II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2019/686

of 16 January 2019

laying down the detailed arrangements under Council Directive 91/477/EEC for the systematic exchange, by electronic means, of information relating to the transfer of firearms within the Union

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons ([1]), and in particular the second subparagraph of Article 13(5) thereof,

Whereas:

(1) Chapter 3 of Directive 91/477/EEC lays down formalities for the transfer of firearms from one Member State to another and requires Member States to exchange relevant information relating to such transfers.

(2) Paragraph 5 of Article 13 of Directive 91/477/EEC requires the Commission to provide for a system for the systematic exchange of information mentioned in that Article. The competent authorities of Member States currently exchange this information by email or fax

(3) The Internal Market Information System ('IMI') established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council ([2]) could be an effective tool in implementing the administrative cooperation provisions set out in Article 13 of Directive 91/477/EEC, in particular those provisions relating to the transfer of firearms from one Member State to another. Accordingly, Commission Implementing Decision (EU) 2019/689 ([3]) has been adopted to make those provisions relating to the transfer of firearms subject to a pilot project under Article 4 of Regulation (EU) No 1024/2012. It is therefore appropriate to identify IMI as the system to be used by the competent authorities of the Member States for the purposes of the exchange of information relating to the transfer of firearms, and to lay down the detailed arrangements for such exchanges.

(4) In accordance with Article 13(3) of Directive 91/477/EEC, Member States may have more than one national authority responsible for transmitting and receiving information falling within the scope of this Regulation. In order to facilitate the efficient and effective flow of information between Member States, each Member State with more than one such national authority should be required to designate one of its national authorities as a central authority, to act as a single point of contact for receiving and transmitting information exchanged via IMI in accordance with this Regulation. The central authority may also be empowered by the Member State to transmit information from its national authorities to another Member State via IMI.

([1]) OJ L 256, 13.9.1991, p. 51.

([2]) Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1).

([3]) Commission Implementing Decision (EU) 2019/689 of 16 January 2019 on a pilot project to implement certain administrative cooperation provisions set out in Council Directive 91/477/EEC by means of the Internal Market Information System (see page 75 of this Official Journal).

(5) In accordance with Article 11 of Directive 91/477/EEC, the transfer of firearms from one Member State to another requires an authorisation from the Member State where the firearm is situated ('the Member State of dispatch'). Moreover, each Member State must supply the other Member States with a list of firearms, the transfer of which to its territory may be authorised without its prior consent. This means that, for firearms not included on a Member State's list, the Member State of dispatch is supposed to check to see that prior consent has been given before it proceeds to authorise transfer of the firearm to that Member State. Currently, however, the prior consent document is only presented by the seller to the Member State of dispatch at the time when the seller requests the transfer authorisation or, in a case falling within Article 11(3) of Directive 91/477/EEC, when the dealer communicates particulars of the transfer to the Member State of dispatch. In order to ensure that transfer authorisations are not issued on the basis of fraudulent documentation, the Member State to whose territory a firearm is to be transferred ('the Member State of destination') should be required to transmit information relating to the prior consent to the Member State of dispatch via IMI no later than 7 calendar days after it has issued its prior consent. In addition, in order to guarantee greater traceability and security with respect to the transfer of firearms within the Union, a copy of the prior consent document should also be uploaded onto IMI at the same time as that information is dispatched via IMI.

(6) The specific information that Member States should be required to transmit individually via IMI, in addition to uploading a copy of the relevant document, should be confined to the information necessary to enable the relevant national authorities to easily identify and retrieve information concerning a particular transfer, including in particular information identifying the seller and the buyer or owner (whether a dealer or another person).

(7) In the interests of transparency and security, each Member State should upload onto IMI the list of firearms, the transfer of which to its territory may be authorised without its prior consent. If there are no such firearms, in other words if its prior consent is needed for the transfer of all firearms, the Member State will be able to indicate that fact in the relevant repository in IMI.

(8) The measures provided for in this Regulation were discussed with an expert group on exchange of information, consisting of experts from Member States,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation applies to the exchange of the following information via the system referred to in paragraph 5 of Article 13 of Directive 91/477/EEC:

(a) information mentioned in paragraph 2 of that Article as regards the transfer of firearms;

(b) information mentioned in paragraph 4 of that Article, excluding information with regard to refusals to grant authorisations as provided in Articles 6 and 7 of that Directive.

