfer of a firearm, or when the appropriate procedure for the possession of a firearm travelling within the Community, is being applied. The procedures to be followed in these cases make it possible for the Member States to be informed of every arrival of weapons on their territory, and in certain cases even to make the arrival of such a weapon contingent on their prior consent. These procedures thus enable for the Member States to apply their laws to persons coming from another Member State and to the weapons they possess. Compliance with these procedures is ensured by the provision prohibiting the handing over of a firearm (for example when a dealer is selling a weapon) to a person resident in another Member State; that person is thus obliged to go through the definitive transfer procedure in order to obtain possession of the weapon.

5. b. Firearms may thus be transferred by means of two procedures:

- The procedure for a definitive transfer (Art. 6) must be followed, for example, where a weapon is purchased abroad and in the case of a transfer of residence. The entire procedure is carried out by a dealer.

First, an application for authorization for the transfer must be submitted to the Member State of departure (Art. 6 (2) (a)). This state checks the legality of the operation and the conditions of safety. If it authorizes the transfer, it informs the Member State of destination and the Member States of transit (Art. 6 (2) (c)).

It will issue a licence that must accompany the firearm until it reaches its destination (Art. 6 (2)(b)), where the authorities of the Member State concerned, who are informed of this transfer, can apply their legislation (prohibition, authorization...).

Article 6 (3) provides an additional safeguard, allowing Member States to notify to the other Member States a list of firearms whose transfer to their territory may not be authorized by the Member State of departure without the prior consent of the Member State of destination. Thus the Member States can prevent certain types of weapons from being sent to their territory without their prior consent.

For the import (and export) of weapons coming from (going to) a third country, the same procedure must be followed, but only the authorization of the Member State of destination (departure) is required: Art. 6 (4) (Art. 6 (2)); the transit Member States are informed of this transfer.

- The procedure for a temporary transfer (Art. 7) must be followed for trips: i.e. in those cases where the person who is in possession of a weapon returns with his weapon to his country of residence. In principle, the Article 6 procedure must be followed (authorization before departure, informing the Member States of transit, notification of - or, when it concerns a firearm in the list in Article 6 (3), application for the prior consent of - the Member State of destination (Art. 7 (1)). During the trip, a Member State will be considered to be a Member State of destination if the traveller is present on its territory for more than 48 hours.

A more flexible procedure is laid down for hunters and sportsmen (Article 7 (2)): they may travel with the sporting or target weapon provided they are in possession of a declaration issued by the Member State in which they are resident, there is no need to inform the other Member States.

The person in question may make the journey provided he is in possession of the authorization or the declaration referred to (Article 7 (3)).

The Article 7 procedure cannot be used in the case of travellers from non-Community countries. They must first follow the procedure laid down in Article 6 and, where applicable start the journey in the Community, from the state of importation according to the procedure laid down in Article 7.

5. c. The most sensitive case is that of sale of a firearm to a person who is not resident in the territory where the sale has taken place and can therefore evade all control. In the case of travel, even if the Article 7 procedure is not followed, possession of an arm is governed by the legislation of the state in which the person is resident and to which the firearm, after the journey, will be returning.

So as not to leave a loophole in the arrangements provided for in Article 6, Article 5 prohibits the handing over of a firearm to a non-resident unless that person has the necessary authorization of his Member State of residence. The firearm can be sold by a dealer or another person (that is to say the transaction can take place - Article 4); however, the firearm must not be handed over but must remain in the hands of the seller.

If the firearm is intended to be kept in the Member State in which the purchaser is resident, the dealer must initiate the definitive transfer procedure (Article 6); the firearm may only be handed over to the purchaser at destination. However, if the Member State of residence has given prior authorization for the purchase, the arm can be handed over and the purchaser will be the transporter within the meaning of Article 6 (2) (see Article 5 (1), second subparagraph and Article 6 (3)).

