

# CONVERTIBLE WEAPONS IN THE WESTERN BALKANS



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The South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) has a mandate from the United Nations Development Programme (UNDP) and the Regional Cooperation Council (RCC) to support all international and national stakeholders by strengthening national and regional capacity to control and reduce the proliferation and misuse of small arms and light weapons, and thus contribute to enhanced stability, security and development in South Eastern and Eastern Europe.

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**For further information contact:**

Team Leader, SEESAC  
Hadži Milentijeva 30  
11000 Belgrade  
Serbia

Tel: (+381) (11) 344 6353; 383 6972; 383 6974

Fax: (+381) (11) 344 6356

[info@seesac.org](mailto:info@seesac.org)

[www.seesac.org](http://www.seesac.org)

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# ACRONYMS

ACP	Automatic Colt Pistol (ammunition)
BiH	Bosnia and Herzegovina
CIP	Permanent International Commission for Firearms Testing (Commission Internationale Permanente pour l'Épreuve des Armes à Feu Portatives - CIP)
EU	European Union
IBIS	Integrated Ballistics Identification System
IMCO	Committee on Internal Market and Consumer Protection
MEP	Member of the European Parliament
MERR	Ministry of the Economy and Regional Development
MOFTER	Ministry of Foreign Trade and Economic Relations (Bosnia and Herzegovina)
Mol	Ministry of Interior
SALW	Small Arms and Light Weapons
SEESAC	South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNDP	United Nations Development Programme
UNMIK	United Nations Interim Administration Mission in Kosovo

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# EXECUTIVE SUMMARY

This is the first report on the regulation of convertible weapons in the Western Balkan region including Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, and the UN administered territory of Kosovo. A comparative study was carried out to determine the extent to which convertible weapons are addressed in existing legislation and the extent to which this corresponds with new European Union regulations.

The report was researched and written between May and July 2009. Reporting is based on reviews of firearms and weapons legislation, interviews with officials from the Ministries of Interior, local and international law enforcement personnel, advisors on small arms and ammunition issues; and a review of information published by national governments and local administrations, media and other public sources.

Convertible weapons are non-lethal handguns that have the appearance of regular firearms and function in a similar way. Convertible weapons can be modified into firearms that can shoot real ammunition by the replacement or modification of main components. Most types of convertible weapons are either blank-firing alarm pistols or guns which fire tear gas. It is possible to modify convertible weapons on a larger scale, and thereby create an illicit manufacturing process. Some organised crime groups have engaged in the illicit modification of convertible weapons which can be cheap to obtain and profitable to resell as firearms while being difficult for law enforcement bodies to trace.

In 2008, the European Parliament and the European Council adopted Directive 2008/51/EC, which amended Council Directive 91/477/EEC on control of the acquisition and possession of weapons. One of the amendments included within the definition of a firearm non-lethal weapons which could be converted to fire real ammunition in order to curtail the problem of transfer and modification of convertible weapons within the European Union.

Throughout this research it was indicated that many countries in the Western Balkan region have been affected by the illicit trafficking, possession and use of convertible weapons, particularly in connection with other organised crime activities. It was commonly reported that convertible weapons, after having been modified to fire bullets, have been transported through several states in the region for illegal distribution. It is firmly in the interest of European Union candidates and potential candidates in the Western Balkans to approximate EU firearms legislation as a step towards combating the illegal manufacture, smuggling and possession of convertible weapons.

For the most part, there are strict regulations on the civilian possession of firearms in the countries of the Western Balkans. However legislation of certain types of convertible weapons is currently inadequate in a number of countries. Most countries and territories in the Western Balkans could improve the accuracy and effectiveness of legislation by adopting specific definitions for firearms which encompass convertible weapons. In addition, some types of convertible weapons have ambiguous standing in the law in several countries in the region. This is particularly the case for blank-firing handguns. Not all countries of the Western Balkans require that convertible weapons have identification markings according to the same standards required for other firearms or take measures to register details and adequately link weapons to their owners. Penalties for offences that involve the manufacture and modification of arms and the sale of prohibited firearms by individuals were not consistently sufficient to address the illicit trade in converted weapons and their modification.

# INTRODUCTION

In 2008, the European Parliament and the European Council adopted Directive 2008/51/EC, which amended the Council Directive 91/477/EEC on control of the acquisition and possession of weapons. One of the amendments reflects the debate over control of convertible weapons, which were included within the definition of a firearm for the purposes of Directive 91/477/EEC. However, no research on the existing legislation of convertible weapons in the Western Balkan countries<sup>1</sup> or the approximation of European Union (EU) regulations in relation to convertible weapons had been conducted and therefore the situation throughout the region largely remained unknown.

Cognisant of the above, the *South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons* (SEESAC) proposed a research project combining an analysis of existing legislation on convertible weapons in the Western Balkan region along with recommendations for relevant changes to legislation in order to address the issue. SEESAC has a responsibility within its mandate to provide management information for Small Arms and Light Weapons (SALW) interventions within the South Eastern and Eastern Europe region, including the Western Balkan countries. SEESAC also provides technical assistance to governments in South Eastern Europe for the approximation of relevant EU policies and regulations to their national legislation. This report examines legislation in relation to convertible weapons (as defined below) from four complementary perspectives:

- 1) How convertible weapons, or weapons which may be convertible, are addressed in existing legislation and the extent to which this corresponds with EU regulations.
- 2) The extent to which other relevant legislation provides the minimum standards of EU regulations for the categories of firearms which are most likely to apply to convertible weapons.
- 3) The provisions by which the concerns about illicit weapons conversions, the availability of means of conversion, and regulations on work or alteration of weapons are addressed in national legislation.
- 4) Regulations on the licensing, carrying, and/or transfer of firearms, which could include convertible weapons.

A convertible weapon is usually some type of non-lethal handgun designed to make a loud noise (blank-firing alarm/signal pistols and revolvers) or disperse tear gas (irritant gas signal pistols and revolvers). A convertible weapon is very similar to a regular firearm. It looks like some type of firearm, its moving parts work identically to those in firearms, and it is made out of the same or similar materials as a firearm. The difference is that it has been produced so that it cannot fire bullets. Nevertheless, due to the similarities with other firearms, convertible weapons can be modified to fire bullets by using techniques that can be readily learned but that take professional skill to apply with precision. The common physical characteristic of all convertible weapons is that they are made from materials that enable them to withstand the pressure of firing live ammunition.<sup>2</sup>

Convertible weapons can be modified into firearms that can shoot real ammunition by the replacement or modification of main components. It is possible to modify convertible weapons on a larger scale, and thereby create a manufacturing process. This underpins the widespread problem that convertible weapons pose. In effect, if not by design, convertible weapons can be the equivalent of a preformed firearm, requiring only final steps in its manufacture. Once key components of convertible weapons have been changed the converted weapon becomes a saleable commodity on the illicit firearms market.

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<sup>1</sup> Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, and the UN administered territory of Kosovo.

<sup>2</sup> See also the definition of “convertible weapon” in the methodology section below.

Convertible weapons do not include firearms that have been deactivated in such a way that it is unfeasible to reactivate them, and do not include the types of imitation firearms and toy guns that do not have a functioning mechanism or are made in such way that they are too fragile to conceivably fire a bullet.

Due to their inability to fire bullets, convertible weapons are often viewed as harmless devices and therefore not subject to appropriate legal restrictions. Many types of convertible weapons have been available for sale in some countries of Europe. The possibility and dangers of modifying convertible weapons to fire deadly ammunition have been known for some time. Only recently, however, has the issue become a matter for serious legal discussion. Main elements of the debate arose from the free flow of goods in the European internal market and the access that this has given for the movement of untraced convertible weapons, through the EU, to later be illicitly converted.

Elimination of controls at European Community borders in 1993 required the introduction of new firearms regulations for Member States. The Council Directive 91/477/EEC adopted in June 1991 prepared for the opening of the internal frontiers by defining minimum standards for the acquisition and possession of firearms as well as for the transfer of firearms between Member States. Member States are required, at minimum, to enforce the requirements of the directive but may also apply more stringent standards as appropriate to their national context. A directive is a legislative act of the EU that requires member states to achieve a particular result without dictating the means of achieving that result. In the case that national legislation does not comply with a directive, EU Member States should amend legislation to ensure the directive's implementation. Member States may be held liable for the results of a failure to implement a directive.

In May 2008, through the work of the European Parliament Committee on Internal Market and Consumer Protection (IMCO), Directive 2008/51/EC introduced amendments to Council Directive 91/477/EEC on control of the acquisition and possession of weapons. The main intention behind the introduction of the amendments was to update regulations with respect to an expanded Europe and address the challenges of firearms control with new frontiers opened to the EU's internal market. Since the 1991 Firearms Directive came into effect, enlargements had occurred. Furthermore the process of introducing legislative amendments was viewed as an opportunity for the Council of the European Union to ratify the United Nations (UN) Firearms Protocol<sup>3</sup> on behalf of the European Community and this required action from the European Parliament. After signing the UN Firearms Protocol in 2001, the Council had instructed the European Commission to negotiate the accession of the Community to the Firearms Protocol.<sup>4</sup>

In March 2006, the European Commission had adopted a proposal to enhance the security provisions of Council Directive 91/477/EEC. The amendments' more stringent measures to combat illicit production and transfer of firearms were to be balanced with provisions clearly preserving the rights of legal firearms owners and users according to the national laws of EU Member States, while facilitating the movement of legal firearms for legitimate pursuits. The process was consultative and a diverse assortment of interest groups affected by the directive participated in the discussion of the drafting of the amendments, including manufacturers, firearms dealers, police, non-governmental organisations, hunters and sporting shooters. The process resulted in Directive 2008/51/EC of the

<sup>3</sup> Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>4</sup> See also '2001/748/EC: Council Decision of 16 October 2001 concerning the signing on behalf of the European Community of the United Nations Protocol on the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition,' [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!DocNumber&lg=en&type\\_doc=Decision&an\\_doc=2001&nu\\_doc=748](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Decision&an_doc=2001&nu_doc=748), accessed 05 July 2009.

European Parliament and of the Council of 21 May 2008 amending Council Directive 91/477/EEC. Gisela Kallenbach, a Member of the European Parliament (MEP) and rapporteur on the issue, steered its progress through the Parliament. Firearms, she has noted, are dangerous goods and not comparable to other products. Therefore there was a need to meet a balance between regulations that allow dealers to trade in weapons and the expected security measures of the population. Weapons that are being traded require regulations that prevent, to the greatest extent possible, their misuse and ensure the safety of citizens.<sup>5</sup>

Convertible weapons, in particular, were included under the definition of “firearm” in Directive 2008/51/EC. In 2010, which will be two years after Directive 2008/51/EC entered into force, convertible weapons will be regulated, in effect, as all other firearms in their class. Predominantly that classification will correspond with the category for semi-automatic short firearms. Therefore, if convertible weapons are not prohibited, at a minimum they will be subject to authorization before they can be acquired. They will also require adequate markings on the weapon and its parts to make them identifiable, and will need to be recorded in such a way that they can be traced back to the owner at any time.

A key supporter of the inclusion of convertible weapons in the provisions of Directive 2008/51/EC was Arlene McCarthy, MEP, Chair of the European Parliament’s Committee on Internal Market and Consumer Protection. Through her experience in parliamentary police training with the Greater Manchester Police, she recognised that convertible weapons had become a principal source of illicit firearms in Manchester and a problem in many areas of the United Kingdom of Great Britain and Northern Ireland (UK). In part the guns were filling a black market demand which had grown as legal restrictions ensured fewer firearms could be obtained from legal sources for illicit use. In Manchester just under half of all illegal firearms seized were converted weapons. Some elements of organised crime and a few individual opportunists would go to elaborate lengths to convert firearms, which are cheap to obtain, easily available, profitable to resell and almost untraceable. It was recognised that the text of the future Directive 2008/51/EC had to improve upon the wording “readily convertible”<sup>6</sup> found in the UN Firearms Protocol to reflect the complexities of some of the illicit conversion processes and therefore the definition of “convertible weapons” was introduced.<sup>7</sup>

As with other firearms that find their way into illicit circulation, convertible weapons usually first enter the market by lawful means. They are obtained from legitimate sources in countries where production, sale or possession is legally permitted and may be in some cases for the most part unregulated.<sup>8</sup> In the experience of the UK, the modified guns often ended up in the possession of young gang members and closely linked with narcotics and revenge shootings while also causing a general violent public threat. The end users of illicitly-activated convertible weapons might think that possession or transfer of these firearms is likely to incur lesser consequences than for similar offences with other firearms. In this respect convertible weapons have a large appeal to criminal enterprise. Organised crime is loosely defined as distinct to other criminal activities by its continual, substantial and extensive scale of operation which may include drugs trafficking, immigration crime and armed robbery. Convertible or converted weapons have been reportedly involved in many such

5 Telephone interview with Gisela Kallenbach, MEP, 14 May 2009; See also, European Commission, ‘Council Directive 91/477/EEC on control of the acquisition and possession of weapons,’ [http://ec.europa.eu/enterprise/regulation/goods/dir91477\\_en.htm](http://ec.europa.eu/enterprise/regulation/goods/dir91477_en.htm), accessed 08 July 2009.

6 Article 3 (a) of the UN Firearms Protocol states, “Firearm’ shall mean any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile ....”

7 Telephone Interview with Alex Stringer, Parliamentary Assistant to Arlene McCarthy MEP, 21 May 2009.

8 See Toine Spapens, ‘Trafficking in Illicit Firearms for Criminal Purposes within the European Union,’ *European Journal of Crime, Criminal Law and Criminal Justice* (2007), pp. 362-365, <http://arno.uvt.nl/show.cgi?fid=68801>, accessed 15 May 2009.

activities, both within the EU and throughout the Western Balkan region. Through the monitoring of internet communications, criminal investigative bodies are aware that there are continuous discussions of tactics to circumvent restrictions on the acquisition of convertible weapons and on the ways to convert them.<sup>9</sup>

The technical capacity of the illicit conversion process is a factor in the reliability and accuracy of the final converted weapon. In the experience of UK, convertible weapons often have homemade barrels, with smooth bores. All the converted firearms seized in the UK were manufactured by people with some skill in metalwork or engineering but lacking gunsmith expertise. Such knowledge could allow rifled barrels, creating a more deadly and saleable product. Almost all the converted weapons known to have been produced in UK have these smooth bores. But some 25% of the converted weapons in UK have been found to have rifling; these were suspected to have been produced in Eastern Europe by persons with experience in firearms workmanship.<sup>10</sup>

In the course of this research all Western Balkan countries were reportedly impacted in some way by the illicit traffic of convertible weapons. Most have been affected by the trend towards the illicit modification, possession and use of convertible weapons by organised criminal elements. Convertible weapons, after modification to bullet-firing guns, are often thought to have been transported through several states for distribution. It is possible that in some cases manufacture occurs along their illicit journey. There is some indirect evidence for this possibility in that the same illicitly "trademarked" models of converted gas pistols have been seized in Serbia, Croatia and Albania, as well as EU member states including Sweden and the UK with varying states of modification. Other issues regarding modification of weapons and conversion that arose during this research included the question of how to address the large workforce terminated from employment in the arms manufacturing industry in the region since the 1990s, including people with extensive, skilled, professional knowledge in firearms production.

It is firmly in the interest of EU neighbours, including EU candidates and potential candidates in the Western Balkans, to carry out *approximation* of the *EU firearms legislation*. Approximation of Directive 2008/51/EC in legislation of the Western Balkans can also be viewed as a significant step towards combating the problem of the illegal manufacture, smuggling and possession of deadly convertible weapons.

A selection of media and criminal justice reporting from the Western Balkan region give a broad impression of the impact of convertible weapons in the region, the threat to public security they cause, and the direct connections they have with organised crime.

In Sarajevo, Bosnia and Herzegovina in September 2007, one person was killed by their own converted pistol after shooting it to intimidate another regarding debts owed.<sup>11</sup> In Sarajevo in 2006 two men were charged with obtaining and converting a range of prohibited weapons including tear gas pistols and pistols without serial numbers.<sup>12</sup>

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9 Interview with SOCA official, 8 June 2009. SOCA, the Serious Organised Crime Agency, is an intelligence-led law enforcement agency, sponsored by, but operationally independent from, the United Kingdom's Home Office.

10 Telephone Interview with Greater Manchester Police official, 10 June 2009.

11 "Čelik asked for four thousand for the car" (Čelik je tražio četiri hiljade za automobile) 05 September 2007, [www.san.ba/index.php?id=169](http://www.san.ba/index.php?id=169), accessed 20 May 2009; Federal Police Bosnia and Herzegovina, 'Deaths in Sarajevo Canton in 2007', [www.fup.gov.ba/joomla/ubistva.doc](http://www.fup.gov.ba/joomla/ubistva.doc), accessed 20 May 2009.

12 Canton of Sarajevo, 'Cantonal Prosecutor's Office', 20 January 2006, <http://www.tuzilastvoks.gov.ba/stream/optuznice/index.php?sta=2&pid=538>, accessed 20 May 2009.



In Croatia in October 2008, 11 properties were raided and weapons seized including converted gas pistols, following which, in January 2009, five people were sentenced for weapons offences including converting firearms. Most of the weapons were of military origin, but part of the seizure included converted gas pistols with silencers. The offenders received prison sentences from three months to and year and a half. Local police were reported as saying that they were weapons of terror, "these kind of weapons, calibre 6.35 mm with a silencer, are very lethal at close range." According to unofficial sources reported in the articles, the weapons were intended for Serbia, Bosnia and Herzegovina and also to countries in the EU.<sup>13</sup>

In Zagreb in 2007, Croatia, Police confiscated a converted pistol along with cocaine and heroin from three persons.<sup>14</sup> Also in Croatia, in March 2006 a hunter was showing off a converted gas pistol when it accidentally discharged, shooting two of his companions with one bullet.<sup>15</sup> In 2004, in Zagreb, Croatian police detained a suspect for robbing women on the street by threatening them with a converted gas pistol. He had reportedly robbed at least six people and a store in the month of December 2004.<sup>16</sup>

In Niš, Serbia in November 2008, two men were arrested for armed robbery of currency exchange offices across Southeastern Serbia using pistols, including a converted weapon (6.35 calibre). One detainee was a Serbian citizen and the other a citizen of the former Yugoslav Republic of Macedonia who had escaped from prison in his home country where he was serving a seven-year sentence for engaging in human trafficking as part of an organised crime group. The suspects were found to possess false passports.<sup>17</sup>

Police in the United Nations administered territory of Kosovo were reported to have stated that, from 2007 to early 2008, some 600 firearms of various calibres, 15,000 pieces of ammunition and three machines for modifying and converting gas-firing guns had been seized. Eighteen suspects were arrested for the offences.<sup>18</sup>

13 "Weapons smugglers caught" (Pali krijumčari oružja) 29 October 2008, [www.naslovi.net/2008-10-29/dw/pali-krijumcari-oruzja/887053](http://www.naslovi.net/2008-10-29/dw/pali-krijumcari-oruzja/887053); "Sentenced for possession and conversion of weapons" (Osuđeni zbog posjedovanja i prepravljanja oružja), 16 January 2009, [www.javno.com/hr-crna/osudjeni-zbog-posjedovanja-i-prepravljanja-oruzja\\_224965](http://www.javno.com/hr-crna/osudjeni-zbog-posjedovanja-i-prepravljanja-oruzja_224965), accessed 20 may 2009.

14 "Confiscated drugs worth 50 thousand Kuna" (Zaplijenjena droga vrijedna 50 tisuća kuna,) 12 February 2007, [www.javno.com/home/hr/crna/clanak.php?id=20237](http://www.javno.com/home/hr/crna/clanak.php?id=20237), accessed 20 may 2009.