Article 2

The electronic exchange system

For the purposes of exchanging information to which this Regulation applies, the system referred to in Article 13(5) of Directive 91/477/EEC shall be the Internal Market Information System ('IMI') as provided for in Implementing Decision (EU) 2019/689.

Article 3

Designation by Member States of a central authority

1. If a Member State has more than one national authority responsible, as referred to in Article 13(3) of Directive 91/477/EEC, for transmitting and receiving information to which this Regulation applies, the Member State shall designate one of those authorities to act as a central authority responsible for receiving such information from national authorities of other Member States and transmitting it to the relevant national authority within its territory responsible for that information.

2. A Member State may also assign its central authority the task of transmitting information from its national authorities to the national or central authority of another Member State via IMI.

Article 4

Prior consent

1. Where a Member State ('the Member State of destination') gives its prior consent to the transfer to its territory of a firearm situated in another Member State ('the Member State of dispatch'), the Member State of destination, for the purposes of notifying the Member State of dispatch of its prior consent, shall transmit the following information to the Member State of dispatch:

(a) the name of the Member State of destination and the Member State of dispatch;

(b) the date and national reference number of the prior consent document;

(c) information identifying the person purchasing or acquiring the firearm or, where appropriate, the owner;

(d) information identifying the person selling or disposing of the firearm, if applicable;

(e) the expiry date of the prior consent document in accordance with the national rules of the Member State of destination.

2. The Member State of destination shall upload onto IMI a copy of the prior consent document and it shall transmit that copy to the Member State of dispatch together with the information transmitted pursuant to paragraph 1.

3. The information and document referred to in paragraphs 1 and 2 shall be accessible in IMI by the national authorities responsible for that information in the Member State of destination and the Member State of dispatch.

4. The information and document referred to in paragraphs 1 and 2 shall be uploaded and transmitted no later than 7 calendar days after the date of issue of the prior consent document.

Article 5

List of firearms the transfer of which does not need prior consent

The list of firearms to be supplied to other Member States pursuant to Article 11(4) of Directive 91/477/EEC shall be uploaded onto IMI and be accessible in IMI by the national authorities of all Member States.

Article 6

Notification of transfer authorisations or accompanying document

1. When issuing a transfer authorisation for a firearm pursuant to Article 11(2) of Directive 91/477/EEC or when issuing the document ('accompanying document') required to accompany a firearm pursuant to the first subparagraph of Article 11(3) of that Directive, the competent authority of the Member State where the firearm is situated ('the Member State of dispatch') shall transmit the following information to the Member State to whose territory the firearm is to be transferred ('the Member State of destination') and to any transit Member States:

(a) the name of the Member State of dispatch, the Member State of destination, and, if applicable, any transit Member States;

(b) the date and national reference number of the transfer authorisation or accompanying document;

(c) information identifying the person purchasing or acquiring the firearm, or, where appropriate, the owner;

(d) information identifying the person selling or disposing of the firearm, if applicable;

(e) the total number of firearms to be transferred;

(f) in the case of a transfer authorisation, the date of departure and the estimated date of arrival of the firearm;

(g) the expiry date of the transfer authorisation or accompanying document in accordance with the national rules of the Member State of dispatch.

2. The Member State of dispatch shall upload onto IMI a copy of the transfer authorisation or of the accompanying document, and it shall transmit that copy to the Member State of destination and to any transit Member States together with the information transmitted pursuant to paragraph 1.

3. Where information concerning prior consent and a copy of the prior consent document were not transmitted by the Member State of destination to the Member State of dispatch pursuant to Article 4, the Member State of dispatch shall upload onto IMI a copy of the prior consent document it has received through other means.

4. The information and documents referred to in paragraphs 1, 2 and 3 shall be accessible in IMI by the national authorities of only the Member State of dispatch, the Member State of destination, and, if applicable, the Member States of transit.

5. The information and documents referred to in paragraphs 1, 2 and 3, shall be uploaded and transmitted no later than the time of transfer to the first transit Member State or, if there are no transit Member States, to the Member State of destination.

Article 7

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 3 September 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 January 2019.

For the Commission
The President
Jean-Claude JUNCKER