Compliance with the ban on handing over firearms to non-residents is ensured, as far as dealers are concerned, by the requirement to keep a register in which the information concerning all firearms issued or received by the dealer must be recorded (Article 3 (2)); in this way it will be possible to check on all sales of firearms by residents to non-residents. If the arm is sold by a private individual, the sale still has to be recorded in a dealer's register (Article 4).

6. In this context reference should be made to the international legal instruments which already exist in regard to harmonization of weapons legislation and which have entered into force in a number of Member States.

(a) Council of Europe

At the request of its Parliamentary Assembly, the Council of Europe began work on the control of firearms in 1973. Two documents were produced as a result:

- The European Convention on the control of the acquisition and possession of firearms by individuals (No 101, signed in Strasbourg on 28 June 1978). This Convention has been ratified by four Member States (Germany, Luxembourg, the Netherlands and Portugal); it entered into force on 1 July 1982. Five other Member States have signed the Convention (Denmark, Greece, Ireland, Italy and the United Kingdom). It has not been signed by Belgium, France or Spain. (In addition, the Convention has been ratified by Cyprus, Iceland and Sweden and it has been signed by Turkey.)

The Convention applies to all cases in which a firearm that is situated in one country is sold, transferred or otherwise disposed of to any person resident in another country and it provides for the latter country to be notified of any such transaction by means of a notification system or a dual authorization system.

- Recommendation No R(84)23 on the harmonization of national legislations relating to firearms (7 December 1984). The Recommendation goes much further than the Convention since it provides specific information on the minimum content which should be included in the firearms legislation of the member states of the Council of Europe. It classifies arms into three groups (prohibited arms, arms subject to authorization and arms subject to declaration).

(b) Benelux

On 9 December 1970 a Convention on arms and ammunition was signed in Brussels by the Benelux countries. Up to now the Convention has been ratified only by Luxembourg. It makes provision for a genuine harmonization of the national laws of the three countries. Of particular interest are its provisions on imports and exports; the territory of the three countries is deemed to be a single territory and licences are valid throughout that territory. However, the Convention has not yet entered into force.

(c) Agreements between Member States designed to facilitate the crossing of frontiers

The two agreements which have recently been concluded between Member States with a view to facilitating the crossing of their common frontiers clearly demonstrate the need for back-up measures to accompany the progressive abolition of frontier controls. Article 19 of the agreement concluded on 14 June 1985 in Schengen between the Benelux countries, Germany and France provides that "the parties shall seek to harmonize their laws and regulations ... governing arms and explosives"; a working party has already been set up. Article 7 of the agreement concluded on 22 June 1986 in Kupfermühle between Germany and Denmark provides that "the parties shall intensify cooperation ..., inter alia to combat crime, in particular unlawful traffic in drugs and arms".

II. ANALYSIS OF THE PROPOSAL

Article 1 - Definitions

The term "weapon" means any object considered to be a weapon in at least one Member State, including side-arms and other objects which can inflict wounds. The concept is used in its widest sense in Article 8 (prohibition on passing with weapons from one Member State to another and Article 9 (controls).

The definition of the term "firearm" is taken from the Council of Europe convention of 28 June 1978. The term is used in Articles 4 to 7, i.e. in the provisions governing the transfer of firearms from one Member State to another. In order to achieve the objective pursued by this Directive, it would not appear necessary to make weapons other than firearms subject to all the precautionary measures (registration, etc.).

The definition of dealer is based on that given in the Council of Europe Convention.

The Directive does not define the term "resident" other than by reference to the term "principal residence". That concept comes within the scope of the laws of the Member States which determine the substance thereof.

Article 2 - This approximation measure is a minimum

The Directive represents a minimum; it does not preclude Member States from laying down stricter rules. There are almost no rules in the proposed text concerning the purchase, possession and carrying of weapons by residents: all of these aspects are to be regulated by the Member States. Thus the Directive does not for example prevent a total ban on all weapons.