15 "Shot two friends with one bullet" (Jednim metkom ustrijelio dva prijatelja) [www.sbonline.net/vijesti/clanak1002-2034.htm](http://www.sbonline.net/vijesti/clanak1002-2034.htm), accessed 20 may 2009.

16 "A criminal caught in Zagreb who specialized in robbing women on the street," (U Zagrebu uhićen razbojnik "specijaliziran" za pljačkanje žena na ulici), [www.index.hr/vijesti/clanak/u-zagrebu-uhicen-razbojnik-specijaliziran-za-pljackanje-zena-na-ulici/240985.aspx](http://www.index.hr/vijesti/clanak/u-zagrebu-uhicen-razbojnik-specijaliziran-za-pljackanje-zena-na-ulici/240985.aspx), accessed 20 may 2009.

17 "Without Cash and Freedom," (Bez keša i slobode), 6 November 2008, [www.novosti.rs/code/navigate.php?id=9&status=jedna&vest=131740&title\\_add=Bez%20ke%C5%A1a%20i%20slobode&keyword\\_add=pljacke%2C%20pljacka%20menjacnice](http://www.novosti.rs/code/navigate.php?id=9&status=jedna&vest=131740&title_add=Bez%20ke%C5%A1a%20i%20slobode&keyword_add=pljacke%2C%20pljacka%20menjacnice), accessed 20 may 2009.

18 "Kosovo: Arrests for Weapons Smuggling" (Kosovo: Hapšenja zbog šverca oružja), 04 April 2008, [www.b92.net/info/komentari.php?nav\\_id=292432](http://www.b92.net/info/komentari.php?nav_id=292432), accessed 20 may 2009.

# METHODOLOGY

This is the first report on the regulation of convertible weapons in the Western Balkan countries. A comparative study was carried out to ascertain the extent to which regulation of convertible weapons in the countries and territories of the Western Balkans are in approximation with Directive 2008/51/EC of the European Parliament and of the Council of 21 May 2008 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons. Directive 2008/51/EC classified convertible weapons as firearms, thus subjecting them to amended EU firearms regulations.

Reviews of firearms and weapons legislation for the research included web-based research of legislation available online through state and public sources including ministry websites and legislative databases. Legislation collected and translated in the SEESAC Arms Law Compendium was used also as a reference. Interviews were undertaken to ascertain the extent and applicability of relevant legislation in the region as well as the EU legislation in context. Further interviews were conducted to gain an understanding of the current problem of the illicit transfer and possession of convertible weapons at national and regional levels. Interviews were made with officials from the Ministries of Interior, national and international law enforcement personnel and UNDP technical advisors on small arms and ammunition issues.

In addition to evaluating the national regulations for relevance in the control of convertible weapons, the research also drew comparisons between national legislation and EU regulations against the measures of the legally binding UN Firearms Protocol. As noted in the introduction, several amendments found in Directive 2008/51/EC incorporate UN Firearms Protocol provisions. Furthermore all UN member states in the Western Balkans are States Parties to the Protocol and each acceded or succeeded to the Protocol without reservation. Some provisions of the UN Firearms Protocol remain outside the scope of Directive 2008/51/EC, in particular, the requirement for marking of firearms upon import.

STATE PARTY TO UN FIREARMS PROTOCOL	DATE	STATUS
Albania	08 February 2008	Accession
Bosnia and Herzegovina	01 April 2008	Accession
Croatia	07 February 2005	Accession
The former Yugoslav Republic of Macedonia	14 September 2007	Accession
Montenegro	23 October 2006	Succession
Serbia	22 October 2005	Ratification

Table: States Parties to the UN Firearms Protocol in the Western Balkans.<sup>19</sup>

<sup>19</sup> 'UN Firearms Protocol, Status as at: 26 September 2008,' [www.unodc.org/unodc/en/treaties/CTOC/countrylist-firearmsprotocol.html](http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-firearmsprotocol.html), accessed 15 July 2009 (Lists Serbia as having acceded to the Protocol on 20 December 2005); Serbia and Montenegro ratified the UN Firearms Protocol on 22 October 2005, (Official Gazette SCG No. 11/2005), Email from Branka Latinović, Director of Arms Control Directorate, Ministry of Foreign Affairs, 13 July 2009. Serbia assumed the commitments of the former Serbia and Montenegro.

# APPROACH TO COMPARING LEGISLATION IN THE WESTERN BALKANS AND EU REGULATIONS

## Legislation relevant to EU regulations

National legislation in the Western Balkans has been reviewed to assess the extent to which it addresses all weapons that may, by any minimum standard, fall within the Directive 2008/51/EC definition of convertible weapons.

## Convertible Weapons Definition

A working account of which weapons may be considered convertible weapons was applied in order to assess legislation in the Western Balkans and the measures for approximation with Directive 2008/51/EC. A weapon fitting the definition of a convertible weapon in Directive 2008/51/EC should be a device capable of being converted to expel a shot, bullet or projectile which *“has the appearance of a firearm, and... as a result of its construction or the material from which it is made, it can be so converted”*.<sup>20</sup> These weapons were found to primarily include short barrelled weapons (firearms such as pistols and revolvers) built to fire irritant gas ammunition and blank-firing weapons variously referred to as “signal”, “starting” and “alarm” guns as well as some partially deactivated firearms used as props, for example in film production.<sup>21</sup> The working account of weapons which may be considered convertible was used as the basic measure of laws which apply to convertible weapons as firearms.

## Marking and Tracing

Included in the analysis are legislative provisions concerning the marking of firearms, the keeping of records and the management of databases for the purposes of tracing firearms and ensuring that they can be linked to their owners at all times (Article 4 of Directive 2008/51/EC). Also considered within the broader context of tracing was the fact that the amendment of Directive 2008/51/EC extends the time requirement for keeping records from the previous minimum of five years to a new minimum of 20 years (effective on 31 December 2014), and according to experts this data would be kept indefinitely.<sup>22</sup>

## Licensing

Assessing the compatibility between national legislation concerning licensing of and permission to carry firearms focuses on the need for criminal history checks and personal character requirements according to amended EU regulations (Directive 2008/51/EC under Article 4a). Conditions for the approval of firearms licences and of firearms production, repair and modification are relevant to the controls needed for approximation with EU regulations on firearms that also cover convertible weapons (Directive 2008/51/EC, Article 4.3).<sup>23</sup>

20 As defined by Directive 2008/51/EC: Article 1 “For the purposes of this Directive, “firearm” shall mean any portable barrelled weapon that expels, is designed to expel or may be converted to expel a shot, bullet or projectile by the action of a combustible propellant...”.

21 As in a highly publicized case in the United Kingdom in which 90 blank-firing weapons were converted to live fire automatic. See: “Jury convicts man who sold converted replica guns to gangsters,” *The Guardian*, 27 August 2008, [www.guardian.co.uk/uk/2008/aug/27/ukguns.ukcrime?gusrc=rss&feed=networkfront](http://www.guardian.co.uk/uk/2008/aug/27/ukguns.ukcrime?gusrc=rss&feed=networkfront), accessed on 10 may 2009.

22 European Parliament: Committee on the Internal Market and Consumer Protection, “Comments by GRIP on the proposed amendment of European Directive 91/477/EEC on weapons,” Notice to Members, No. 03/2006, 17 December 2006, p. 5.

23 Article 4.3 states: “Member States shall make the pursuit of the activity of dealer within their territory conditional upon authorisation on the basis of at least a check of the private and professional integrity and of the abilities of the dealer. In the case of a legal person, the check shall be on the person who directs the undertaking”.



## Dealers

The definition of what the role of a firearms “dealer” represents in Directive 2008/51/EC includes either natural or legal persons whose trade or business involves the repair or conversion of firearms and parts. It also relates to those engaged in the manufacture and trade of firearms. Dealers have a responsibility to maintain adequate records of all firearms they have handled. They must also be determined to be of sound character.

## Modification

“Illicit manufacturing” of firearms can be defined (Directive 2008/51/EC, Article 2a) to include firearm modifications, particularly the manufacturing or assembly of firearms from parts illicitly trafficked or manufacturing without authorisation of an appropriate authority where the manufacture or assembly takes place, or manufacturing without marking the firearms at the time of manufacture. In addition, the research looks into other legislation regulating other firearms modification which would change the category of firearms, for example by changing the calibre or barrel length.

## Deactivation

Some types of partially deactivated firearms may be classed as convertible weapons. Deactivation of firearms must be verifiably irreversible and recorded as such. Criteria for deactivation under national legislation are examined in this context (Directive 2008/51/EC Annex 1 Category D - III).

## Transfer

Regulations relating to the transfer, export and transport of firearms across territories, boundaries and borders are of particular concern to combating international illicit trade in firearms, including convertible weapons (Directive 91/477/EEC, Articles 11 and 12). Each state can apply its own laws within its territory, but these should be consistent with the needs for combating the illicit movement of firearms.

## Penalties

Directive 2008/51/EC contains an amendment to Directive 91/477/EEC (Article 16) that requires implementation and enforcement of the directive and that penalties provided are “*effective, proportionate and dissuasive*.” This research also looks at the scope these laws give to the legal justice system to impose penalties for violations of laws associated with the procurement, possession, sale and modification of convertible weapons.

As a starting point, most countries and territories in the Western Balkans could improve the accuracy and effectiveness of legislation by considering how to best adopt, in their legal definitions of firearms, specific terms which encompass convertible weapons and devices which may be converted to shoot bullets.

When numerous amendments to firearms legislation or extensive secondary legislation exist, these should be consolidated in a readily available format. All articles and provisions that apply

# FINDINGS AND RECOMMENDATIONS

to convertible weapons should be collectively summarised for reference by prosecutors, the legal establishment and law enforcement agencies.

Given that modification of convertible weapons has occurred in a region where, for the most part, there are strict firearms regulations concerning civilian possession, all relevant bodies should take care to ensure there are no unforeseen gaps in when amending legislation. Directive 2008/51/EC also calls for periodic verification to ensure that persons licensed to possess firearms continue to satisfy the licensing conditions. This provision was beyond the scope of the research; however it is another point for countries to consider in their legislation. Where legislation of certain types of convertible weapons is currently inadequate, amendments do not need to be complicated, rather simply by applying the minimum requirements of authorization for purchase of those types of firearms and associated prerequisites age, criminal and character checks. This would fulfil the needs of public safety while fulfilling the states' wish to accommodate the needs of legitimate firearms users.

If a state believes its own legislation is sufficient to regulate all possible types of convertible weapons, the reasoning should be substantiated in explanatory text. Due to imprecise definitions, some types of convertible weapons have ambiguous standing in the law in several countries. This is particularly the case for blank-firing, "starting" and "alarm" pistols and revolvers. National legislation on weapons and firearms, or secondary legislation, should state clearly which category of weapon applies to and include definitions which are clearly correspondent with the physical characteristics of these weapons. Approximation of Directive 2008/51/EC is possible by categorizing these handguns as weapons requiring authorisation, if they are not already prohibited.

Controls on the ownership of potentially convertible weapons such as irritant gas-firing handguns need to be more strictly regulated in Montenegro, which allows their sale to adults without the need for authorisation or registration. As convertible weapons, irritant gas-firing guns require full authorisation, not just registration. This would entail introducing requirements for checks on the character and criminal history of the purchaser, in addition to the need to obtain official permission for acquisition.

Convertible weapons should be marked according to, at minimum, the same standards for firearms marking. In addition, all weapons should be consistently marked, including gas-firing pistols or other convertible types of guns. To enhance recognition and regulation of convertible weapon types, it is necessary to build national systems and structures to identify weapons illicitly used and establish a comprehensive national ballistics database that can be linked to existing firearms records. All the countries must develop and introduce legislation to systematise import marking as required by the UN Firearms Protocol and in alignment with EU firearms regulations.

Brands and makes of known convertible weapons, once identified, should be added to national catalogues of weapons or import exclusion lists. These lists and other information on the circulation of convertible weapons or their illicit modification and transfer must be shared between relevant organisations in the region.

The relevant bodies should promote an understanding of the risks of modified or convertible weapons. They should support public awareness initiatives concerning legislative revision and other arms control initiatives as well as awareness during sale and licensing procedures. This promotion could also take place during firearms amnesties.

All persons employed by companies and businesses permitted to produce or repair firearms should be licenced and registered. Registration should include details of their skills and training. All workers

in the firearm industry should at least meet the same minimum character requirements as firearms licence holders. In addition, international, state and regional bodies need to cooperate in identifying and retraining unemployed or short term workers experienced in firearms manufacture, if necessary by applying specific provisions.

Penalties for offences that involve the manufacture and modification of arms and the sale of prohibited firearms by individuals could be re-examined on a national basis in the context of the illicit trade in converted weapons. This would include the possibility for differentiating penalties for the modification of firearms specifically for the purposes of organised crime, in contrast to other, less pernicious transgressions of the law.

## Background

Albania is believed to be a transit country for converted weapons rather than a place of production. In 2008, a cache of converted weapons was seized inside Albania as part of a wider law enforcement operation to stem arms trafficking. The handguns were compact pistols adorned with an imitation “Zastava” label.<sup>24</sup> No further details were available, however media reports indicate that the problem of convertible weapons transfer through Albania is more extensive.

## Legislation relevant to EU regulations

The firearms laws of Albania are highly restrictive and for the most part outdated and inconstant. Amendments as well as decisions and regulations have been somewhat arbitrarily added to primary legislation dating from 1992. Since many legislative provisions have been delegated through secondary legislation rather than through primary acts, this has created a legislative framework which is potentially too flexible to underpin a secure structure for firearms control. It is not uncommon for contradictions to exist between the primary and secondary legislation. Much of Albania’s secondary legislation on firearms, weapons and explosives is not available in translation, making it difficult for a comprehensive assessment. Taken as a whole however, Albanian legislation reportedly does not look as if it is generally consistent with EU regulations.<sup>25</sup> In 2008 Albania developed a draft Law on Weapons with the intention of achieving complete observance of existing EU legislation and taking into account Directive 91/477/EEC.<sup>26</sup> The draft law would entirely replace the existing 1992 Law on Firearms and the subsequent amendments, and secondary legislation inconsistent with the draft law would be repealed.<sup>27</sup> No progress on passage of the draft law has been reported since 2008.<sup>28</sup>

TITLE	LEGAL REFERENCE	DATE
Law No. 7566	Law on Firearms	25 May 1992
Law No. 9838	On the adherence of the Republic of Albania to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime	10 December 2007
Decision of the Council of Ministers, No. 275	On the rules for the administration and control of firearms for the natural and legal persons (amended)	25 June 1992
Instruction of the Minister of Public Order (Interior), No. 1288	On the mode for issuing, removing, administering and safeguarding firearms and military, sports and hunting ammunition, issued by permission pursuant to the DCM No. 275, dated 25.06.1992.	09 August 2000
Decision of the Council of Ministers, No. 617	On the removal from armament and use of part of the firearms, technology and equipment of military forces and on their disposal or dismantle and sale	04 December 2002

24 Interview with SOCA official, Belgrade, 8 June 2009.

25 Telephone Interview with Stefano Failla, EC Delegation, Tirana, 9 June 2009. Information from the Police Assistance Mission of the European Community to Albania (PAMECA III), Tirana 2 June 2009. PAMECA III is a project funded by the European Union. The Mission will operate from 2008 to 2011 with the aim of providing technical assistance from European Union member states to bring Albanian policing standards into closer alignment of those of the European Union.

26 Explanatory Memorandum to the draft ‘Law on Firearms’ in email from PAMECA III, 15 June 2009.

27 ‘Draft Law on Firearms 2008’, Article 43.

28 Email from PAMECA III, 15 June 2009.

Regulation No. 485/1	On the procedure for the auction of military equipment, which have been removed from use, as defined in the COM Decision No. 617	14 October 2003
Regulation No. 495/2	On the procedure for the auction of military equipment, which have been removed from use, as defined in the COM Decision No. 617	21 October 2003

Table: Summary of the main Albanian legislation relevant to convertible weapons

## Convertible Weapons

It is problematic to align the incongruent regulations of Albania's firearms legislation as they might apply to convertible weapons. The various laws, regulations, decisions and instructions form a fragmented framework. Although the 1992 Law on Firearms remains the chief legislative reference point for legal provisions concerning firearms, a law was passed in 2007 that expressed the singular purpose of promulgating the UN Firearms Protocol in Albanian law.<sup>29</sup> Since both laws are concurrently in effect, it is difficult to ascertain which definition of firearms should apply. The 2007 law transposes all the provisions of the UN Firearms Protocol in their entirety to national legislation. The complete replication of the Protocol text has been maintained in Article 3; its definition of "firearm" includes weapons which can be readily converted to expel a projectile.<sup>30</sup> The definition of "firearm" in the 1992 Law on Firearms contains no reference to the ability of a weapon to be converted to fire projectiles, but is nevertheless so broad and indistinct as to encompass most conceivable firearms, including convertible weapons.<sup>31</sup> Notably, the 2008 draft Law on Weapons contains no reference to convertible weapons or those types of weapons most likely to be convertible, such as irritant gas-firing weapons and blank-firing handguns. Changes would need to be made to the draft to make it consistent with the UN Firearms Protocol and EU regulations.

## Marking and Tracing

Other than the text of the 2007 law on adherence to the UN Firearms Protocol, there are no apparent legislative provisions for the marking of firearms as required by EU regulations, and there is also a lack of provisions for import marking. According to research conducted in 2006, due to the absence of small and light weapons production capacity, Albania uses no firearms marking systems and also has no means for executing post-production marking of weapons.<sup>32</sup>

29 'Law No.9838, On the adherence of the Republic of Albania to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime,' Article 1.

30 UN Firearms Protocol, Article 3 Use of terms, For the purposes of this Protocol: (a) "Firearm" shall mean any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas.

31 Law on Firearms, Article 1, "Firearms for the purpose of this law are firearms of all types and calibers (combat, sporting, hunting and special arms produced and adapted by handwork), their ammunition, bombs and mines, as well as cold arms like swards, bayonets, knives and other means specially prepared and intended for attack against persons or for self-protection.

32 South Eastern Europe SALW Monitor 2006, Albania, p.17.

## Licensing

According to the 1992 Law on Firearms, hunting firearms can be owned by either civilians or civilian organisations, whereas combat and sporting firearms may only be kept as the property of the state. Only civilians engaged in a small number of public security or protection roles, each defined by the law or its amendments, are able to possess firearms other than hunting weapons. In order to receive any firearm owned by the state the applicant must be at least 22 years of age and demonstrate that they have do not have a criminal record.<sup>33</sup> Other than omitting a general character check, these provisions on licensing are more stringent than those of the Directive 2008/51/EC, and go beyond the minimum standards necessary.

## Dealers

Under the existing 1992 Law on Firearms, operators that produce and repair firearms are placed directly under government control. However, the same law does allow private workshops to obtain licences for undertaking the repair of firearms.<sup>34</sup> The draft law of 2008 would allow the manufacture and repair of firearms by both government and private agencies which are licensed and fulfil legal requirements as defined by Council of Ministers decisions.<sup>35</sup> The details are not clear regarding what specific licensing requirements entail, or if individuals employed by repair workshops also require registration, licensing or character checks so as to bring the law into compliance with EU provisions.

## Modification

Repair of hunting weapons is allowed only in workshops that have been issued the necessary permits and all firearms to be repaired must be officially licensed. The owner's identity together with the name of the repaired firearm should be registered with each servicing; however, the provision makes no mention of the need to record specific markings or other particulars.<sup>36</sup> No legislation was identified which referred to repair of combat or sports weapons, legislation which would likely be more applicable to the possible modification of convertible weapons.

## Deactivation

No course for the deactivation of firearms is prescribed. However, reference is made to the acquisition of inactive firearms for use in entertainment and media. The national film, radio, and television studios and theatre as well as national and district theatres and museums are entitled to be equipped with firearms by the relevant authorities.<sup>37</sup> The law stipulates that the firearms available to the entertainment sector and museums should be "*non-effective*" unless other regulations apply.<sup>38</sup>

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33 'Law on Firearms,' Article 9.

34 *Ibid.*, Article 3.

35 'Draft Law on Firearms 2008,' Article 5, 'Manufacture and repair of firearms.'

36 'Decision No. 275 on Regulations of Management and Control of the Firearms for Physical and Legal Persons, 1992' Paragraph 23.

37 'Law on Firearms,' Article 7.

38 *Ibid.*, Article 8.

## Transfer

Provisions for transfer of civilian firearms, other than hunting weapons are unclear. The Law on Import-Export Control does not apply to sports or hunting firearms.<sup>39</sup> An amendment to Council of Ministers Decision No. 275 allows the *“Import of great quantities of hunting weapons and ammunition for trade”* by sellers licensed by the Ministry of Public Order who meet the same character and criminal history requirements as other firearms owners.<sup>40</sup>

## Penalties

Harsh penalties exist for illicit production, acquisition and possession of firearms in Albania, including up to 15 years imprisonment for most offences.<sup>41</sup>

## Recommendations

- Create a concise single definition of what constitutes a firearm and its components, both in contrast to other weapons and in reference to devices not considered firearms or weapons according to the law. This will enhance effective implementation of current and future firearms laws. At a minimum, the definition of “firearm” should make clear reference to the ability of the weapon to shoot a projectile and should include mention of convertible weapons and their particular attributes.
- Define specifications regarding types of firearms and their regulation according to individual characteristics; this could most easily be managed by adopting a category system such as that applied in EU regulations. These categories should indicate the legal status of weapons that may be, but are not necessarily, convertible weapons, including irritant gas-firing weapons and alarm/starter handguns.
- Consolidate the primary legislative acts with all its existing amendments in the current Albanian law, at the minimum, pending the revision and adoption of a new firearms law. This will facilitate access to legislation and advance the consistency of implementation. The existing law is unclear.
- Consider a provision in new weapons and firearms legislation which will prepare Albania for firearms regulation in the future, by adopting unambiguous provisions on marking requirements and the integrated digital management of records for tracing purposes.
- Require conditions for character assessments in licensing requirements for individuals requesting permission to acquire, possess or carry firearms in addition to the check on criminal history records.
- Require character and criminal history assessments of licensed dealers, including repair workshops and the workers employed therein, in addition to the requirements for evidence of technical competence of workers in the firearms industry.
- Create clear provisions on the transfer of firearms of all types.

<sup>39</sup> ‘Law on State Import-Export Control of Military Goods and Dual-Use Goods and Technologies,’ Article 3, (2b).

<sup>40</sup> No. 389 of August 6, 1993 Decision on Some Amendments to the Decision of Council of Ministers on Regulations of Management and Control of the Firearms for Physical and Legal Person.

<sup>41</sup> The Government of Albania, Reporting on the Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) in All Its Aspects (2004), <http://disarmament.un.org/cab/nationalreports/2003/Albania.pdf>, accessed 15 May 2009.



STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Convertible weapons</b>	<b>Article 1 (ANNEX I)</b> "Firearm" expels, is designed to expel or may be converted to expel a shot, bullet or projectile... if: – it has the appearance of a firearm, and – as a result of its construction or the material from which it is made, it can be so converted	Stricter provisions than required, but unclear how the definitions in the Firearms Law apply to convertible weapons	<b>Law on Firearms, Article 1</b> <b>Law No.9838 (UN Firearms Protocol), Article 1</b>
<b>Categories of firearms</b>	<b>ANNEX I</b> Category B – Firearms subject to authorization 1. Semi-automatic or repeating short firearms	Possession of short-barrelled firearms is subject to authorization	<b>Law on Firearms, Article 9</b>
<b>Category restrictions</b>	<b>Article 7</b> No one may acquire a firearm classified in category B unless that State has so authorized	<b>As above</b> Only civilians engaged in public security or protection roles are permitted to possess short-barrelled firearms	<b>Law on Firearms, Article 9</b>
<b>Marking and Tracing</b>	<b>Article 4 (2) and (4)</b> Any firearm or part placed on the market has been marked and registered or that it has been deactivated. Dealers shall be required to maintain a register all firearms	No	<b>None</b>
<b>Licensing</b>	<b>Article 5</b>	Lacks a requirement for a general charter check	<b>Law on Firearms, Article 9</b>
<b>Dealers</b>	<b>Article 4 (3)</b> Private and professional integrity	No clear provisions for dealers	<b>Law on Firearms, Article 3</b>
<b>Modification</b>	<b>Article 1 (ANNEX I)</b> <b>Article 2 (a)</b>	None for conversion	'Decision No. 275 on Regulations of Management and Control of the Firearms for Physical and Legal Persons, 1992' Paragraph 23
<b>Deactivation</b>	<b>Category D – III</b> Rendered permanently unfit for use by deactivation . . . incapable of a modification that would permit the firearm to be reactivated in any way	No procedure required for verification of deactivation	<b>Law on Firearms, Article 8</b>
<b>Transfer</b>	<b>Articles 11 and 12</b>	May not effectively apply to all types of convertible weapons	<b>Law On State Import-Export Control of Military Goods and Dual-Use Goods and Technologies</b>
<b>Penalties</b>	<b>Article 16</b> Penalties provided for must be effective, proportionate and dissuasive	Five to 15 years imprisonment for offences	<b>Law on Firearms, Article 14</b>

Table: Comparison between Albanian legislation and EU regulations



# BOSNIA AND HERZEGOVINA

## Background

Crimes involving the modification of convertible weapons and their use in Bosnia and Herzegovina have been reported in the media and by local authorities.<sup>42</sup> Bosnia and Herzegovina has also been identified as a transit country for illicitly modified convertible weapons. Most convertible weapons modified into live firearms that illicitly enter Croatia were reported to have entered through the shared border with Bosnia and Herzegovina.<sup>43</sup> The state of Bosnia and Herzegovina does not have access to detailed information regarding weapons offences throughout the country's various administrations. In this respect the Federal Police of Bosnia and Herzegovina has no knowledge of the conversion of non-lethal weapons within the country. However, as information regarding the conversion or illicit transfer of convertible weapons comes under the jurisdiction of local police in the entities and cantons of Bosnia and Herzegovina, each with its own record keeping system, this information may exist and yet remain virtually inaccessible in the short term. Furthermore, there is no centralised or countrywide weapons registry system or police reporting mechanism in Bosnia and Herzegovina that would allow access to information on the possession or transfer of legally acquired convertible weapons. Combined, these regulatory challenges leave the extent of the distribution, problem and impact of convertible weapons within Bosnia and Herzegovina unknown.<sup>44</sup>

Non-lethal firearms can be produced in Bosnia and Herzegovina. There is at least one factory, in Goražde in the Federation of Bosnia and Herzegovina, which produces revolvers that fire blank ammunition. However these guns are not believed to be convertible weapons due to their small calibre (6mm), which makes the weapons difficult to convert to fire live ammunition. The small calibre structure of the gun also likely ensures that their material construction is insubstantial for the firing of real bullets.<sup>45</sup>

## Legislation relevant to EU regulations

Due to the complex legislative structure of Bosnia and Herzegovina (BiH) including multi-level governing administrations, weapons, including all types of firearms, are not regulated adequately at a national level. Firearms are subject to separate regulation through different legislation including laws of the entity of Republika Srpska as well as in the legislation of the 10 cantons of the Federation of BiH, and in the independent district of Brcko. There are currently a number of developments underway in order to harmonise all canton and entity provisions for civilian acquisition and possession of firearms as well as their manufacture and repair by state-level legislation, however to date closer approximation with EU regulations has been made by various administrations not in consistent harmonisation with others.<sup>46</sup>

Currently, Republika Srpska has its own Law on Arms of 2007, amended in 2009, as does the District of Brcko. Several individual cantons in the Federation of Bosnia and Herzegovina have composed their own laws on firearms, while some cantons reportedly continued to apply the previous Law on Arms and Ammunition of former Socialist Federal Republic of Yugoslavia, with only minor amendments.<sup>47</sup>

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<sup>42</sup> See media reports in the introduction section.

<sup>43</sup> Interview with Nataša Prišlin, Department for Legal and Administrative Business, and Damir Tomašek, Forensic Science Centre, Ministry of Interior (MoI), Zagreb, 23 June 2009.

<sup>44</sup> Interview with Idriz Brković, Head of Protection and planning Ministry of Security and Ekrem Suljević, Expert on Law issues, Federal Police, Sarajevo, 6 July 2009.

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

Recently, the national Ministry of Security has been supporting the drafting of a national Law on Weapons. In late 2008, the Council of Ministers of Bosnia and Herzegovina adopted the Draft Law on Weapons. The draft Law regulates acquisition, possession, carrying, collecting, repairing, manufacturing, marking and transfer of firearms. The law would also, for the first time, standardise penalties for offences which are currently also determined by entity or cantonal laws. However, the draft national law may not be fully endorsed as a state law, and rather will be used to harmonise and coordinate entity and cantonal laws on arms, each separately, to take measures for approximating EU regulations. A key rationale for the drafting of a national Law on Weapons was to ensure the approximation of domestic laws with EU legislation; additional reasons include the need to establish a unified legal framework for arms that would including licensing, to improve the registration of weapons and to enhance the procedures for the registration and identification of citizens who possess firearms, including authorised dealers. These measures were intended to reinforce the measures against the illegal trafficking in weapons and also to prevent legally registered weapons from entering the illicit firearms market at a later date.<sup>48</sup> Ongoing activities in this area by the Government of Bosnia and Herzegovina and UNDP Bosnia and Herzegovina include amendments to the legislation on export and import and control of movement of weapons and military equipment. In addition, UNDP has been requested to provide technical support for the establishment of the central registry for arms export and import, information exchange on arms possession, and controls on the movement of weapons.<sup>49</sup>

The analysis of laws on firearms below takes as examples weapons legislation from Republika Srpska, two cantons of the Federation of Bosnia and Herzegovina (Sarajevo Canton and Western Herzegovina Canton) and Brčko District.

TITLE	LEGAL REFERENCE	DATE
Law Weapons and Ammunition, Brčko District	Official Gazette of Brčko District Bosnia and Herzegovina No. 17/02; 23/03; 35/05	2002
Law on weapons and Ammunition, Republika Srpska	Official Gazette of Republika Srpska No. 70/07; 24/09	17 July 2007; 11 March 2009
Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton	Official Gazette of Sarajevo Canton No. 38/07; 43/08	28 November 2007
Law on Weapons, Western Herzegovina Canton	Official Gazette of the Western-Herzegovina Canton, No. 4/01; 5/08	30 March 2001; 31 March 2008
Law on Production of Arms and Military Equipment	Official Gazette of Bosnia and Herzegovina No. 09/04	2004
Law on Testing, Stamping and Marking Firearms and Ammunition	Official Gazette of BiH, No.21/03	2003
Draft Law on Weapons	Draft passed by Council of Ministers of Bosnia and Herzegovina	2008

Table: Summary of the examples of legislation in Bosnia and Herzegovina relevant to convertible weapons used in analysis.

48 Bosnia and Herzegovina Ministry of Security, 'The Law on Arms, the first time at the state level', Sarajevo, 16 December 2008, [www.msb.gov.ba/home/index.php?option=com\\_content&task=view&id=254](http://www.msb.gov.ba/home/index.php?option=com_content&task=view&id=254), accessed 06 July 2009.

49 Emails from Amna Berbić Cluster Leader, Human Security Cluster, UNDP Bosnia and Herzegovina, 16 June and 20 August 2009.

## Convertible Weapons

There is, reportedly, a problem concerning a lack of consistency between definitions of firearms and various types of firearms between administrative divisions of Bosnia and Herzegovina. This difficulty applies equally to convertible weapons as to other types of firearms.<sup>50</sup>

All definitions of “firearm” in the legislation examined specify that the weapon must be able to fire a projectile. Convertible weapons were not included in the definitions of weapons in the examples of legislation reviewed. Regarding the most likely types of convertible weapons (gas-firing and blank-firing alarm guns), regulation is inconsistent between the jurisdictions. Legislation in the Republika Srpska, Western Herzegovina Canton and Sarajevo Canton do include irritant gas-firing guns under their definitions of weapons and include specific descriptions of these weapons. On the other hand, although the Law on Weapons and Ammunition of Brčko District has no such definition of gas-firing weapons under the category of weapons, the Brčko Law does prohibit the acquisition, possession of gas weapons.<sup>51</sup> Irritant gas-firing weapons are prohibited in Republika Srpska, Sarajevo Canton and Brčko District. In Western Herzegovina Canton the law allows gas-firing weapons to be purchased, but only with authorisation.<sup>52</sup> These provisions are consistent with the EU regulations set out in Directive 2008/51/EC.

Western Herzegovina Canton Law exempts signal and alarm weapons from registration and licensing requirements if they are correctly marked according to the law. Imitation weapons are also exempt from those requirements, with the stipulation that they must not be able to be modified to fire ammunition.<sup>53</sup>

There are no clear categories for blank-firing starter or alarm pistols and revolvers in the entity or cantonal laws examined. These do not easily fit under the definitions of signal weapons in the laws. Devices for signalling are defined as weapons which under the pressure of gasses emit a material that produces a noise; this does not accurately describe blank-firing guns, which discharge only the gasses of the blank ammunition in order to produce sound.

## Marking and Tracing

National, entity and cantonal laws regulate marking of firearms. However, records of purchase and possession of firearms are not maintained centrally other than at the entity level in Republika Srpska and in databases of the individual cantons of the Federation of BiH. There is no existing database that allows exchange of information between the entities, district and state level administrations, and therefore it can be difficult or unfeasible to link a firearm to an owner at any time, as is the objective of Directive 2008/51/EC.

The 2003 Law on Testing, Stamping and Marking Firearms and Ammunition of Bosnia and Herzegovina, applies nationally.<sup>54</sup> This law stipulates that firearms will be subject to testing, stamping and marking

<sup>50</sup> *Op. cit.* Interview, Ministry of Security, Federal Police, 6 July 2009.

<sup>51</sup> Brčko District, ‘Law on Weapons and Ammunition’, Article 10.

<sup>52</sup> Western Herzegovina Canton, ‘Law on Weapons’, Article 13.

<sup>53</sup> *Ibid.*, Article 35.

<sup>54</sup> In addition the ‘Regulation for the Procedure of Testing, Stamping and Marking of Firearms and Ammunition’ was endorsed subsidiary to this Law in 2007. See The Government of Bosnia and Herzegovina, Reporting on the Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) in All Its Aspects (2008), <http://disarmament.un.org/cab/bms3/1BMS3Pages/1NationalReports/Bosnia%20and%20Herzegovina.doc>, accessed 15 May 2009.

if manufactured in Bosnia and Herzegovina or imported or otherwise transferred in from abroad, unless already appropriately tested and marked.<sup>55</sup> Licences for carrying and possessing firearms, as prescribed by entity regulations, can only be issued for “firearms and devices” that are stamped according to this law.<sup>56</sup> Firearms with modifications that have changed their main components are also subject to testing and stamping.<sup>57</sup> “Firearms” by definition according to this law include all handguns and revolvers that fire or can fire a bullet or projectiles.<sup>58</sup> However, according to Article 3, the law includes a category of “devices” that use energy pressure of explosive gasses but do not fire bullets, including teargas-firing handguns as well as starter and signal guns.<sup>59</sup> Marking includes the manufacturer date and some weapons characteristics.<sup>60</sup>

In accordance with the provisions of the Law on Testing, Stamping and Marking Firearms and Ammunition and Ammunition, Brčko District specifically prohibits the acquisition, possession and carrying of firearms without marking, including marking indicating calibre and serial number.<sup>61</sup> Buyers of firearms keep a copy of the authorization for weapon acquisition and must inform the District Police within five days after the date of purchase. Dealers must keep a register of the firearms both acquired and sold in a registry book categorised by the type of weapon.<sup>62</sup> Legal entities repairing or modifying weapons are not required to keep records themselves but must give records on repaired and modified firearms to the District Police using the official reporting forms.<sup>63</sup>

Republika Srpska also requires that only marked firearms can be purchased or repaired.<sup>64</sup> Both state and private bodies, including those that store, produce or sell weapons, must keep records of firearms.<sup>65</sup> Enterprises and shops licensed to trade in weapons must keep records of firearms acquired and arms sold.<sup>66</sup>

According to the Sarajevo Canton Law, licensed enterprises must keep records of weapons bought and sold. The records of the firearms sales are kept in accounts classified by the type of weapon and must be certified by police authorities.<sup>67</sup> The legal enterprises or independent shops that repair and modify firearms must keep record of these activities and of the firearms themselves.<sup>68</sup> The relevant police authorities have ultimate control over the records for firearms bought or sold as well as firearms repaired or modified.<sup>69</sup> Furthermore, Article 53 of the Sarajevo Canton Law stipulates that state bodies, as well as legal and natural persons who have registered guns in the area of Canton

55 'Law on Testing, Stamping and Marking Firearms and Ammunition', Article 1.

56 *Ibid.*, Article 5

57 *Ibid.*, Article 2.

58 *Ibid.*, Article 1.

59 *Ibid.*, Article 3

60 The Government of Bosnia and Herzegovina, Small Arms and Light Weapons Information Exchange for 2006, Sarajevo, June 2006, <http://disarmament.un.org/cab/Markingandtracing/NationalMarkingPractices/BosniaandHerzegovina.pdf>, accessed 15 May 2009.

61 Brčko District, 'Law Weapons and Ammunition', Article 10.

62 *Ibid.*, Article 52 and Article 53

63 Brčko District, 'Law Weapons and Ammunition', Article 58.

64 Republika Srpska, 'Law on Weapons and Ammunition', Article 14.

65 *Ibid.*, Article 42 and Article 43.

66 *Ibid.*, Article 36 and Article 37.

67 Sarajevo Canton, 'Law on Acquisition, Possession and Carrying Weapons and Ammunition', Article 44.

68 *Ibid.*, Article 49.

69 *Ibid.*, Article 50.

Sarajevo, are obliged to enable the Ministry of Interior Affairs of the Canton Sarajevo to take prints of firearms for mechanical tracing purposes and document the entries in their records.<sup>70</sup>

Western Herzegovina Canton requires only that all firearms be marked in order to allow their sale.<sup>71</sup>

## Licensing

Firearms licensing regulations are not consistent throughout Bosnia and Herzegovina, nor can licence data be readily accessed outside the jurisdiction in which the weapon holder or firearm is registered. Overall the legislation examined met the minimum standards for criminal background and character requirements according to the provisions of Directive 2008/51/EC but do not require the regular re-assessment of licensing necessary under Directive 2008/51/EC.