There are two exceptions to the rule that Member States may enact more stringent provisions: firstly, persons engaged in hunting and sports competitions and who are in possession of the declaration referred to in Article 7(2) are to be allowed to proceed to another Member State with their sporting or target weapon; secondly, protection of the national weapons market is precluded.

Article 3 - Regulation of the occupation of arms dealer

Paragraph 1 merely institutionalizes a situation which already exists in the Member States. It does not appear necessary to lay down detailed conditions governing the taking-up of the occupation. Article 52 of the EEC Treaty applies in any case.

The requirement that dealers keep a register is not an innovation. However, it is proposed that the name and address of the transferee would have to be recorded in respect of every firearms sale, even where there is no restriction on the sale or carrying of the weapon in the Member State concerned; this will make it possible to trace the person who purchased the firearm in all cases, and thus to trace anyone who may have used it. It will also enable Article 4 to be applied in a realistic manner since arms dealers will not be able to claim that they sold a firearm to a resident.

Article 4 - Sale of firearms to non-residents

Article 4 regulates the sale of firearms to non-residents, i.e. transfer of ownership. Article 5 deals with the handing over of firearms, i.e. delivery, physical taking of possession.

Every sale of a firearm to a non-resident must be registered. Where the vendor is a private person, the parties must have the transaction registered by a dealer.

Article 5 - Ban on handing over firearms to non-residents

The Directive makes transfer of ownership subject only to the registration requirement, but as a general rule it prohibits handing over, i.e. it prevents non-residents from physically taking possession of the firearm. Member States are to allow a firearm to be handed over to a non-resident in their territory only if the Member State in which he is resident has given its consent, so that that Member State is aware of the transaction and agrees that the person in question possess such a weapon. When the weapon is transferred to the Member State of residence, the procedure of Article 6 will be followed.

Since ammunition is defined as a firearm (Annex, B-3), a derogation has to be made from the prohibition on the handing over of ammunition resulting, in principle, from the first paragraph as regards sportsmen and marksmen who are authorized to have their weapon in their possession outside their country of residence.

Article 6 - Procedure for the transfer of a firearm

As a general rule, whenever a firearm is transferred from one Member State to another, or to or from a third country, the procedure laid down in Article 6 must be followed. The only exceptions to this are laid down in Article 7.

In order to harmonize the various systems of authorization for the import and export of firearms, it is proposed that all transfers of firearms to another Member State, or through another Member State, should be subject to authorization in the Member State of departure (or where a firearm is imported from a non-Community country, in the Member State of destination).

The Member State of departure must ensure, firstly, that the proposed transfer is effected under secure conditions and, secondly, that paragraph 3 is applied.

In principle, the procedure provides simply for the mandatory notification of the transfer of a firearm to the Member State of destination and the Member States of transit. There would thus be a form of control at the point of departure and the possibility of taking action at the point of destination. Member States are, however, entitled, pursuant to paragraph 3, to supply the other Member States with a list of firearms in respect of which their own consent would be required before the Member State of departure may grant authorization. A Member State through whose territory the weapons are to pass in transit could not prevent the consignment or transport operation, but would be informed of it in any case.

Paragraph 3 enables the Member States, should they so wish, to introduce the "dual authorization" system for which provision is made in the Council of Europe Convention of 28 June 1978.

The authorization referred to in Article 7 is a "security authorization" only, and would not replace customs or tax documents or formalities, unless those other formalities were in force for security reasons only.

Article 7 - Possession of firearms in the course of travel

Where a firearm is not permanently transferred from one Member State to another but is simply kept in his possession by a traveller intending to return with the weapon to his country of residence, the same procedure as that laid down in Article 6 must be followed. The responsibility of the Member State of residence will be very considerable since it will be for it to examine the reasons which justify the traveller being in possession of a firearm during the journey. Member States in whose territory the person concerned intends to travel will be informed and where the traveller plans to remain in a Member State's territory for more than 48 hours (i.e. where it is not simply a question of his passing through that territory), the dual authorization system for which provision is made in Article 6 may be applied.