Western Herzegovina Canton and Brčko district and Republika Srpska legislation only issue approval for weapons licensing to individuals of legal age without criminal convictions or any criminal proceedings in process or pending, including recent or repeated offences against public order.<sup>72</sup>

The Canton of Sarajevo requires licensing for all weapons.<sup>73</sup> Licenses are only to be issued to persons older than age 18 without criminal convictions or offences of breaching public order (other than traffic offences) and includes a character assessment covering alcohol or substance abuse, domestic disturbances or other factors that might lead to misuse of weapons.<sup>74</sup>

## Dealers

In Bosnia and Herzegovina, weapons dealers, including enterprises which produce and repair firearms, must be licensed according to the regulations of the Ministry of Foreign Trade and Economic Relations (MOFTER) which bring the control over the production of arms to a state level. Factories that produce arms should be registered by the MOFTER in centralised state-level records. Entity Ministries of Industry are responsible for monitoring arms producing factories. The procedures for issuing licenses for the production of weapons are regulated by secondary legislation at both state and entity levels.<sup>75</sup>

In the Brčko District, dealers must be registered as such with the District Police and a record kept. Dealers are subject to the same requirements of a criminal record verification as firearms license holders.<sup>76</sup>

Republika Srpska requires that in order for an enterprise to obtain a license to trade weapons, the owner of the enterprise, and the person who is directly handling the weapons, must meet the same

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<sup>70</sup> *Ibid.*, Article 53.

<sup>71</sup> Western Herzegovina Canton, 'Law on Weapons', Article 29.

<sup>72</sup> Brčko District, 'Law Weapons and Ammunition', Article 16; Western Herzegovina Canton, 'Law on Weapons', Article 17; Republika Srpska, 'Law on Weapons and Ammunition', Article 10.

<sup>73</sup> Sarajevo Canton, 'Law on Acquisition, Possession and Carrying Weapons and Ammunition', Article 11.

<sup>74</sup> *Ibid.*, Article 20.

<sup>75</sup> Dealers are regulated in accordance with the 'Law on Manufacturing of Weapons of Arms and Military Equipment'. See, The Government of Bosnia and Herzegovina, Small Arms and Light Weapons Information Exchange for 2006, Sarajevo, June 2006, <http://disarmament.un.org/cab/Markingandtracing/NationalMarkingPractices/BosniaandHerzegovina.pdf>, accessed 15 May 2009.

<sup>76</sup> Brčko District, 'Law Weapons and Ammunition', Article 16; Western Herzegovina Canton, 'Law on Weapons', Article 17 and Article 51.

criteria for character and criminal history checks as other firearms licence holders. Licensed dealers may only sell weapons and weapon parts to legally authorised persons. In addition, a unique type of authorization is required in order to trade in firearms or firearms parts between legal enterprises.<sup>77</sup>

The canton of Sarajevo requires that trade or repair of firearms only be conducted by licensed enterprises. Repair and modifications to firearms may only be carried out by adults who meet firearms licensing requirements.<sup>78</sup> In Western Herzegovina Canton, firearms dealers in enterprises producing weapons must comply with the provisions of firearms licensing as well as safety, storage and transport procedures for the weapons that they handle.<sup>79</sup> Businesses that perform repairs and modifications require approval and must comply with the same provisions of the law as those that produce firearms.<sup>80</sup>

### Modification

According to national regulations, firearms which have been modified so as to alter main components must be tested and stamped, as noted above in the section on marking and tracing.<sup>81</sup>

Authorised enterprises in Brčko District can only repair and modify weapons for which a licence has been issued.<sup>82</sup> The prerequisite is the same for the modification of weapons in the Canton of Sarajevo, which also has strict regulations on the procurement and changing of main parts of weapons.<sup>83</sup>

The Republika Srpska law also stipulates that enterprises or shops that repair and modify weapons may only receive firearms which have a weapon registration licence. Those enterprises that have performed firearms modifications must inform the competent body, in writing within 48 hours, of every modification made. Details are then to be entered into the weapon licence.<sup>84</sup>

Western Herzegovina Canton distinguishes between the repair of weapons, considered to be mending of faults and the replacement by original parts, and the modification of weapons including the shortening of firearms, modification of other types of weapons, replacement with or installation of non-original main parts and any other processes which affect a weapon's functioning or technical properties.<sup>85</sup> Only registered firearms can be repaired or modified. Modified weapons must be tested and marked accordingly. Modifications that change the calibre or the technical/ballistic characteristics of firearms must be reported to the relevant authority within eight days.<sup>86</sup>

77 Republika Srpska, 'Law on weapons and Ammunition', Article 36 and Article 37.

78 Sarajevo Canton, 'Law on Acquisition, Possession and Carrying Weapons and Ammunition', Article 42 and Article 47.

79 Western Herzegovina Canton, 'Law on Weapons', Article 56.

80 *Ibid.*, Article 60.

81 'Law on Testing, Stamping and Marking Firearms and Ammunition', Article 2.

82 Brčko District, 'Law on Weapons and Ammunition', Article 57.

83 Sarajevo Canton, 'Law on Acquisition, Possession and Carrying Weapons and Ammunition', Article 48 and Article 8.

84 Republika Srpska, 'Law on Weapons and Ammunition', Article 41.

85 Western Herzegovina Canton, 'Law on Weapons', Article 60.

86 *Ibid.*, Article 61.



## Transfer

International arms transfers are regulated by Law on Import and Export of Arms and Military Equipment and Control of Import and Export of Dual-Use Items and subsidiary regulations.<sup>87</sup> The 2003 law, amended in 2005, specifies the conditions for the international transfer of weapons at the state level. All bodies engaged in the import, export, transit or brokerage of arms must be registered with the MOFTER and require a license for those activities for the movement of weapons both entering and exiting the state borders of Bosnia and Herzegovina.<sup>88</sup> Within Bosnia and Herzegovina, however, the carrying, transport and transfer of firearms is regulated by entity and cantonal legislation. These are not consistent throughout the country and may also affect those states neighbouring local jurisdictions.<sup>89</sup>

The Law of Brčko District, Transport of weapons requires approval issued by District Police.<sup>90</sup>

Republika Srpska requires an authorization for the transportation of weapons, parts for weapons including the details of the sender the type of weapons, quantity and destination<sup>91</sup>

Sarajevo Canton regulates the transport of firearms according to the requirements for carrying weapons in the context of professional needs and licence specifications of weapon licence holders.<sup>92</sup>

Western Herzegovina Canton Law stipulates that the transport of weapons requires permission issued by police in the place of departure, and details must be provided including the make and calibre as well as personal details and destination. However, the transport of small quantities of weapons for use by an individual does not require approval.<sup>93</sup> This general exemption may undermine the effectiveness of the legislation in addressing the transfer of convertible weapons.

## Penalties

Penalties for transgressions of firearms law vary between the different legislation in effect throughout the state of Bosnia and Herzegovina. The inconstancy in penalties impedes the effective control of firearms crime, and these discrepancies logically extend to include the illicit conversion or transfer of weapons. Ostensibly, those engaged in criminal acts of the illicit modification or distribution could choose the jurisdiction where the lowest penalties for particular transgressions of firearms legislation apply, or where the laws are outdated.<sup>94</sup>

87 For more information see 'Analysis of National Legislation on Arms Exports and Transfers in the Western Balkans,' (SEESAC-Saferworld 2006) pp. 17-19.

88 The Government of Bosnia and Herzegovina, 'Export Control System in Bosnia and Herzegovina, Eighth Annual International Export Control Conference 06 - 08 March 2007, Bucharest, Romania,' [www.exportcontrol.org/library/conferences/1379/BOSNIA\\_-\\_export\\_control.pdf](http://www.exportcontrol.org/library/conferences/1379/BOSNIA_-_export_control.pdf), accessed 06 July 2009.

89 *Op. cit.* Interview, Ministry of Security, Federal Police, 6 July 2009.

90 Brčko District, 'Law Weapons and Ammunition', Article 59.

91 Republika Srpska, 'Law on Weapons and Ammunition', Article 38.

92 Sarajevo Canton, 'Law on Acquisition, Possession and Carrying Weapons and Ammunition', Article 31.

93 Western Herzegovina Canton, 'Law on Weapons', Article 63 and Article 64.

94 *Op. cit.* Ministry of Security, Federal Police, 6 July 2009.

## Recommendations

- Define and regulate convertible weapons consistently in legislation throughout Bosnia and Herzegovina.
- Require an adequate system for nationally centralised or easily accessible firearms data in order for guns to be linked to owners at any time.
- Make all relevant data easily available to the proper authorities throughout Bosnia and Herzegovina, including data on firearms offences and other criminal activities which result in the prohibition of firearms licensing.
- Make the penalties for firearms offences consistent, with special attention to penalties for individuals and enterprises involved in the manufacture and conversion of firearms for the purposes of organised crime, in distinction from other breaches of the law involving illegal weapons modifications.



STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Convertible weapons</b>	<p><b>Article 1 (ANNEX I)</b>            "Firearm" expels, is designed to expel or may be converted to expel a shot, bullet or projectile... if: – it has the appearance of a firearm, and – as a result of its construction or the material from which it is made, it can be so converted</p>	<p>Overall, no inclusion of 'convertible' in firearms definitions</p>	<ol style="list-style-type: none"> <li>1. Law on Weapons and Ammunition Brčko District, Article 4</li> <li>2. Law on Weapons and Ammunition of Republika Srpska, Article 3</li> <li>3. Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton, Article 4</li> <li>4. Law on Weapons, Western Herzegovina Canton, Article 3, Article 4 and Article 6</li> </ol>
<b>Categories of firearms</b>	<p><b>ANNEX I</b>            Category B – Firearms subject to authorization            1. Semi-automatic or repeating short firearms</p>	<ol style="list-style-type: none"> <li>1. No definition of gas-firing weapons</li> <li>2. Defines gas-firing guns as weapons</li> <li>3. Defines gas-firing guns as weapons</li> <li>4. Defines gas-firing guns as weapons</li> </ol> <p>No clear categories for blank-firing starter or alarm pistols and revolvers in the legislation</p>	<ol style="list-style-type: none"> <li>1. Law on Weapons and Ammunition Brčko District, Article 4</li> <li>2. Law on Weapons and Ammunition of Republika Srpska, Article 3</li> <li>3. Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton, Article 4</li> <li>4. Law on Weapons, Western Herzegovina Canton, Article 3, Article 4 and Article 6</li> </ol>
<b>Category restrictions</b>	<p><b>Article 7</b>            No one may acquire a firearm classified in category B unless that State has so authorized</p>	<ol style="list-style-type: none"> <li>1. Gas-firing weapons prohibited</li> <li>2. Gas-firing weapons prohibited</li> <li>3. Gas-firing weapons prohibited</li> <li>4. Gas-firing weapons may be obtained with authorisation, signal weapons unregulated if marked</li> </ol> <p>Adequate provisions for gas-firing weapons; no apparent regulation of blank-firing starter or alarm pistols and revolvers in the legislation</p>	<ol style="list-style-type: none"> <li>1. Law on Weapons and Ammunition Brčko District, Article 10</li> <li>2. Law on Weapons and Ammunition of Republika Srpska, Article 7</li> <li>3. Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton, Article 9 and Article 14</li> <li>4. Law on Weapons, Western Herzegovina Canton, Article 13, Article 35</li> </ol>
<b>Marking and Tracing</b>	<p><b>Article 4 (2) and (4)</b>            Any firearm or part placed on the market has been marked and registered or that it has been deactivated.            Dealers shall be required to maintain a register all firearms</p>	<ol style="list-style-type: none"> <li>1. Weapons must be marked, records kept by sellers and submitted to local authorities in the case of modification</li> <li>2. Weapons must be marked, records kept by dealers</li> <li>3. Records kept by dealers</li> <li>4. Firearms must be marked               <ol style="list-style-type: none"> <li>A) Nation-wide, firearms will be subject to testing, stamping and marking if manufactured in Bosnia and Herzegovina or imported or otherwise transferred in from abroad, unless already appropriately tested and marked; 'devices' that use energy pressure of explosive gasses but do not fire bullets, including teargas-firing handguns as well as starter and signal guns must also be marked</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>1. Law on Weapons and Ammunition Brčko District, Article 10, Article 52, Article 53 and Article 58</li> <li>2. Law on Weapons and Ammunition of Republika Srpska, Article 14, Article 42, Article 43, Article 36 and Article 37</li> <li>3. Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton, Article 44, Article 49, Article 50 and Article 53</li> <li>4. Law on Weapons, Western Herzegovina Canton, Article 29               <ol style="list-style-type: none"> <li>A) Law on Testing, Stamping and Marking Firearms and Ammunition of Bosnia and Herzegovina</li> </ol> </li> </ol>

STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Licensing</b>	<b>Article 5</b>	<ol style="list-style-type: none"> <li>1. Legal age requirement, no criminal convictions or any criminal proceedings</li> <li>2. Legal age requirement, no criminal convictions or any criminal proceedings</li> <li>3. Legal age, no criminal convictions or any criminal proceedings, character assessment including alcohol or substance abuse and domestic disturbances</li> <li>4. Legal age requirement, no criminal convictions or any criminal proceedings</li> </ol>	<ol style="list-style-type: none"> <li>1. Law on Weapons and Ammunition Brčko District, Article 16</li> <li>2. Law on Weapons and Ammunition of Republika Srpska, Article 10</li> <li>3. Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton, Article 20</li> <li>4. Law on Weapons, Western Herzegovina Canton, Article 17</li> </ol>
<b>Dealers</b>	<b>Article 4 (3)</b> Private and professional integrity	<ol style="list-style-type: none"> <li>1. Dealers must be registered with the District Police same requirements as firearms license holders</li> <li>2. Same criteria for character and criminal history checks as other firearms licence holders a unique type of authorization is required to trade in firearms between legal enterprises</li> <li>3. Adults who meet firearms licensing requirements</li> <li>4. Comply with the provisions of firearms licensing</li> </ol>	<ol style="list-style-type: none"> <li>1. Law on Weapons and Ammunition Brčko District, Article 16, Article 17 and Article 51</li> <li>2. Law on Weapons and Ammunition of Republika Srpska, Article 36, Article 37</li> <li>3. Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton, Article 42 and Article 47</li> <li>4. Law on Weapons, Western Herzegovina Canton, Article 56 and Article 60</li> </ol>
<b>Modification</b>	<b>Artcid1 (ANNEX I)</b> <b>Article 2 (a)</b>	<ol style="list-style-type: none"> <li>1. Dealers can only repair and modify licenced weapons</li> <li>2. Dealers only receive firearms with a weapon registration licence.</li> <li>3. Only repair and modify licenced weapons-strict regulations on changing of main parts of weapons.</li> <li>4. Only registered firearms can be repaired or modified; also distinguishes between the repair of weapons and the modification of weapons including the shortening of firearms replacement of non-original main parts</li> </ol> <p>A) Firearms which have been modified so as to alter main components must be tested and stamped</p>	<ol style="list-style-type: none"> <li>1. Law on Weapons and Ammunition Brčko District, Article 57</li> <li>2. Law on Weapons and Ammunition of Republika Srpska, 41</li> <li>3. Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton, Article 8, Article 48</li> <li>4. Law on Weapons, Western Herzegovina Canton, Article 60 and Article 61</li> </ol> <p>A) Law on Testing, Stamping and Marking Firearms and Ammunition of Bosnia and Herzegovina, Article 2</p>
<b>Deactivation</b>	<b>Category D - III</b>	Not identified	N/A

STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Transfer</b>	<b>Articles 11 and 12</b>	<ol style="list-style-type: none"> <li>1. Approval of the transfer through the territory issued by the District Police</li> <li>2. Authorization for the transportation of weapons, parts for weapons including the details of the sender the type of weapons, quantity and destination</li> <li>3. Regulated according to the requirements for carrying weapons in the context of professional needs and licence specifications of weapon licence holders</li> <li>4. Requires permission issued by police in the place of departure, and details must be provided including the make and calibre as well as personal details and destination. Small quantities of weapons do not require approval for transport</li> </ol> <p>A) Requires licensing for the movement of weapons both entering and exiting state borders</p>	<ol style="list-style-type: none"> <li>1. Law on Weapons and Ammunition Brčko District, Article 59</li> <li>2. Law on weapons and Ammunition of Republika Srpska, Article 38</li> <li>3. Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton, Article 31</li> <li>4. Law on Weapons, Western Herzegovina Canton, Article 63, Article 64</li> </ol> <p>A) Law on Import and Export of Arms and Military Equipment and Control of Import and Export of Dual-Use Items and subsidiary regulations</p>
<b>Penalties</b>	<b>Article 16</b> Penalties provided for must be effective, proportionate and dissuasive.	<ol style="list-style-type: none"> <li>1. Fines of up to 20,000KM</li> <li>2. Fines of up to 12,000KM</li> <li>3. Fines of up to 15,000KM</li> <li>4. Fines of to 5,000 and prison sentences of up to 60 days</li> </ol> <p>Inconsistent penalties throughout the country</p>	<ol style="list-style-type: none"> <li>1. Law on Weapons and Ammunition Brčko District, Article 64; Article 65; Article 66</li> <li>2. Law on weapons and Ammunition of Republika Srpska, Article 46; Article 50</li> <li>3. Law on Acquisition, Possession and Carrying Weapons and Ammunition, Sarajevo Canton, Article 54 to Article 57</li> <li>4. Law on Weapons, Western Herzegovina Canton, Western Herzegovina Canton</li> </ol>

Table: Summary of the examples of legislation in Bosnia and Herzegovina and EU regulations

## Background

Convertible weapons have been reported as a serious problem in Croatia. According to information from weapons specialists, ammunition-firing pistols illicitly manufactured from gas-firing weapons find their way onto the criminal market and are found by authorities practically every day. Distribution of the converted weapons in Croatia is mainly restricted to organised criminals. In Croatia, converted weapons have been used in homicides, drug smuggling, robberies and armed altercations with police. Only occasionally are illicitly converted gas pistols found in the possession of people with no known criminal links.<sup>95</sup>

The majority of converted weapons are believed to have been modified outside Croatia from tear gas guns produced in Turkey. The path of illicit transfer of the converted weapons is believed to flow across the region. From the perspective of Croatia, Bosnia and Herzegovina is the greatest source of converted weapons entering the country. However, indirect evidence indicates that the common course for the smuggling of converted weapons into Croatia runs from the United Nations administered territory of Kosovo through Serbia to Bosnia and Herzegovina before crossing the country's borders. This trade is believed to be operated by well-connected criminal organisations with associations at all points of transfer. The barrels of all the handguns seized had been rifled to increase the guns' accuracy. It is possible that the conversion process takes place in stages along the smuggling route.<sup>96</sup>

Converted gas pistols are favoured by criminals in Croatia as they are very difficult to trace to the end user. There is, however, evidence of the weapons' origins, and often the original manufacturer can be identified by serial numbers that have remained in place. The pistols are often also re-branded with the names of popular firearms manufacturers during the conversion process before entering the country. Names such as "Berretta" and "Zastava" are inscribed on the smuggled weapons to give the impression of authenticity, or perhaps to add credibility to the guns among criminal circles. A much smaller number of converted weapons were found to have been actually modified in Croatia into bullet-firing guns. Reportedly, these were most often modified from gas pistols illicitly obtained or smuggled into the country, rather than from locally bought tear gas-firing guns.<sup>97</sup>

## Legislation relevant to EU regulations

The Croatian Law on Weapons of 2007 was designed to approximate legislation with the Council Directive 91/477/EEC and the UN Firearms Protocol.<sup>98</sup> The law actually in many ways liberalised previous regulations in order to adapt to the expectations of European Union regulations on arms. Despite the loosening of past restrictions, particularly regarding the carrying and possession of weapons, in many respects the Croatian law is more stringent than the provisions of the Directive 2008/51/EC.

TITLE	LEGAL REFERENCE	DATE
Law on weapons	Official Gazette of the Republic of Croatia No. 63/07	06 June 2007

<sup>95</sup> Interview with Nataša Prišlin, Department for Legal and Administrative Business, and Damir Tomašek, Forensic Science Centre, Ministry of Interior (Mol), Zagreb, 23 June 2009.

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*

<sup>98</sup> Republic of Croatia, Integral Annual National Report pursuant to Resolution 62/47 of the UN General Assembly – UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons, and the Report on the Implementation of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, 2008, <http://disarmament.un.org/cab/bms3/RoCroatia%20PoA%202008.doc>, accessed 20 May 2009.

## Convertible Weapons

The Law on Weapons of Croatia contains several articles relevant to convertible weapons, including a practical definition of conversion or modification of weapons. This definition of imitation weapons ensures that they do not include guns that could be used or modified so that ammunition can be fired from them.<sup>99</sup> Article 3 of the Law on Weapons includes non-lethal weapons converted to fire live ammunition when it defines a weapon as any device manufactured, "*adapted or used*" for emitting bullets. However, there is no reference to convertible weapons under the definition of "firearm" in Croatian legislation similar to that found in Directive 2008/51/EC.<sup>100</sup>

Pistols that fire irritant gas, some types of which may be convertible weapons, are available for sale in Croatia and are regulated. They are classified as Category C weapons under Croatia's current weapons legislation. These guns can only be purchased by persons over the age of 18 years old, and the details of the seller, the buyer and the serial number of the weapon are registered. The registration details are maintained in the same centralised database as other firearms. Starter or alarm pistols which fire only blank ammunition may be freely available according to the letter of the law, as they can be categorised as "*devices intended exclusively for alarm*" and therefore not considered weapons under Article 4 of the Law on Weapons. Import regulations and controls should be sufficient to stem the flow of these guns, but may not be adequate to ensure that convertible starter pistols do not enter Croatia unregistered.<sup>101</sup>

## Marking and Tracing

Croatia has reported that firearms are marked in accordance with the requirements of the International Instrument. Marking in this way, including the name or brand of the manufacturer, country of origin, and serial number, is consistent with Directive 2008/51/EC requirements.<sup>102</sup> Croatia also has legislation which requires import marking. However, the marking of weapons upon import to indicate the date of import and destination country cannot be implemented as of yet due to a lack of capacity and necessary equipment.<sup>103</sup>

Croatia has a centralised firearms database from which records can be accessed throughout the country. The database has sub-sections including weapon details, owner licences, and details on those who produce or repair weapons. Records in the database are updated if a weapon is confiscated, deactivated or the owner dies. All records in the database are stored indefinitely.<sup>104</sup>

The details and specifications of all converted weapons seized are recorded prior to the weapons' destruction. There are two ballistics databases operating in Croatia, one of which only records

<sup>99</sup> 'Law on Weapons', Article 5, Section 30 and Section 37.

<sup>100</sup> Article 5(6) of the Law on Weapons states, "*Firearms are all types of devices that discharge a bullet, ball, pellet, dart, or other projectile from a barrel by means of gunpowder gases propulsion.*"

<sup>101</sup> *Op. cit.*, Interview with Mol 23 June 2009.

<sup>102</sup> Republic of Croatia, Integral Annual National Report pursuant to Resolution 62/47 of the UN General Assembly – UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons, and the Report on the Implementation of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, 2008, <http://disarmament.un.org/cab/bms3/RoCroatia%20PoA%202008.doc>, accessed 20 May 2009; 'Law on Weapons', Article 71.

<sup>103</sup> *Op. cit.*, Interview with Mol 23 June 2009.

<sup>104</sup> *Ibid.*

markings on shell casings. However, identifying bullets and casings from converted gas-firing guns is particularly difficult due to the irregularities caused by the amateur nature of conversion. In the case of factory-made weapons, it is usually possible to match a case to a gun through the identifying features of the marks, but converted weapons meet no standards, as it were, and therefore provide no starting point for identification.<sup>105</sup>

## Licensing

Similar to the categorisation of firearms in EU regulations, Croatian law divides weapons into four categories. As noted above, gas-firing pistols are currently classed as Category C, which means they are permitted weapons requiring registration with the police through the point of sale only. In order to achieve approximation of these laws with the new EU regulations, those brands of guns that meet the criteria for convertibility will need to be reclassified as Category B, which means requiring approval for their sale and possession.<sup>106</sup> Licensing requirements for Category B weapons are stringent and fulfil the criteria set as the minimum standards under EU firearms regulations.<sup>107</sup>

## Dealers

The sale, manufacture, repair or modification of firearms can only be carried out by companies which have obtained specific permission to do so from the Ministry of the Interior (Mol). The law is aligned with EU regulations in that the permission prerequisites require the person responsible for the company to meet the same criteria as applicants for Category B weapons acquisition permits, which require both criminal and character assessments. According to the law, police inspectors should monitor both the operations and the records of companies awarded production and/or repair permits as set out in Article 87 of the Law on Weapons. Records should be kept by these companies indefinitely and then transferred to the police if the company stops trading.<sup>108</sup>

In addition to professional training certifications, employees with gunsmith expertise or people employed in businesses engaging in firearms production or repair must be licensed by the Mol under the same conditions as a firearms licence, which is recorded in the central database indefinitely. Reportedly, the registration records of those working in the firearms industry can be easily distinguished from other records of registered licence holders in the central data registry.<sup>109</sup>

## Modification

Firearms which have been produced or modified without permission are defined as Category A weapons and are prohibited under Croatian legislation.<sup>110</sup> Article 5 of the Law on Weapons defines modification, in contrast to repair, as the adaptation of weapons to fire other types of ammunition, or the replacement of non-original essential weapons components, or any other alterations which affect the firearms' technical

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<sup>105</sup> *Ibid.*

<sup>106</sup> 'Law on Weapons', Article 6.

<sup>107</sup> *Ibid.*, Article 10; Article 11 and Article 12.

<sup>108</sup> *Op. cit.*, Republic of Croatia, Integral Annual National Report, 2008; 'Law on Weapons', Articles 61 to 71; Article 73 and Article 74.

<sup>109</sup> *Op. cit.*, Interview with Mol, 23 June 2009.

<sup>110</sup> 'Law on Weapons', Article 6.

characteristics.<sup>111</sup> Such modifications may only be carried out by licensed workplaces and must be registered. Contravention of that provision is a punishable offence. The provisions apply equally to the modification of non-lethal handguns in order to turn them into firearms that can use live ammunition.<sup>112</sup>

## Deactivation

According to the state guidelines on the process, deactivation can result in either totally unusable firearms or in partially-operating firearms that can still fire blank ammunition. The guidelines provide detailed specifications for both kinds of deactivation procedures. Full deactivation procedures involve completely disabling key components and are said to conform to the standards of EU regulations. Partially deactivated firearms that have been modified to fire blank ammunition are used in film and theatrical productions. Although these do not meet EU regulations for deactivation, they are generally owned only by the Mol and are only loaned for use under the accompanying supervision of Mol personnel.<sup>113</sup> Firearms that are deactivated fully according to the specifications in the regulatory guidelines are not considered weapons under Croatian law.<sup>114</sup> The deactivation of firearms is registered and their details recorded in the central firearms database. However, they are not marked to identify that they have been deactivated; this is inconsistent with the new EU regulations.<sup>115</sup>

## Transfer

Croatia has reported that permission is required from the Mol in order to transport arms out of the country. Exacting procedures must be followed for informing the authorities in each transit territory that the weapon will travel through. All relevant details pertaining to the owner, the weapon, the route and the destination must be presented, and import or export permits must be provided if the transfer is for commercial purposes.<sup>116</sup> It is also worth noting that Croatian Law allows citizens of EU Member States, with prior authorization, to travel to the Republic of Croatia with a weapon that has been entered in the European Firearms Pass, or from Croatia to an EU Member State with the correct authorization and documentation.<sup>117</sup>

The transfer of military or police small arms stocks to civilian use is not possible under Croatian law. All weapons removed from service must be destroyed; in exceptional cases, they can be deactivated.<sup>118</sup>

## Penalties

Penalties for transgressions of the above legislation as it relates to convertible weapons are believed to be adequate and dissuasive as required by the new EU firearms regulations.<sup>119</sup> An individual

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111 *Ibid.*, Article 5.

112 *Op. cit.*, Interview with Mol, 23 June 2009; 'Law on Weapons', Article 73 and Article 74.

113 Interview with Mol, 23 June 2009; 'Law on Weapons', Article 18.

114 'Law on Weapons', Article 5.

115 *Op. cit.*, Interview with Mol, 23 June 2009.

116 *Op. cit.*, Republic of Croatia, Integral Annual National Report, 2008.

117 'Law on Weapons', Article 62, Article 64 and Article 65.

118 *Op. cit.* Interview with Mol 23 June 2009.

119 *Ibid.*



convicted of a weapons offence such as the unauthorised acquisition of a firearm or the possession, manufacture, or sale of a firearm, who either possesses or gives another person a prohibited weapon such as a converted weapon, may receive only a fine or up to 60 days' imprisonment.<sup>120</sup>

## Recommendations

- Add a convertible weapons clause to the Croatian definition of a “firearm”; this would increase the benefit of other legislative measures.
- Ensure that the ownership of potentially convertible irritant gas-firing handguns is more strictly regulated, in order to approximate legislation with Directive 2008/51/EC, if possible either by re-categorizing them as Category B in future amendments to firearms legislation, or by introducing the requirements that similar conditions regarding the character and criminal history of the purchaser be evaluated for this type of weapon.
- Give more immediate emphasis to marking irritant gas-firing pistols and ensure that all weapons are consistently marked, including gas-firing pistols or other convertible types of guns, in addition to changing the category for irritant gas-firing pistols, given that current provisions demand dealers register and record the sales and owners of gas-firing guns.
- Clarify Croatian law on the classification of starter pistols, particularly those that can be modified to fire bullets. While they continue to be regarded as not falling under the definition of weapons, MoI personnel responsible for liaising in import committees need to alert import inspectors to the specific issues regarding conversion, and at a minimum to monitor more closely the types and quantities that may be imported.
- Re-examine penalties for offences that involve individuals making and modifying arms, and the sale of prohibited weapons by individuals, in the context of the illicit trade in converted weapons.

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<sup>120</sup> ‘Law on Weapons’, Article 91.



STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Convertible weapons</b>	<b>Article 1 (ANNEX I)</b> "Firearm" expels, is designed to expel or may be converted to expel a shot, bullet or projectile....	No definition of 'convertible' however gas weapons and replica weapons are defined and a clear reference to modification is made in legislation	<b>Law on weapons, Article 3, Article 4 and Article 5, Paragraph 6 and Paragraph 13; Article 18</b>
<b>Categories of firearms</b>	<b>ANNEX I</b> Category B – Firearms subject to authorization 1. Semi-automatic or repeating short firearms	Comparable category exists for short barrelled firearms	<b>Law on Weapons, Article 6</b>
<b>Category restrictions</b>	<b>Article 7</b> No one may acquire a firearm classified in category B unless that State has so authorized	Authorisation requirement exists for short barrelled firearms; however purchase of gas-firing pistols requires only registration and not authorisation. Signal/Alarm pistols may be exempt from registration	<b>Law on Weapons, Article 25</b>
<b>Marking and Tracing</b>	<b>Article 4 (2) and (4)</b> Any firearm or part placed on the market has been marked and registered or that it has been deactivated. Dealers shall be required to maintain a register all firearms	Extensive provisions on marking; however these do not apply fully to all possible convertible weapons including gas-firing and alarm weapons	<b>Law on Weapons, Article 22; Articles 82-86 'Testing and Marking of Firearms'</b>
<b>Licensing</b>	<b>Article 5</b>	Standards apply, including criminal and character assessments	<b>Law on Weapons, Article 10; Article 11 and Article 12</b>
<b>Dealers</b>	<b>Article 4 (3)</b> private and professional integrity	Provisions go beyond minimum criteria: licensing and registration with criminal and character assessments apply to both proprietors and workers	<b>Law on Weapons, Article 5, Paragraph 24 and Paragraph 25; Article 72</b>
<b>Modification</b>	<b>Article 1 (ANNEX I)</b> <b>Article 2 (a)</b>	Illicit modifications are clearly proscribed by legislation and illegally modified firearms are specifically categorised as prohibited.	<b>Law on Weapons, Article 5; Article 6</b>
<b>Deactivation</b>	<b>Category D - III</b> Rendered permanently unfit for use by deactivation... incapable of a modification that would permit the firearm to be reactivated in any way	Deactivation procedures allow conversion to blank-firing weapons, but are strictly controlled.	<b>Law on Weapons, Article 4</b> <b>Supplementary guidelines</b>
<b>Transfer</b>	<b>Articles 11 and 12</b>	Adequately regulated for most firearms; regulation lacking for signal weapons	<b>Law on Weapons, Article 73; Article 74; and Article 76; Article 77</b>
<b>Penalties</b>	<b>Article 16</b> Penalties provided for must be effective, proportionate and dissuasive.	Fines and imprisonment apply to offences including those involving conversion and converted weapons	<b>Article 91</b>

Table: Comparison between Croatian legislation and EU regulations

# THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

## Background

No signal or tear gas pistols that have been modified to fire real ammunition have been found in the former Yugoslav Republic of Macedonia. A number of gas and signal weapons were confiscated in 2007 and 2008, but not in significant quantities, approximately 100 of both types of weapon each year. No licences have been issued for the transit of signal or tear gas pistols through the former Yugoslav Republic of Macedonia.<sup>121</sup> However, it is thought that the territory of the former Yugoslav Republic of Macedonia has been used for the illicit transfer of convertible weapons to other territories for the intended purpose of modification to bullet-firing handguns.<sup>122</sup>

## Legislation relevant to EU regulations

The adoption of the 2005 Law on Weapons in the former Yugoslav Republic of Macedonia, together with its amendments of 2007, have focused on the approximation of EU regulations, and likewise for the provisions of its international commitments including the UN Firearms Protocol. The former Yugoslav Republic of Macedonia has included in its regulatory measures a number of specific regulations guiding the implementation of domestic firearms control measures.

TITLE	LEGAL REFERENCE	DATE
Law on Weapons	Official Gazette of Macedonia 5/2005	25 January 2005
Law Amending the Law on Weapons	Official Gazette of Macedonia 42/2007	28 March 2007
Regulation on the forms for weapons and ammunition and record Keeping.	93/2005	2005
Regulation on the transfer of weapons and ammunition across the state border.	Official Gazette of Macedonia 51/2007	2007
Regulation on the types of weapons that may be purchased on the basis of a licence for the purpose of certain types of weapons under A and D categories	Official Gazette of Macedonia 51/2007	2007
Law on examination and markings of different firearms and ammunition.	SRM 37/1973	1973
Legal guide on examining weapons	SRM 78/1973	1973

Table: Summary of the main legislation in the former Yugoslav Republic of Macedonia relevant to convertible weapons

## Convertible Weapons

Legal measures of the former Yugoslav Republic of Macedonia more than adequately address types of irritant gas firearms that are convertible weapons. Gas-firing weapons are covered in the law as specific kind of weapon under Category A and therefore prohibited in the former Yugoslav Republic

<sup>121</sup> Email from Duško Ivanov, Section of International Cooperation, Mol, the former Yugoslav Republic of Macedonia, 30 June 2009.

<sup>122</sup> Interview with Krenar Gashi, Head of Special Research, Kosovar Institute for Policy Research and Development (KIPRED) and former BIRN Kosovo Editor 21 May 2009.

of Macedonia.<sup>123</sup> Additionally, due to their prohibited status it is also illegal to modify such weapons or convert them to live fire mode.<sup>124</sup> Signal alarm pistols are classified as “weapons for light-acoustic signalisation” and are available for sale in the country for person over 18 years old and acquisition is subject to declaration to the police.<sup>125</sup> There is no specific reference to convertible weapons in the definition of “firearm” in the Law on Weapons of the former Yugoslav Republic of Macedonia.<sup>126</sup>

Also of relevance to the issue of convertible weapons, though to a lesser extent, is the prohibition on carrying firearms in public places, which extends to imitation firearms.<sup>127</sup> Although imitation weapons are not considered weapons under the law,<sup>128</sup> this provision forbids anyone to have realistic imitation weapons in public. Realistic imitations could conceivably include convertible weapons, which by the Directive 2008/51/EC definition must look like a firearm, notwithstanding the fact that imitation weapons according to the definition of the Law of the former Yugoslav Republic of Macedonia must not be capable of being used as weapons.

## Marking and Tracing

To be brought into circulation for sale and possession, firearms - and by qualification parts of firearms, as these are also weapons according to the law - are required to be marked according to the regulations for testing and marking of firearms.<sup>129</sup> Provisions for marking, as far as they currently exist, derive from old Yugoslavian legislation of 1972. However, as of June 2009 draft regulations had been developed and were being fine-tuned to adjust to the national capacity for implementation. The former Yugoslav Republic of Macedonia also established a version of the Integrated Ballistics Identification System (IBIS), which is now fully operational. This, in addition to the rigorous regulations on marking and the rerecording of all registered firearms, should enable the legislation for better enforcement of the tracing of these items.<sup>130</sup> This systematic approach has additional relevance to tracing the projectiles from fired modified convertible weapons, which require more time and a greater process of elimination to identify, than projectiles from commercially produced firearms.

## Licensing

Individuals applying for authorization to acquire a firearm must meet conditions compatible with those set out in EU regulations. Requirements include an assurance that the applicant presents no danger to society and has good cause for obtaining a firearm in addition to certification for technical knowledge, weapon handling and a medical check.<sup>131</sup> The conditions defining who can be considered a danger to the public are well described in the law. These include criminal history and a character assessment based on public order or disturbance of the peace violations, substance abuse

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123 'Law on Weapons', Article 4.

124 Interview with Duško Ivanov, Mol, 25 June 2009.

125 *Op. cit.* email, Mol, 30 June 2009; 'Law on Weapons', Article 2, Article 3 and Article 4.

126 'Law on Weapons', Article 3.

127 'Law on Weapons', Article 30.

128 *Ibid.*, Article 2.

129 *Ibid.* Article 53.

130 *Op. cit.* Interview, Mol, 25 June 2009.

131 'Law on Weapons', Article 9 and Article 16.

including alcohol, history of domestic violence or other violent behaviour.<sup>132</sup> The law also prescribes that firearms be removed from the owners' possession if the above conditions should change.<sup>133</sup> Should some types of convertible weapons be legally available in the former Yugoslav Republic of Macedonia, and subsequently be classified in harmonisation with firearms categories of the EU, the licensing requirements on the of individuals applying to acquire such firearms would be adequate.

## Dealers

Only licensed companies can trade in or repair firearms. Licensing for manufacturers requires consent for approval by both the Ministry of Defence and the Ministry of Economy.<sup>134</sup> A registry of approved companies is maintained at the Ministry of Interior.<sup>135</sup> The owners of businesses that repair firearms are subject to the same strict technical conditions as those that produce firearms, which are subject to verification by a special committee of the Ministry of the Interior.<sup>136</sup> All persons who manufacture work in manufacturing repair or in any part of their work handle firearms must meet the requirements of a firearms licence and receive a security clearance test. The details of these registrations are then stored with the Mol.<sup>137</sup>

## Modification

Licensed dealers can repair only registered firearms, according to the legislation in the former Yugoslav Republic of Macedonia. This stipulation precludes the possibility of unregulated types of convertible weapons being professionally modified outside the bounds of the law. Furthermore, the system stringently controls the nature of repair. No modification that would change the basic nature or the category of firearm can be made. The parameters for what constitutes a repair, as apposed to modification or conversion, are clearly defined.<sup>138</sup> To ensure that each repair is legitimate, and safe, on every occasion that a weapon is repaired a certificate is issued which lists all relevant details, including which parts of the firearm were altered and all serial numbers. In addition, two fired bullets from the repaired weapon must be handed over for verification.<sup>139</sup>

## Deactivation

Firearms that have been rendered permanently unfit for use are not considered to be weapons under the law.<sup>140</sup> The basic wording is similar to the comparable provision of Directive 2008/51/EC however no specifications were identified regarding how deactivation procurers would ensure that the deactivated firearm could not be reactivated in any way.