However, in order to avoid disproportionate restrictions on travel within the Community by sportsmen and marksmen, it is proposed that they should be allowed to travel carrying a declaration issued by the authorities of their country of residence stating that they comply with the legislation of that country and listing the hunting or shooting events or competitions in which they propose to participate. They will, accordingly, not be required to follow the complex procedure laid down in Article 6, involving notification and the possible use of the dual authorization system, which can be justified by the fact that the Member State of departure assumes responsibility for issuing a declaration stating that the person in question is a bona fide sportsman or marksman.

Article 8 - Prohibition on passing with weapons from one Member State to another

Article 8 lays down the principle that persons are prohibited from passing from one Member State to another with weapons (in the broad sense of the term) except in the circumstances referred to in Articles 6 and 7. This Article is in fact the basis of the system that guarantees the Member States the possibility of applying their legislation on their territory.

Article 9 - Controls at internal Community frontiers

Article 9 constitutes the corollary to Article 8. Paragraph 1 lays down the purpose of the Directive as a whole. Member States are to abstain from carrying out controls on all weapons at internal Community frontiers.

It would be inexpedient to abolish possible controls on the possession of weapons at the borders as long as controls are maintained for other reasons. The Commission therefore proposes to abolish those controls when all controls are abolished, that is from 31 December 1992 at the latest.

The quid pro quo, as announced in the White Paper (point 53), is the intensification of controls at external frontiers.

Paragraph 3 sets out the derogation from the rule laid down in paragraph 1: controls on boarding a means of public transport. But as stated in the 7th recital the Member States still have the power to take measures with a view to the repression of an offence.

Article 10 - Criminal penalties

The principle that Member States bear responsibility for security throughout the territory of the Community means, for example, that Member States would have to punish the sale or handing over of a firearm to a non-resident, otherwise than in compliance with the Directive, in the same way as the sale of a firearm to a resident who is not authorized to possess the same.

**Proposal for a
COUNCIL DIRECTIVE**

on the control of the acquisition and possession of weapons

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission¹,

In cooperation with the European Parliament²,

Having regard to the Opinion of the Economic and Social Committee³,

Whereas Article 3(c) of the Treaty provides that the activities of the Community shall include the abolition, as between Member States, of obstacles to freedom of movement for persons;

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

Whereas the total abolition of controls and formalities at internal 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 persons and on the safety of objects transported entails, among other things, the approximation of weapons legislation;

¹ OJ No C

² OJ No C

³ OJ No C

Whereas abolition of controls on the possession of weapons at internal Community frontiers necessitates the adoption of rules enabling controls to be carried out within Member States on the acquisition and possession of firearms, and on their transfer into another Member State;

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 sport and target shooting in order to avoid impeding the free movement of persons more than is necessary;

Whereas the Directive is intended only to abolish all controls on the possession of weapons when passing from one Member State to another, and does not affect the right of Member States to take measures to prevent illegal trade in weapons;

Whereas Article 223 of the Treaty provides that any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; whereas that Article does not preclude Community measures designed to control strictly any transfer of weapons and to prohibit all travel within the Community by persons possessing weapons of war;

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. For the purposes of this Directive, "weapons" and "firearms" shall have the meanings ascribed to them in the Annex.
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, sale, purchase, exchange, hiring out, repair or conversion of weapons.
3. For the purposes of this Directive, persons shall, regardless of their nationality, be deemed to be residents of the country in whose territory their domicile is situated.

Article 2

Without prejudice to the rights conferred on residents of the Member States by Article 7(2), Member States may adopt in their weapons legislation provisions which are more stringent than those provided for in this Directive.

Member States may prohibit persons resident in their territory from purchasing or acquiring a weapon in another Member State only where they prohibit the purchase or acquisition of such a weapon in their own territory.

Article 3

Each Member State shall make the pursuit of the occupation of dealer in its territory conditional upon authorization.

Each dealer shall keep a register in which information concerning all firearms 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.