<sup>132</sup> *Ibid.*, Article 9 and Article 12.

<sup>133</sup> *Ibid.*, Article 42 and Article 43.

<sup>134</sup> *Ibid.* Article 46.

<sup>135</sup> Email from Duško Ivanov, Section of International Cooperation, Mol, the former Yugoslav Republic of Macedonia, 05 August 2009; See also the Government of the former Yugoslav Republic of Macedonia, Reporting on the Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) in All Its Aspects (2008), <http://disarmament.un.org/cab/bms3/TFYR%20of%20Macedonia.pdf>, accessed 20 May 2009.

<sup>136</sup> 'Law on Weapons', Article 52 and Article 47.

<sup>137</sup> *Ibid.* Article 50; Op. cit. Interview, Mol, 25 June 2009.

<sup>138</sup> 'Law on Weapons', Article 46 and Article 49.

<sup>139</sup> Op. cit. Interview, Mol, 25 June 2009.

<sup>140</sup> 'Law on Weapons', Article 2.

## Transfer

The Law on Firearms contains an elaborate assortment of specific provisions for the authorisation of the transfer or transit of firearms across the states' borders for different categories of citizens and foreigners, including residents and non-residents of both groups. Specific regulations treat the conditions for hunters and sporting shooters.<sup>141</sup> The Law also pre-empts the future requirements for membership in the European Union by including legislation relevant to internal transfer of firearms.<sup>142</sup> Those provisions will only come into effect following the acceptance of the former Yugoslav Republic of Macedonia into the EU.<sup>143</sup>

## Penalties

Penalties for transgressions of the relevant laws were amended in 2007 and include updated fines in Euro amounts. In addition, offenders are to be prohibited from engaging in the manufacture, repair or trade in weapons for one year.<sup>144</sup>

## Recommendations

- Use available opportunities including regional fora to share information on the control and marking of convertible weapons in the former Yugoslav Republic of Macedonia with other countries in the region.
- Examine punitive measures and ensure that penalties for individual persons, as well as legal entities, committing weapons offences specifically linked to organised criminal activities are adequate and dissuasive.

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141 *Ibid.*, Articles 61 through 71.

142 *Ibid.*, Articles 72, 73 and 74.

143 *Ibid.*, Article 88.

144 *Ibid.*, Article 79.

STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Convertible weapons</b>	<b>Article 1 (ANNEX I)</b> “Firearm” expels, is designed to expel or may be converted to expel a shot, bullet or projectile... if: – it has the appearance of a firearm, and – as a result of its construction or the material from which it is made, it can be so converted	No definition of convertible weapons as firearms; however gas firing weapons are defined and alarm pistols regulated as signal weapons	<b>Law on Weapons 2005 and Amendments 2007. Article 2; Article 3; Article 4</b>
<b>Categories of firearms</b>	<b>ANNEX I</b> Category B – Firearms subject to authorization 1. Semi-automatic or repeating short firearms	Compliance: gas-firing weapons are prohibited; signal weapons are subject to authorisation with a permit	<b>Law on Weapons, Article 4 and Article 6</b>
<b>Category restrictions</b>	<b>Article 7</b> No one may acquire a firearm classified in category B unless that State has so authorized.	Authorisation with a permit required for short firearms	<b>Law on Weapons, Article 4</b>
<b>Marking and Tracing</b>	<b>Article 4 (2) and (4)</b> Any firearm or part placed on the market has been marked and registered or that it has been deactivated. Dealers shall be required to maintain a register all firearms	Regulations exist, but dated; New marking and tracing legislation in development	<b>Law on Weapons, Article 53</b>
<b>Licensing</b>	<b>Article 5</b>	Criminal history and a character assessment required	<b>Law on Weapons, Article 9, Article 12, Article 16, Article 22, Article 42 and Article 43</b>
<b>Dealers</b>	<b>Article 4 (3)</b> Private and professional integrity	security clearance, criminal history check and a character assessment for all persons who manufacture work in manufacturing, repair or in any part of their work handle firearms	<b>Law on Weapons, Article 49, Article 50 and Article 51</b>
<b>Modification</b>	<b>Article 1 (ANNEX I)</b> <b>Article 2 (a)</b>	No significant modification a firearm can be made; repaired weapons are certified and recorded	<b>Law on Weapons, Article 50</b>
<b>Deactivation</b>	<b>Category D - III</b> Rendered permanently unfit for use by deactivation... incapable of a modification that would permit the firearm to be reactivated in any way	Firearms rendered permanently unfit for use are not classified as weapons	<b>Law on Weapons, Article 2</b>
<b>Transfer</b>	<b>Articles 11 and 12</b>	Extensive provisions on transfer and carrying of firearms	<b>Law on Weapons, Articles 61 through 71</b>
<b>Penalties</b>	<b>Article 16</b> Penalties provided for must be effective, proportionate and dissuasive	Penalties updated in 2007 including new fines for offences	<b>Law on Weapons, Article 79</b>

Table: Comparison between legislation in the former Yugoslav Republic of Macedonia and EU regulations

## Background

Montenegro substantially lacks provisions to address the regional threat caused by the lawful acquisition of convertible weapons, their subsequent illicit modification, and the illicit distribution of and trafficking in the live weapons thus converted. Few regulations exist to address the types of arms that are most likely to be convertible weapons. Those that do refer to convertible weapon types permit persons over 18 years old to obtain them without registration. In the absence of legal restrictions, law enforcement authorities have no means of controlling the carrying of gas-firing weapons. According to local media reports, there is a problem of a lack of means to inspect and control some types of weapons that may be convertible.<sup>145</sup> Without registration at the point of sale, it is implausible that there is any ability to link the weapons to their owners or to trace the course of the weapons after the initial purchase.

## Legislation relevant to EU regulations

The Law on Weapons of Montenegro, dating from 2004 with minor amendments added in June 2008, provides the most relevant regulatory provisions to the control of firearms including convertible weapons. Overall the Law does not appear to consistently address the marking, tracing or licensing requirements of the EU, nor with the requirements of the definition of firearms as found in the amendments to Directive 2008/51/EC. Perplexingly, concerning compliance with EU legislative provisions, the explanatory notes to the amendments made to the Law on Weapons in 2008 report that there are no provisions of EU legislation with which the law requires harmonization.

TITLE	LEGAL REFERENCE	DATE
Law on Weapons	Official Gazette of the Republic of Montenegro No. 49/2004	27 July 2004
Law on the Amendments to the Law on Weapons		June 2008

Table: Summary of the main Montenegrin legislation relevant to convertible weapons

## Convertible Weapons

Montenegro lacks the legislative provisions necessary to take in hand the regulation of convertible weapons as set out under Directive 2008/51/EC. Convertible weapons are not included under the definition of “firearms” in the legislation of Montenegro. As for the way in which likely convertible weapons types are addressed, gas-firing weapons and those for pyrotechnics or sound effects are categorised separately under the general term of “weapons”.<sup>146</sup> These weapons are not classed as convertible and no reference is made to the possibility that they could be modified to fire live ammunition. The weapons law of Montenegro does, however, include a reference to conversion of replica weapons, which by definition include firearm reproductions and requires that these weapons cannot fire live ammunition and cannot be transformed into weapons which fire projectiles.<sup>147</sup>

145 “Podgorica: Rise in offences using cold weapons-the knife takes its toll,” (“U Podgorici Zabilježen Porast Najtežih Krivičnih Djela U Kojima Je Korišćeno Hladno Oružje Nož uzima danak”) *Dan-Online*, 04 May 2008, [www.dan.cg.yu/?nivo=3&rubrika=Hronika&datum=2008-05-04&clanak=145944](http://www.dan.cg.yu/?nivo=3&rubrika=Hronika&datum=2008-05-04&clanak=145944), accessed 25 May 2009.

146 ‘Law on Weapons’, Article 2.

147 *Ibid.*, Article 12.



The category of arms as defined under Article 5 of the Law on Weapons, which deals with all types of irritant gas, pyrotechnic and sound-producing weapons, including pistols and revolvers, logically would include most types of convertible weapons.<sup>148</sup> Regulation of this category falls under the terms applying to unregistered weapons in free circulation (Article 13 of the Law on Weapons). According to the Law, individuals over 18 years of age can procure this type of weapon without any need for approval or registration. The lax nature of this provision is confirmed by the fact that the same conditions apply to inert replica weapons, which cannot be modified to fire projectiles.<sup>149</sup> Furthermore weapons in free circulation without registration do not require permission to be transported, unlike other firearms.<sup>150</sup> The unregistered, legal possession of types of weapons that may be converted to live-fire weapons opens the door to their transfer for illicit modification and perpetuates the opportunity for trafficking in illicit, untraceable firearms. The legislation is therefore inconsistent with the requirements of the Directive 2008/51/EC, and fails to address the requirements for authorization according to the provisions for “Category B” weapons in the EU regulations. Under Directive 2008/51/EC, Category B should apply to short, semi-automatic firearms, including those that are convertible.

Article 12 of the Montenegrin Law on Weapons covers prohibited weapons, but the legislation includes a significant loophole. No readily discernible category for short, semi-automatic firearms such as pistols exists in the weapons legislation. Semi-automatic weapons are subject to provisions similar to those of “Category A” (Prohibited Firearms) in the EU regulations, since in Montenegrin Law it is prohibited to “procure, possess, carry, produce, repair, remake, proliferate and transport” semi-automatic weapons with the capacity to hold more than five bullets in their magazine,<sup>151</sup> if not stipulated otherwise.<sup>152</sup> However, weapons for self-defence can be owned with a valid certificate, and such weapons are defined as “pistols and revolvers of 5.56 mm calibre or more”. Presumably, as with most pistols, the magazines of such semi-automatic weapons would be capable of holding more than five bullets. While there is no explicit mention of an exception to Article 12 for such weapons, the law allows certification for the procurement of pistols for self-defence purposes.<sup>153</sup>

## Marking and Tracing

Only marked firearms can be purchased, repaired or modified (with approval). Significantly modified firearms require marking.<sup>154</sup> The Ministry of Interior is responsible for maintaining records on licenses issued for the purchase of weapons, weapon certificates and authorization for keeping weapons and firearms collection permits in addition to information on weapons seized, found and surrendered.<sup>155</sup> Dealers and other businesses also need to keep records on weapons produced, procured sold repaired and remade in the format prescribed by the Ministry of Interior.<sup>156</sup>

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148 *Ibid.*, Article 5.

149 *Ibid.*, Article 13.

150 *Ibid.*, Article 62.

151 With the exception of 22 calibre rifles.

152 ‘Law on Weapons’, Article 12.

153 *Ibid.*, Article 14 (1), (15), and Article 27.

154 *Ibid.*, Article 56 and Article 57.

155 *Ibid.*, Article 69.

156 *Ibid.*, Article 70 and Article 71.

## Licensing

Authorisation is required to procure any type of weapons recognised as a firearm under the Law on Weapons of Montenegro.<sup>157</sup> As noted above, the possession of arms of the types most likely to be convertible weapons requires no license.<sup>158</sup> In contrast to the lack of licensing regulations for potentially convertible weapons, permission to purchase and possess other firearms requires that the owner be over 21 years old and of good character, with no prior criminal record or history of violence or disorderly behaviour. Civilians owning or carrying other firearms require a weapons certificate, the length of validity of which depends on the reasons for ownership and varies according to the categories of the keeping of weapons for hunting and sports, whether as trophies or for self-protection.<sup>159</sup> In addition, a certificate of aptitude from the Ministry of Interior is required in order to possess short firearms (pistols and revolvers).<sup>160</sup>

## Dealers

Commercial enterprises must receive special permission in order to gain the right to perform activities including repairs and “remaking,” or significant modification, of firearms. The regulations for licensing permissions and requirements are identical to those for the permission to undertake firearms and ammunition production activities, including full certification, training and the same criminal and character checks as required for firearms ownership. All persons handling weapons in the course of production or for the purpose of repair must fulfil the same requirements as those for firearms ownership.<sup>161</sup>

## Modification

Only licensed firearms are permitted to be repaired. The scope of repair to a firearm may include modifications that could alter the class of a weapon, such as shortening, changing calibre and/or replacing components. Repairs that change the calibre, technical or ballistic characteristics of a firearm must be reported and registered and the weapon tested and marked accordingly.<sup>162</sup>

## Deactivation

Deactivation, according to the legal description, requires that firearms must be permanently rendered unusable for firing ammunition by blockage of the barrel and breach and by ensuring that the barrel cannot be removed and replaced.<sup>163</sup> However, there are no specifications regarding the deactivation of the moving parts of the firearm (which would be practical to ensure they could not be used or adapted).

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<sup>157</sup> *Ibid.*, Article 15.

<sup>158</sup> *Ibid.*, Article 13.

<sup>159</sup> *Ibid.*, Article 16, Article 17 and Article 26, Article 27, Article 28.

<sup>160</sup> *Ibid.*, Article 20, paragraph 3.

<sup>161</sup> *Ibid.*, Article 56; Article 60 and Article 61.

<sup>162</sup> *Ibid.*, Article 56 and Article 57.

<sup>163</sup> *Ibid.*, Article 33.

Those companies or individuals involved in film production or theatre performances and museums can acquire pistols and revolvers, among other firearms, which have been deactivated according to the conditions of Article 33 but also modified in order to fire only blank ammunition.<sup>164</sup> Licensing for weapons collection is necessary for the possession of more than three such weapons.<sup>165</sup> The specifications for firearms deactivated according to these requirements do address the need to ensure that deactivated firearms could not be readily reactivated by illicit means.

## Transfer

Firearms transfers require permission from the responsible authorities. Details of the transfer, including batches of firearms, are recorded. However, transport of less than 12 individual firearms does not require permission. As noted above, currently no permission is required to transport weapons in free circulation, including types of convertible weapons.<sup>166</sup> According to Article 39 of the Law on Weapons, the movement of other firearms is prohibited. The prohibition also applies to the carrying of firearms out of a firearm owner's residence or place of business, other than for repair or official use, in which case the firearm must be made inactive by the removal of its main components, or must be securely locked. Amendments to the Law reclassified the instructions for the interstate transfer of weapons as falling under the law regulating the control of state borders.<sup>167</sup>

## Penalties

An individual can receive fine of three times to ten times the minimum wage of Montenegro for illicit sale firearms and distribution of firearms or repairing or modifying firearms without authorization.<sup>168</sup> However, these penalties are unlikely to be dissuasive to persons who may profit from those offences, as the minimum wage of Montenegro in 2008 was approximately €55.<sup>169</sup> A commercial enterprise can be fined ten to two hundred times the minimum wage for conducting repairs or modification of firearms without authorization or if it trades in weapons or produces weapons without authorization.<sup>170</sup>

## Recommendations

- Expand the definition of "firearm" under the Law on Weapons in Montenegro to include a provision on weapons that may be converted to dispel bullets.
- Require authorisation for the sale and, acquisition and possession of convertible weapon types including gas-firing and signal handguns.
- Require adequate marking and registration of convertible weapon types and maintain sufficient data to enable the weapons to be linked to their owners at all time.

164 *Ibid.*, Article 35.

165 *Ibid.*, Article 32.

166 *Ibid.*, Article 62.

167 *Ibid.*, Article 39; Article 39a; 'Law on Amendments to the Law on Arms,' Article 12.

168 *Ibid.*, Article 72.

169 U.S. Department of State, Bureau of Democracy, Human Rights and Labor (2008), 'Country Report on Human Rights Practices in Montenegro, 25 February 2009, [www.state.gov/g/drl/rls/hrrpt/2008/eur/119095.htm](http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119095.htm),' accessed 14 July 2009.

170 'Law on Weapons,' Article 74.

- Look closely at all aspects of the current Law on Weapons in Montenegro in order to make amendments which improve the consistency of definitions and categories of weapons, particularly in regard to short, semi-automatic firearms.
- Categorise firearms according to their attributes rather than their uses in order to ensure approximation of EU regulations. Aligning categories of short-barrelled firearms with the categories of Council Directive 91/477/EEC would simplify such regulation.
- Apply dissuasive penalties for infringements of firearms regulations by individuals so that they also address the scale and nature of offences, in order to effectively discourage the illicit modification or production of firearms in Montenegro.

STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Convertible weapons</b>	<b>Article 1 (ANNEX I)</b> "Firearm" expels, is designed to expel or may be converted to expel a shot, bullet or projectile... if: – it has the appearance of a firearm, and – as a result of its construction or the material from which it is made, it can be so converted	No reference to 'convertible' in the definition of firearms; gas-firing weapons defined	<b>Law on Weapons, Article 2, Article 3 and Article 5</b>
<b>Categories of firearms</b>	<b>ANNEX I</b> Category B - Firearms subject to authorization 1. Semi-automatic or repeating short firearms	No comparable category exists	<b>Law on Weapons, Article 13</b>
<b>Category restrictions</b>	<b>Article 7</b> No one may acquire a firearm classified in category B unless that State has so authorized	Gas-firing and signal weapons are available unlicensed and without registration; however certification is required for the procurement of pistols	<b>Law on Weapons, Article 12 and Article 13</b>
<b>Marking and Tracing</b>	<b>Article 4 (2) and (4)</b> Any firearm or part placed on the market has been marked and registered or that it has been deactivated. Dealers shall be required to maintain a register all firearms	Marking and tracing is regulated	<b>Law on Weapons, Article 68, Article 69, Article 70 and Article 71</b>
<b>Licensing</b>	<b>Article 5</b>	Criminal record and character requirements exist	<b>Law on Weapons, Article 15, Article 17 (as amended 2008), Article 20, Article 22, Article 23, Article 26, Article 27, Article 28, Article 29 and Article 30</b>
<b>Dealers</b>	<b>Article 4 (3)</b> Private and professional integrity	Certification, training and criminal and character checks for proprietors	<b>Law on Weapons, Article 56 and Article 60</b>
<b>Modification</b>	<b>Article 1 (ANNEX I)</b> <b>Article 2 (a)</b>	Repairs which change the calibre or technical characteristics of a firearm are permitted but must be reported and registered and marked	<b>Law on Weapons, Article 56 and Article 57</b>
<b>Deactivation</b>	<b>Category D - III</b> Rendered permanently unfit for use by deactivation... incapable of a modification that would permit the firearm to be reactivated in any way	Includes rendering firearms permanently unfit for use; but also modification to fire only blank ammunition	<b>Law on Weapons, Article 33, Article 34 and Article 35</b>
<b>Transfer</b>	<b>Articles 11 and 12</b>	Strict regulation of the movement of firearms; however no permission is required to transport most types of convertible weapons	<b>Law on Weapons, Article 39 and Article 62</b>
<b>Penalties</b>	<b>Article 16</b> Penalties provided for must be effective, proportionate and dissuasive	Fines exist for the relevant for offences; for individuals these are low by most standards	<b>Law on Weapons, Article 72 and Article 74</b>

Table: Comparison between legislation of Montenegro and EU regulations

## Background

Serbia is a transit country in the flow of convertible weapons through the Western Balkan region. Illicit consignments of converted weapons have been seized and confiscated at several of its borders, including the border with Bosnia and Herzegovina, Montenegro, and the UN administered territory of Kosovo. Amongst the batches of smuggled converted firearms are some that appeared to have been bound for the domestic market. During 2008, in one seizure, 11 trafficked weapons converted from Turkish-manufactured 8mm gas-firing pistols were discovered concealed in a vehicle entering Serbia from Bosnia and Herzegovina. The handguns, converted to fire low-power .25 APC ammunition, were thought to be in-bound for distribution through the national illicit arms market, as they were labelled with a crude imitation motif of the Serbian "Zastava" brand, which could have had an additional appeal locally. The offender was given a six-month sentence, which is the minimum sentencing option.

Live-fire converted weapons confiscated in Serbia were found only to have smooth-bored barrels, indicating they had not been professionally modified and had been altered by persons without any particular technical skill. The low technical workmanship does not, however, significantly lessen the potential threat of the harm such a handgun could cause. Like other converted weapons, these handguns also pose an inherent risk to the user.

There have been very few reported cases of the modification of convertible weapons into live-firing weapons in Serbia and no conversion or modification of the type is known to have occurred in an organised manner. It is reasonable to assume that strict Serbian legislative provisions applying to non-lethal firearms, together with other customs and border control measures, have to some extent contributed to preventing the development of a local illicit industry in the modification of convertible weapons. For the most part, weapons legislation encompasses the range of weapons types that may potentially be converted, and their supply is either highly restricted or completely prohibited. This reduces the possibility of convertible weapons being legally sourced from within the country for the purpose of illicit conversion.

Among the most likely convertible weapons, irritant gas-firing weapons are prohibited and alarm or signal pistols that can not also fire irritant gas ammunition are generally controlled under the special weapons provisions of the Law on Weapons and Ammunition. However, in recent years there have been varying interpretations of the law regarding the regulations on alarm or starter pistols, including convertible types. Inconsistency between definitions and interpretations of the law exacerbated circumstances around the sale, since 2006, of several thousand alarm pistols which were reportedly traded to persons over 18 years-old without approval. Only the buyers' personal details were recorded. Based on records of sale some of them were subsequently charged. This particular case contributed to increased cooperation and direct liaison between the Ministry of the Economy and Regional Development (MERR) and the Mol on issues of weapons imports.<sup>171</sup> Better-defined terms for firearms, as used in Directive 2008/51/EC, could support this need for clarity for both law enforcement and persons who intend to legally possess weapons.<sup>172</sup>

171 Interview with Milan Milosević, Bureau for International Cooperation and Dejan Raketić, Bureau of Strategic Planning, Mol, Belgrade, 16 June 2009.

172 See also "Issues of replica weapons" (Problemi građana zbog replika oružja), 23 May 2008, [www.politika.rs/rubrike/Drustvo/Problemi-gradjana-zbog-replika-oruzja.lt.html](http://www.politika.rs/rubrike/Drustvo/Problemi-gradjana-zbog-replika-oruzja.lt.html), accessed 20 May 2009.

Relevant to the modification or making of firearms and the approximation of Serbian legislation with EU regulations on convertible weapons, the question must also be addressed of how to manage the extensive, skilled professional knowledge base in firearms production and alteration that exists among those segments of the large workforce terminated from employment in the arms manufacturing industry since the 1990s.

### Legislation relevant to EU regulations

Serbia has reported that it fulfils the obligations of its international commitments, including the UN Firearms Protocol, the United Nations Programme of Action on Small Arms and Light Weapons, and the OSCE Document on Small Arms and Light Weapons.<sup>173</sup> However, Serbia has also acknowledged that current legislation requires amendments in order to improve consistency with EU regulations and bring laws into closer approximation with EU equivalent measures. In 2007, Serbia reported it was developing a draft Law on Weapons to strengthen provisions and bring the law into line with Council Directive 91/477/EEC and the UN Firearms protocol while also addressing the need to curb an increase in armed violence in the country.<sup>174</sup> Draft legislation was still pending additional development as of June 2009, with no significant progress towards its future approval having been reported.<sup>175</sup>

TITLE	LEGAL REFERENCE	DATE
Law on Weapons and Ammunition	Official Gazette Republic of Serbia, No. 9/92, 53/93, 67/93, 48/94, 44/98, 39/2003, 101/2005	1992
Law on Hand-held Firearms, Devices and Ammunition Testing	Official Gazette of Serbia and Montenegro, No 31/2004	2004
Law on Foreign Trade in Weapons, Military Equipment and Dual-Use Goods	Official Gazette of Serbia and Montenegro No 7/2005 and No 8/2005	2005
Criminal Code	Official Gazette of the Republic of Serbia, No. 85/2005, 88/2005, 107/2005	2005
Foreign Trade Law	Official Gazette of the Republic of Serbia No 101/2005	2005

Table: Summary of the main Serbian legislation relevant to convertible weapons

### Convertible Weapons

Primary legislation does not include a reference to convertible weapons, the conversion of weapons, or similar terms under the definition of "firearm". Firearms are first and foremost defined as weapons which emit a projectile. Weapons that project irritant gas are classed as a distinct type of weapon. The category of gas weapons is not directly regarded as a firearm under the definition of "firearm"

173 The Republic Of Serbia, 'Statement By Mr. Slavko Kruljević, Deputy Permanent Representative, in The General Debate in the First Committee, New York, 15 October 2007 (62nd Session of the United Nations General Assembly First Committee, Disarmament and International Security, 8 October-2 November 2007)'; [www.un.int/serbia/Statements/27.pdf](http://www.un.int/serbia/Statements/27.pdf), accessed 25 May 2009.

174 Republic of Serbia, Report on the Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all its Aspects for 2007, 16 November 2007, <http://disarmament.un.org/cab/bms3/1BMS3Pages/1NationalReports/Serbia.pdf>, accessed 25 May 2009.

175 *Op. cit.* Interview, Mol, Belgrade, 16 June 2009.



in the text of the law.<sup>176</sup> The trade, acquisition, possession, carrying, repairing and altering of irritant gas-firing weapons are prohibited under the Law on Weapons.<sup>177</sup> Furthermore, any signal pistol that may be capable of firing a gas cartridge can be classified as a gas-firing weapon if it is deemed so by technical inspection.<sup>178</sup> The carrying of a gas weapon can be penalised under the law as the equivalent of the offence of unauthorised possession of firearms, in that it is considered a felony criminal offence rather than a misdemeanour.<sup>179</sup>

Signal, alarm and starting pistols (the types which, like gas-firing handguns, are most likely to have the characteristics defining them as convertible weapons under Directive 2008/51/EC) are regulated in the category of Special Weapons by the Law on Weapons and Ammunition.<sup>180</sup> There has been debate, however, over the legal definition and classification of starting pistols. In pursuit of a resolution on the legal status of blank-firing signal guns, the Military Technical Institute in Belgrade conducted a technical study of their characteristics in 2008 which proposed that these weapons do not fall under the definition of a "special weapon" according to the text of the law. The main point of issue is over the wording, which in Serbian law, as in the legislation of many other Western Balkan countries, defines "special weapons" as devices which by the force of propellant gases emit a substance or material which produces sound or light signal. It is argued that blank-firing starter pistols emit no such substance, and only use the pressure of gasses to create sound, therefore not falling within the definition of signal weapons.<sup>181</sup>

The Ministry of Interior regularly declares firearms amnesties (which occur every 2-3 years) providing an opportunity for citizens to either register weapons or hand in unregistered weapons for disposal. At such times, permission might be sought for approval of illegally altered firearms (at least theoretically), including converted weapons.<sup>182</sup>

## Marking and Tracing

The Law on Hand-held Firearms, Devices and Ammunition Testing provides the framework for the marking and tracing of civilian firearms. The Law applies, according to its definitions, not only to firearms which can dispel a shot, but also to alarm pistols and other signal handguns and similar devices.<sup>183</sup> Blank-firing starter pistols, as with all firearms legally imported into Serbia, must have factory markings and other markings under the law to be eligible for import. Current legislation does not, however, conform to the UN Firearms Protocol requirements for the marking of imported firearms, and imported weapons do not receive marking for identification of the country or year of import.<sup>184</sup> In order to comply with testing regulations, weapons from countries outside the Permanent International Commission for Firearms Testing (*Commission Internationale Permanente pour l'Epreuve*

176 'Law on Weapons and Ammunition', Article 2.

177 *Ibid.*, Article 5.

178 *Op. cit.* Interview, Mol, Belgrade, 16 June 2009.

179 First Municipal Public Prosecutor's Office in Belgrade, "Unauthorized possession of a gas pistol," (referring to Article 33 of the Law on Weapons and Ammunition) [www.1ojt.sr.gov.yu/praksa/8n.htm](http://www.1ojt.sr.gov.yu/praksa/8n.htm), accessed 1 June 2009.

180 'Law on Weapons and Ammunition', Article 5.

181 Interview with Zorica Subotić, President, National Arms Association of Serbia, 25 June 2009; See also, "Police are taking away start pistols-replicas" (*Policija oduzima startne pištolje replike*), 29 February 2008, [www.politika.rs/rubrike/Drustvo/Policija-oduzima-startne-pishtolje-replike.lt.html](http://www.politika.rs/rubrike/Drustvo/Policija-oduzima-startne-pishtolje-replike.lt.html), accessed 20 May 2009.

182 *Op. cit.* Interview, Mol, Belgrade, 16 June 2009.

183 'Law on Hand-held Firearms, Devices and Ammunition Testing', Article 2.

184 As required under UN Firearms Protocol Article 8(b) on the Marking of firearms.

*des Armes à Feu Portatives - CIP*), including those from major exporters China and Turkey, need to be tested and marked prior to sale.<sup>185</sup> Notably, manufacturers in Turkey are also indicated to be the most common source of convertible weapons found in the Western Balkans.

Upon import, these non-lethal handguns are entered into the same central register as all other firearms for national tracing purposes. Information on each weapon is stored in the database indefinitely for retrieval as needed. Records in the database, which can be accessed throughout Serbia, are updated if a weapon changes owner or is confiscated; records are not deleted.<sup>186</sup> Such provisions are in line with those of Directive 2008/51/EC and the particulars of Article 4 on requirements for marking and tracing, as well as with the future requirement that by the end of 2014, Member States must operate a computerised data system which can maintain records for at least 20 years.<sup>187</sup> Furthermore, Serbia's current firearms database system acts in accordance with the expert opinion expressed during the discussion on EU firearm relations amendments asserting that data should be kept indefinitely.<sup>188</sup> However, a more advanced system of identification would be needed for the purposes of identifying weapons based on projectiles, as well as the use and distribution of converted weapons, which will necessarily have entirely different properties and ballistic characteristics from the non-lethal convertible weapons from which they were modified. Serbia lacks a comprehensive national ballistics identification system in order to track their use and transit.

## Licensing

Current legislation comes close to adequately addressing the licensing requirements for convertible weapons as firearms in accordance with the minimum requirements of the Directive 2008/51/EC. As noted above, gas-firing weapons cannot be legally owned in Serbia, and therefore no licensing arrangements apply. In order to obtain a weapon from the class of "special weapons," including signal firearms, permission must be sought through a registered association or club that can vouch for the legitimacy of the applicant's need to possess the particular device sought.<sup>189</sup>

## Dealers

Traders engaged in commerce with firearms and firearm components are required to obtain authorization and be registered prior to receiving permission to commence operations. Applicants must demonstrate that they have no serious criminal charges and that no proceedings or investigations are being conducted against them. The provisions for establishing the good character of dealers are the same as those for firearms licence holders.<sup>190</sup>

The irregular nature of arms investments and the subsequent engagement of workers for short-term positions must be seriously considered with regard to expertise in the modification and production of firearms. For example, in recent years the Kragujevac-based Zastava Arms factory has contracted to produce assault rifles, handguns and hunting weapons. Reports indicated that these opportunities

<sup>185</sup> *Op. cit.* Interview, Mol, Belgrade, 16 June 2009.

<sup>186</sup> *Ibid.*

<sup>187</sup> 'Law on Weapons and Ammunition', Article 4.4

<sup>188</sup> European Parliament: Committee on the Internal Market and Consumer Protection, 'Comments by GRIP on the proposed amendment of European Directive 91/477/EEC on weapons,' Notice to Members, No. 03/2006, 17 December 2006, p. 5.

<sup>189</sup> *Op. cit.* Interview, Mol, Belgrade, 16 June 2009.

<sup>190</sup> 'Law on Weapons and Ammunition', Article 27.

for workers were greatly needed, given that the Zastava Arms company reduced its staff from 6,000 to some 3,500 workers over 10 years.<sup>191</sup> In 2008, Zastava was reported to have opened up a production line for manufacturing their CZ-99 make of pistols for a large overseas contract that lasted less than a year.<sup>192</sup> Arms production employees are let go with little compensation.<sup>193</sup> Short production contracts and high unemployment in the once robust Serbian firearms industry present a serious question regarding how the skills of the workforce can be best employed when contracts are not available or personnel have been made redundant.

## Modification

There are limitations as to who can alter and repair firearms and how modifications can be performed on them; those particularly concerned with preventing illicit production or conversation are defined under Serbia's current firearms legislation. The repair and modification of firearms may only be conducted at premises which are licensed and only on weapons with a valid weapons permit or special authorised approval. All modifications must be reported within 48 hours.<sup>194</sup> No modifications are permitted which alter the weapon significantly, such as changing the calibre or length, or which result in a change or removal of serial number markings. Regular firearms amnesties (which have occurred every two-three years) provide an opportunity for citizens to register weapons or hand in unregistered weapons for disposal. At these times, permission might be sought for the approval of illegally altered firearms, at least theoretically, including converted weapons.<sup>195</sup>

## Deactivation

Deactivated firearms and the process of deactivating a weapon do not exist as a specific category under Serbian legislation. By law, all firearms are treated as weapons even if they have intentionally been made safe by a deactivation procedure or if they have been broken and are not functional. Particular regulations exist within the Law on Weapons that also address the transfer of arms from military to civilian use, including changes to firearms which are required to ensure that they are no longer military weapons. However, these conversions do not involve modification of military firearms to blank-firing alarm weapons.<sup>196</sup> Article 10 of the Law on Weapons and Ammunition allows trophy and non-usable, worn-out weapons to be held by persons who meet the prerequisites for firearms ownership according to the law and who have obtained a valid permit.<sup>197</sup>

## Transfer

As noted above, regulations on the procedures for international transfers of firearms for civilian use do include convertible weapons such as non-lethal starter pistols and are regulated under the

191 "Zastava Arms Union Opposes Firing Workers," Source: Defence and Security, 03 September 2004, SEESAC Daily SALW Media Monitoring Report.

192 "Sutanovac Supports Deal with Iraq," Sources: VIP - Defence and Security, 07 February 2008, SEESAC Daily SALW Media Monitoring Report.

193 "460 Leaving Zastava-Arms," Source: VIP - Defence and Security, 10 June 2005, SEESAC Daily SALW Media Monitoring Report.

194 'Law on Weapons and Ammunition', Article 30.

195 *Op. cit.* Interview, Mol, Belgrade, 16 June 2009.

196 *Op. cit.* Interview, Mol, Belgrade, 16 June 2009.

197 'Law on Weapons and Ammunition', Article 10.

authority of the Ministry of the Economy and Regional Development (MERR). MERR regulations applying to both the import and export of civilian weapons are implemented in close consultation with the Mol.<sup>198</sup> The relevant UN Firearms Protocol and the OSCE Document on Small Arms and Light Weapons practices and procedures for the export of weapons are reported to be applied to firearms transfers.<sup>199</sup>

## Penalties

Primary legislation addressing the illicit altering of firearms as well as illegal possession and transfer is strict and thought to be dissuasive, including prison sentences for most convertible weapons related offences.<sup>200</sup>

## Recommendations

- Introduce the term, the definition and the principles of convertible weapons as a standard into the definition of firearms in the draft weapons legislation, so it can be used to further clarify the legal position of starter pistols, which make noise but do not specifically discharge any “means for producing sound” as currently specified under the law.
- Investigate the possibility of identifying and supporting the retraining of workers experienced in firearms manufacture, if necessary by applying legislative provisions
- Develop and introduce legislation to systematise import marking as required by the UN Firearms Protocol and in alignment with EU firearms regulations.
- Build the national capacity to identify weapons illicitly used and establish a comprehensive national ballistics database that can be linked to existing firearms records.

198 *Op. cit.* Interview, Mol, Belgrade, 16 June 2009.

199 *Op. cit.*, Statement by Slavko Kruljević, New York, 15 October 2007.

200 ‘Law on Weapons and Ammunition’, Article 33 to Article 39; Criminal Code (Official Gazette of RS, Nos. 85/2005, 88/2005, 107/2005), Article 348, Illegal Possession of Firearms and Explosives.

STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Convertible weapons</b>	<b>Article 1 (ANNEX I)</b> “Firearm” expels, is designed to expel or may be converted to expel a shot, bullet or projectile... if: – it has the appearance of a firearm, and – as a result of its construction or the material from which it is made, it can be so converted	No reference to convertible weapons as firearms; gas-firing weapons are defined by law; alarm pistols and similar blank firing signal weapons are considered either gas weapons or in a category of ‘special weapons’ or ‘devices’	<b>Law on Weapons and Ammunition, Article 2</b> <b>Law on Hand-held Firearms, Devices and Ammunition Testing, Article 2 and Article 5</b>
<b>Categories of firearms</b>	<b>ANNEX I</b> Category B - Firearms subject to authorization 1. Semi-automatic or repeating short firearms	Arms for personal safety include firearms such as pistols and revolvers calibre 5.6 mm and larger. Approval for acquisition is required and a licence to carry	<b>Law on Weapons and Ammunition, Article 3, Article 7 and Article 11a and Article 11b</b>
<b>Category restrictions</b>	<b>Article 7</b> No one may acquire a firearm classified in category B unless that State has so authorized	The procurement and possession of gas weapons is prohibited; signal weapons require authorisation; strict requirement apply to the acquisition and possession of short-barrelled firearms	<b>Law on Weapons and Ammunition, Article 5; Article 11a and Article 11b</b>
<b>Marking and Tracing</b>	<b>Article 4 (2) and (4)</b> Any firearm or part placed on the market has been marked and registered or that it has been deactivated. Dealers shall be required to maintain a register all firearms	Provisions exist and apply to most types of convertible weapons	<b>Law on Hand-held Firearms, Devices and Ammunition Testing, Article 2</b>
<b>Licensing</b>	<b>Article 5</b>	Criminal and character checks apply	<b>Law on Weapons and Ammunition, Article 8</b>
<b>Dealers</b>	<b>Article 4 (3)</b> Private and professional integrity	Criminal and character checks apply to proprietors	<b>Law on Weapons and Ammunition, Article 27</b>
<b>Modification</b>	<b>Article 1 (ANNEX I)</b> <b>Article 2 (a)</b>	No modifications are permitted which significantly alter the firearm	<b>Law on Weapons and Ammunition, Article 5</b>
<b>Deactivation</b>	<b>Category D - III</b> Rendered permanently unfit for use by deactivation... incapable of a modification that would permit the firearm to be reactivated in any way	No classification in legislation	<b>No corresponding legislation.</b>
<b>Transfer</b>	<b>Articles 11 and 12</b>	Regulated	<b>Ministry of the Economy and Regional Development controls</b>
<b>Penalties</b>	<b>Article 16</b> Penalties provided for must be effective, proportionate and dissuasive	Penalties for carting convertible (gas-firing) weapons and other offences related to conversion and trafficking include prison terms	<b>Law on Weapons and Ammunition, Article 33 and Article 34</b> <b>Criminal Code, Illegal Possession of Firearms and Explosives, Article 348</b>

Table: Comparison between Serbian legislation and EU regulations

## Background

Modification of convertible weapons to firearms is a known threat in the United Nations (UN) administered territory of Kosovo. Examples of modification reported by police and media sources indicate that a local capacity for the conversion of non-lethal handguns into lethal firearms has developed in recent years. The weapons, once converted, are cheap, low-powered, reasonably accurate and potentially lethal. They are among the types of firearms suited to organised criminal activities, which require handguns to be highly concealable, precise, and disposable if necessary. Such firearms can potentially be used in crimes such as intimidation, robbery, smuggling or drug trafficking.