Article 4

Firearms shall be sold or otherwise disposed of to persons not resident in the territory of the Member State in which such sale or disposal takes place only if the transaction is recorded in a dealer's register, as referred to in Article 3.

Article 5

1. Member States shall prohibit the handing over of a firearm to a person resident in another Member State unless that person is **authorized to receive it by his Member State of residence.**

Member States shall permit the handing over of a firearm to a person resident in a third country only where they satisfy themselves that such firearm leaves the territory of the Community.

2. Small quantities of ammunition may be sold and handed over to a traveller in a Member State who is not resident in that Member State for the weapons he is permitted to possess in the territory of that Member State in accordance with Article 7.

Article 6

1. Firearms may, without prejudice to Article 7, be transferred from one Member State to another, or to or from a third country, only in accordance with the procedure laid down in the following paragraphs. Only a dealer may transfer a firearm or cause a firearm to be transferred.

2. Where a firearm is to be transferred to another Member State or to a third country, the dealer shall before consignment or transportation 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;
 - the means of transfer;
 - the date of departure and the estimated date of arrival.

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 during the consignment or transport operation until it reaches its destination; it shall be produced whenever so required by the authorities of the Member States.

The Member State which issues the licence shall immediately send a copy thereof to the Member State of destination and to Member States through which the firearm is to pass in transit.

3. Each Member State may supply the other Member States with a list of firearms whose transfer to its territory may not be authorized without its prior consent. The authorization referred to in Article 5(1) shall be deemed to constitute such consent.

4. Where a firearm is to be imported from a third country, the dealer shall supply the Member State of importation with all the particulars referred to in the first subparagraph of paragraph 2. Where it authorizes importation, the Member State of importation shall immediately supply the said particulars to the Member States through which the firearm is to pass in transit. The import licence must accompany the firearm during the consignment or transport operation until it reaches its destination; it must be produced whenever so required by the authorities of the Member States.
5. Each Member State shall inform the other Member States and the Commission of the national authorities responsible for applying the procedure laid down in this Article.

Article 7

1. The procedure laid down in Article 6 shall be followed in respect of possession of a firearm in the course of travel in two or more Member States.

An application for authorization to possess a firearm shall, by way of derogation from Article 6, state:

- the name and address of the person who wishes to possess the firearm;
- particulars enabling the firearm to be identified;
- the places at which and the respective periods during which the person concerned plans to be present in the other Member States, and the means of transport to be used for the journey;
- the grounds on which the person concerned wishes to possess the firearm during the journey.

Where the firearm is included in a list supplied pursuant to Article 6(3) by a Member State in which the person concerned is to travel, authorization may be granted without the prior consent of that Member State only if the traveller plans to be present in its territory for less than 48 hours.

2. Possession of a sporting or target firearm shall be permitted in the course of travel in two or more Member States where the person possessing the firearm is in possession of a declaration issued by the authorities of the Member State in which such firearm is situated. That document shall contain:

- the name and address of the person authorized;
- particulars enabling the sporting or target firearm to be identified;
- a statement that the person concerned is authorized in that Member State to possess such sporting or target firearm;
- particulars of the places at which and the periods during which the hunting, shooting or sports competitions for the purposes of which the firearm is being transported in the possession of the person concerned are to take place.

For the purposes of this paragraph, each Member State shall recognize as "sporting firearm" or "target firearm" any object recognized as such by the other Member States in the abovementioned declaration.

3. A person authorized to possess a firearm or, as the case may be, a sporting or target firearm, must be in possession of the authorization referred to in paragraph 1 or the declaration referred to in paragraph 2, throughout the journey; the document must be produced whenever so required by the authorities of the Member States.

Article 8

The possession of weapons by persons passing from one Member State to another shall be prohibited, except in the circumstances defined in Articles 6 and 7 and provided the conditions laid down therein are met.

Article 9

1. Member States shall, without prejudice to paragraphs 3 and 4, abstain from carrying out controls on the possession of weapons at internal Community frontiers from 31 December 1992 at the latest.

2. Member States shall intensify controls on the possession of weapons at external Community frontiers.
3. 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.**
4. Member States shall inform the Commission of the manner in which the controls referred to in paragraphs 2 and 3 are carried out. The Commission shall **collate** this information and make it available to all Member States.

Article 10

Member States shall render failure to comply with the provisions of this Directive subject to the same criminal sanctions as failure to comply with comparable national provisions.

Article 11

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 30 June 1990. **They** shall forthwith inform the Commission and the other Member States of the measures taken.

Article 12

This Directive is addressed to the Member States.

Done at

For the Council

ANNEX

For the purposes of this Directive:

- A. "Weapon" means: - any firearm within the meaning of point B of this Annex;
- any side-arm whose blade has more than one cutting edge, any bayonet, stiletto, dagger, flick-knife, throwing-knife or swordstick; or,
 - any mace, club, truncheon, knuckleduster, cosh or sling.
- B. "Firearm" means:
1. any object which (i) is designed or adapted as a weapon from which a shot, bullet or other missile, or a noxious gas, liquid or other substance may be discharged by means of explosive, gas or air pressure or by any other means of propulsion, and (ii) falls within one of the specific descriptions below, it being understood that subparagraphs (a) to (f) inclusive and (i) include only objects utilizing an explosive propellant:
 - (a) automatic arms;
 - (b) short arms with semi-automatic, repeating or single-shot mechanism;
 - (c) long arms with semi-automatic or repeating mechanism with at least one rifled barrel;
 - (d) single-shot long arms with at least one rifled barrel;
 - (e) long arms with semi-automatic or repeating mechanism and smooth-bore barrel(s) only;

- (f) portable rocket launchers;
- (g) any arms or other instruments designed to cause danger to life or health of persons by firing stupefying toxic or corrosive substances;
- (h) flame-throwers meant for attack or defence;
- (i) single-shot long arms with smooth-bore barrel(s) only;
- (j) long arms with gas propellant mechanism;
- (k) short arms with gas propellant mechanism;
- (l) long arms with compressed air propellant mechanism;
- (m) short arms with compressed air propellant mechanism;
- (n) arms propelling projectiles by means of a spring only,

provided always that there shall be excluded from this paragraph 1 any object otherwise included therein which:

- (i) has been permanently rendered unfit for use;
- (ii) on account of its low power is not subject to control in the Member States;
- (iii) is designed for alarm, signalling, life saving, animal slaughtering, harpooning or for industrial or technical purposes on condition that such objects are usable for the stated purpose only;
- (iv) was manufactured before 1871 or to a design dating from before 1871;

2. the firing mechanism, chamber, cylinder or barrel of any object comprised in paragraph 1 above;

3. any ammunition specially designed to be discharged by an object comprised in subparagraphs (a) to (f) inclusive, (i), (j), (k) or (n) of paragraph 1 above and any substance or matter specially designed to be discharged by an instrument comprised in subparagraph (g) of paragraph 1 above;
4. telescope sights with light beam or telescope sights with electronic light amplification device or infra-red device provided that they are designed to be fitted to any object comprised in paragraph 1 above;
5. a silencer designed to be fitted to any object comprised in paragraph 1 above;
6. any grenade, bomb or other missile containing explosive or incendiary devices.

For the purposes of this definition:

- (a) "automatic" denotes a weapon which is capable of firing in bursts each time the trigger is operated;
- (b) "semi-automatic" denotes a weapon which fires a projectile each time the trigger alone is operated;
- (c) "repeating mechanism" denotes a weapon the mechanism of which in addition to the trigger must be operated each time the weapon is to be fired;
- (d) "single-shot" denotes a weapon whereof the barrel or barrels must be loaded before each shot;
- (e) "short" denotes a weapon with a barrel not exceeding 30 centimetres or whose overall length does not exceed 60 centimetres;
- (f) "long" denotes a weapon with a barrel exceeding 30 centimetres whose overall length exceeds 60 centimetres.