The results of police laboratory testing on converted weapons seized in the UN administered territory of Kosovo reveal that there is consistency in the illicit production methods for converting them. There is also a degree of sophistication in the process that requires additional time and effort. The convertible handguns seized had been modified in calibre and had the barrels altered. First-stage conversion techniques included replacing the original barrels, which contain an obstruction that will not let a bullet past. Final-stage modifications, which are the most technically complex, involve rifling the new barrel to ensure accuracy. Converted firearms have been modified to fire one of two types of small calibre ammunition.<sup>201</sup>

Contrary to the impressions given by some of the media reporting on this issue, it seems unlikely that a significant number of the converted weapons produced in the UN administered territory of Kosovo have found their way onto the local illicit market solely for self-defence purposes. The self-defence capacity of the modified weapons for use as firearms is hampered by their having been adapted to fire low-power ammunition. Weapons using small calibre ammunition do not have the force adequate to incapacitate a human target if fired in self-defence. The so-called "stopping power" of these guns is not considerable enough to be relied upon by individuals perceiving themselves to be in need of self-protection or fearing a serious threat to their person. Anyone who particularly requires an unregistered, original, functional handgun could likely acquire one by other illicit means and thus avoid the need to rely on cheap, dangerous converted weaponry. Despite the small size of these firearms and the low charge of the ammunition, each and any bullet fired may have injurious or fatal consequences, which means these weapons are still useful to offenders. Convertible weapons in the UN administered territory of Kosovo give the impression that they are intended to be used to produce fear and intimidation.

Forensics specialists reported that these weapons also pose a significant safety threat to the user, despite the use of small-calibre ammunition. Semiautomatic pistols of the types popular for conversion are prone to wear with each firing. Small-calibre ammunition is less powerful, and the weaker explosive force for propulsion in turn decreases the effect of fatigue on the materials of the firearm during each discharge of the weapon. The handguns seized, though functional, were poorly constructed and manufactured from substandard materials not suited to the role of the firing projectiles. Use of real ammunition in a converted weapon may lead to dangerous defects, including cracking of the main parts of the weapon, causing those sections to give way under the explosive pressure of firing.<sup>202</sup>

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201 The ammunition used was 6.35x15 calibre (.25 ACP) and 7.65x17 calibre (.32 ACP); Interview with Major Granit Ferahu, UNDP Police Liaison Office, Prishtinë/Priština, 12 June 2009.

202 *Ibid.*



Statistics on weapons seizures from police records indicate that the number of individual convertible or actually converted weapons confiscated was not high. Police sources believe this is due to market demands and the perception that possessing an ordinary handgun is preferable to a converted handgun. In 2008, police discovered one conversion workshop for modifying convertible weapons into live fire handguns, but no such finds were reported in 2007 or 2009. The machinery found in the conversion workshop did not include specialised gunsmith instruments; the equipment used to convert gas or blank-firing pistols included an assortment of conventional metal processing tools. Equipment for arms production and modification is subject to strict import controls and is unlikely to be available.<sup>203</sup> However this impression does not correspond with media reporting on the issue.<sup>204</sup>

In 2007, a print media article reported that “*modified guns were most in demand*” in the illicit firearms trade in the UN administered territory of Kosovo and constituted an “*extremely profitable*” niche market.<sup>205</sup> According to the article’s first-hand sources, convertible gas-firing handguns were brought into the UN administered territory of Kosovo from Italy and Turkey for the specific purpose of illicit conversion. The convertible pistols, bought cheaply in bulk, were then converted to live firearms. Most of the convertible gas pistols came from Turkey. After being transported through the former Yugoslav Republic of Macedonia, they were brought into the UN administered territory of Kosovo for the process of modification to live firearms. The sources explained that handguns not destined for the domestic market in the UN administered territory of Kosovo are illicitly transferred through Albania to other markets or across the administrative border between the UN administered territory of Kosovo and Serbia. The article reported that some 500 hundred convertible weapons were found. It has been suggested that law enforcement may not perceive gas pistols seized prior to conversion as a security threat of the same degree as live fire handguns, and that the numbers of gas pistols are therefore under-recorded.<sup>206</sup> However under the existing Criminal Code, the penalties for possession of irritant gas-firing weapons are equal to the penalties for the possession of any firearm or other weapon.<sup>207</sup>

## Legislation relevant to EU regulations

United Nations Interim Administration Mission in Kosovo (UNMIK) regulations on weapons remained in force in the UN administered territory of Kosovo as of July 2009. There is a total prohibition on the sale of weapons for civilian use, including handguns, irritant gas pistols, and blank-firing weapons. The possession of unregistered weapons of all types is prohibited, making it illegal to own or carry firearms, including blank and gas-firing weapons which may be convertible. These regulations control the civilian possession of firearms stringently, and permits for short-barrelled firearms have been issued to only a very small number of persons (and private companies). Before acquiring permits, these gun owners must prove a genuine need to possess a weapon for self-defence. A rigorous threat assessment process is used to assess the need for gun ownership. However, these permits are being granted for ownership even though the sale or import of firearms is not permitted, which means lawfully permitted gun owners have no choice but to acquire and register firearms which

<sup>203</sup> *Ibid.*

<sup>204</sup> See also media report in the introduction section.

<sup>205</sup> Krenar Gashi, Balkan Investigative Reporting Network (BIRN) Kosovo Editor, “Kosovo: a Gunrunners’ Paradise,” BIRN, 29 November 2007, [www.birn.eu.com/en/114/10/6647/](http://www.birn.eu.com/en/114/10/6647/), accessed 17 June 2009.

<sup>206</sup> Interview with Krenar Gashi, Head of Special Research, Kosovar Institute for Policy Research and Development (KIPRED) and former BIRN Kosovo Editor 21 May 2009.

<sup>207</sup> ‘Criminal Code of Kosovo,’ Article 328, Article 327, Article 329 and Article 330.



have been obtained illicitly. The law, by failing to address this loophole, thus indirectly acknowledges the persistence of the illegal firearms market.<sup>208</sup>

The Criminal Code of Kosovo lays out the punitive measures for the enforcement of firearms regulations. In December 2008, a law amending the 2003 UNMIK Provisional Criminal Code (UNMIK/REG/2003/25) was proclaimed. Provisions of the new Criminal Code remained predominately identical to the 2003 Provisional Criminal Code, other than that the name of the code was changed and one paragraph was added regarding pleas.<sup>209</sup>

In 2009, a robust legislative framework was developed to supplant the stringent but inadequate UNMIK regulations on weapons. Central to the new regulations is a specific draft Law on Weapons. The Law was clearly designed to approximate EU firearms regulations and incorporate the measures of the UN Firearms Protocol. By June 2009, the draft law had passed through Parliament and was before the Parliamentary Committee on Security for the process of considering minor amendments to it. Implementation of the new Law on Weapons is supported from the outset through secondary legislation in the form of Administrative Instructions that were developed concurrently with the draft Law. The Administrative Instructions elaborate the measures for implementation and specifications of procedures in detail (this secondary legislation was made use of partly because the original legislation is already rather lengthy). The Administrative Instructions can also be further adapted to encompass any future legislative requirements.<sup>210</sup> The analysis below primarily concerns the provisions of the new legislation, which is expected to have been fully adopted in July 2009 and implemented over a transition period of six months. Full implementation of the Law on Weapons and its Administrative Instructions is expected to be in place by the beginning of 2010.

TITLE	LEGAL REFERENCE	DATE
On Authorization of Possession of Weapons in Kosovo	UNMIK/REG/2001/7	21 February 2001
Implementing UNMIK Regulation No. 2001/7 on The Authorization Of Possession Of Weapons In Kosovo	UNMIK/DIR/2003/1	17 January 2003
Criminal Code of Kosovo	UNMIK/REG/2003/25; Law No. 03/L-002	06 July 2003; 22 December 2008
Draft Law on Weapons	Draft	Pending

Table: Relevant legislation in the United Nations administered territory of Kosovo.

## Convertible Weapons

The definition of a firearm in draft legislation includes any weapon that can expel a projectile. Although the definition of firearm does not specifically make reference to weapons that could be converted, an amendment to the Draft Law prohibits the change or modification of any non-lethal

208 See also Sokolová *J et al*, *Small Arms and Light Weapons Survey of Kosovo*, (Saferworld/SEESAC, 2006), p.13.

209 OSCE, Human Rights and Communities Department Legal System Monitoring Section, p.3 (footnotes), [www.osce.org/documents/mik/2009/05/37470\\_en.pdf](http://www.osce.org/documents/mik/2009/05/37470_en.pdf), accessed 13 July 2009; see also, 'Law No. 03/L-002 on Supplementation and Amendment of the Provisional Criminal Code of Kosovo', [www.assembly-kosova.org/common/docs/ligjet/2008\\_03-L-002\\_en.pdf](http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L-002_en.pdf), accessed 13 July 2009.

210 Interview with Alain Lapon, Project Manager, UNDP Kosovo Small Arms Control (KOSSAC), 12 June 2009.

weapon to a lethal weapon.<sup>211</sup> All weapons to which the Directive 2008/51/EC may conceivably apply are considered as regulated under the draft legislation.<sup>212</sup>

Tear gas firing weapons, including both pistols and revolvers that dispel irritant gases, are clearly defined and entirely prohibited.<sup>213</sup> By definition, imitation weapons must not be able to fire any type of ammunition or have the components necessary to do so. These provisions are further enforced through the Administrative Instructions, which frame the catalogue of weapons concerned.<sup>214</sup> The law includes strict categories for what is not considered a weapon.<sup>215</sup> Imitation firearms are defined exactly, according to their physical construction and components, as weapons which can neither fire nor be adapted to fire any type of ammunition.<sup>216</sup> In agreement with new EU regulations under the definition of components, the main parts of the weapon are also considered weapons under the draft law of the UN administered territory of Kosovo.<sup>217</sup>

Improved registry and reference systems developed in accordance with the Law on Weapons offer further safeguards against any unpredicted convertible weapons models not specifically addressed by the law. The Law on Weapons establishes a national catalogue of weapons; every weapon imported must go through mandatory testing, and approval of all imported weapons by the Department of Public Safety involves recording its specifications. Furthermore, all types of weapons already recorded in the UNMIK weapons registration systems are to be entered and categorised in the catalogue.

## Marking and Tracing

Marking and tracing requirements dictate that only firearms and parts of firearms that have been clearly marked can be sold.<sup>218</sup> Approved firearms must be marked on import with a stamp indicating that the weapon had entered the UN administered territory of Kosovo.<sup>219</sup> Furthermore, consistent with the Directive 2008/51/EC, the Administrative Instructions regulate the conveying of firearms from military or police stocks to private use. They impose stringent marking and registration provisions, including for any form of modification or deactivation in the process of transfer.

## Licensing

Licensing requirements under both old and draft legislation go beyond the minimum standards of the criminal history checks and personal character requirements required under Directive 2008/51/EC.<sup>220</sup> Under UNMIK regulations, there are two systems for registering and controlling civilian firearm

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211 *Ibid.*

212 Interview with Naim Shala, Director, and Dukagjin Dinaj, Legal Officer, Legal Department, Ministry of Internal Affairs, Prishtinë/Priština, 12 June 2009.

213 'Draft Law on Weapons', Article 2 1.16.

214 'Law on Weapons', Article 5.2.

215 *Op. cit.*, Alain Lapon, 12 June 2009.

216 'Draft Law on Weapons', Article 1.27.

217 *Ibid.*, Article 3. 3.

218 *Ibid.*, Article 56.

219 *Ibid.*, Article 58.

220 *Ibid.*, Article 7 to Article 11.

possession, the Weapons Authorization Card (WAC) and the Weapons Registration Card (WRC). The most relevant system for convertible or modified weapons is the WAC, which regulates the possession of firearms, including semiautomatic handguns, for personal security. Only a vulnerable individual or a private security agent responsible for protecting such an individual may possess a weapon such as a handgun for self-protection and be granted a WAC. The procedure for obtaining a WAC requires evidence of the need be proven before a Threat Assessment Committee. To acquire a WAC the applicant must submit to background and character checks regarding past criminal involvement or charges and disorderly conduct.

The Weapons Registration Card (WRC) does not readily apply to convertible weapons, as it can only be used to register hunting shotguns, rifles with a magazine capacity of no more than four rounds, or single-shot target pistols and rifles. The applicant must be over 18 years old and the registration must be renewed every two years.<sup>221</sup>

## Dealers

The draft Law on Weapons regulates dealers in a way that is consistent with EU regulations. In the particular context of regulating convertible weapons and their modification, Article 22 of the law requires permits and licences for legal entities engaged in the production, modification and repair of firearms. Regulations for dealers are further elaborated by the Administrative Instructions. Under the current law, only legal entities must be registered, not the natural persons they employ. However, the Administrative Instructions could be adapted in order to require the licensing and registration of such persons. A legislative template for similar requirements exists in the form of the Administrative Instructions on private security personnel. Gunsmiths and others with specialised skills in the production, repair and modification of firearms who are employed by registered legal entities with valid permits could similarly be required to undergo background checks and registration. Regulations on brokering are attentive to EU provisions and are included under Article 27, which regulates trading in weapons.<sup>222</sup>

## Modification

Under the draft Law on Weapons, an amendment was introduced (to Article 40 - Duty to Secure Weapons) specifically in order to address EU concerns regarding firearms modification, including the problem of convertible weapons, and to achieve approximation between the draft legislation and EU regulations. The proposed amendment states, *"It is prohibited to convert weapons from one category to another meaning making non lethal weapons lethal"*.<sup>223</sup> Only registered weapons can be repaired. In each case, all relevant permits must be presented prior to repair. Repairs must be certified, and any changes to the main parts of the firearm that would result in a different 3-D image upon scanning as compared to images taken of the weapon prior to repair must be registered and the specifications recorded.<sup>224</sup>

221 As set forth in 'UNMIK/DIR/2003/1'.

222 'Draft Law on Weapons', Article 27.

223 *Ibid.*, Article 40.12.

224 *Ibid.*, Article 51.10.

## Deactivation

Procedures for deactivation are clearly laid out in the Draft Law on Weapons to ensure that a deactivated weapon is permanently inoperable and cannot be reactivated. The law specifies a series of techniques for deactivation.<sup>225</sup> These go beyond the minimum standards set by EU regulations, in which best procedures have yet to be defined.

## Transfer

Transport of weapons and parts of weapons requires approval and licensing for legal entities. Individuals must acquire permission to transfer weapons based on specific legitimate pursuits, as members of registered organisations, such as hunters and sporting shooters.<sup>226</sup>

## Penalties

Under existing UNMIK regulations on weapons, the carrying and possession of a gas or blank-firing weapon carries the same penalty as that for any other firearm or weapon as promulgated in the Criminal Code of the UN administered territory of Kosovo.<sup>227</sup> The draft Law on Weapons includes references to penalty provisions for both natural persons and legal entities. Responsibility for criminal offences remains based on the provisions of the Criminal Code for the UN administered territory of Kosovo. Amendments to the draft Law on Weapons proposed by the Ministry of Internal Affairs in cooperation with UNDP KOSSAC impose penalties for firearms offences relevant to convertible weapons. Penalties are strict and dissuasive including hefty fines and prison sentences. Prison sentences of up to eight years may apply to crimes involving the sale of untested or unmarked firearms.<sup>228</sup>

The Criminal Code applies penalties to license violations and to the possession, carrying, production or modification of weapons.<sup>229</sup> All unlicensed weapons are equally subject to prohibition under UNMIK regulations. Modifying a non-lethal convertible weapon into a lethal live-fire weapon would be considered a type of illicit production according to the Criminal Code. The act of modifying an illicit weapon could lead to a sentence of three months' to five years' imprisonment. This penalty also applies to the manufacture and procurement of weapons designed to commit criminal acts. The law also applies to the equipment necessary for weapons manufacture or for illicit weapons conversion. The law stipulates, however, that the perpetrator must have known the weapon was destined to be used in a criminal manner when committing the act of manufacture or modification.<sup>230</sup>

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225 *Ibid.*, Article 54.

226 *Ibid.*, Article 59 to Article 64.

227 Interview with Public Prosecutor, Prishtinë/Priština District, 12 June 2009.

228 'Draft Law on Weapons', Article 72 through Article 76.

229 'Criminal Code of Kosovo', Article 327, Article 328 and Article 330.

230 *Op. cit.*, Public Prosecutor, 12 June 2009. See 'Criminal Code of Kosovo', Article 330, on 'Manufacturing and Procuring Weapons and Instruments Designed to Commit Criminal Offences.'

## Recommendations

- The existing assessment that all convertible types of weapons are being addressed either through complete prohibition of the weapon type or through adequate regulation of controlled weapon types must be regularly monitored. In particular, the national catalogue of weapons should refer to and confirm which weapons category applies to blank-firing, signal and alarm weapons, and should specify how these weapons fall under the definition of light-acoustic weapons.
- Consolidate, in a readily available format, all of the existing articles under the draft Law on Weapons and provisions in the Administrative Instructions that apply to convertible weapons for easy reference by prosecutors, the legal establishment, and law enforcement agencies.
- Promote an understanding of the risks of modified or convertible weapons as compared to other elements of the small arms strategy. Relevant bodies should promote public awareness initiatives concerned with the transition to the new Law on Weapons and the implementation of specific provisions of the law, such as possession and licensing. Such promotion should also take place during any future firearms amnesties.
- Ensure that secondary legislation requires the registration of persons employed by entities permitted to produce or repair firearms, including registration of their skills and training.

STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Convertible weapons</b>	<b>Article 1 (ANNEX I)</b> “Firearm” expels, is designed to expel or may be converted to expel a shot, bullet or projectile... if: – it has the appearance of a firearm, and – as a result of its construction or the material from which it is made, it can be so converted	No reference to ‘convertible’ in the definition of firearms; however ‘converted weapons’ are included in draft legislation specifically to address the issue and numerous other provisions to regulate illicit conversion exist	<b>Draft Law on Weapons, Article 2, Paragraph 1.7, Paragraph 1.8, Paragraph 1.10, Paragraph 1.16 and Paragraph 1.17; Article 3, Paragraph 1, Paragraph 2, Paragraph 2.1, Paragraph 2.4 and Paragraph 2.8; Article 40.12</b>
<b>Categories of firearms</b>	<b>ANNEX I</b> Category B – Firearms subject to authorization 1. Semi-automatic or repeating short firearms	Gas-firing weapons – Category A Short barrelled Firearms – Category B Alarm Pistols – Category C	<b>Draft Law on Weapons, Article 4, Paragraph 1.1, Paragraph 1.2 and Paragraph 1.3</b>
<b>Category restrictions</b>	<b>Article 7</b> No one may acquire a firearm classified in category B unless that State has so authorized	Semi-automatic or repeating short firearms require authorisation for acquisition; gas-firing weapons are prohibited; firearms for light-acoustic signalization, including alarm pistols, may be purchased subject to a permit with additional conditions	<b>Draft Law on Weapons, Article 17, Article 23 and Article 6</b>
<b>Marking and Tracing</b>	<b>Article 4 (2) and (4)</b> Any firearm or part placed on the market has been marked and registered or that it has been deactivated. Dealers shall be required to maintain a register all firearms	Consistent marking provisions including import marking	<b>Draft Law on Weapons, Article 56; Article 58</b>
<b>Licensing</b>	<b>Article 5</b>	Criminal and character assessment requirements are beyond minimum criteria for both the current and draft laws	<b>Implementing UNMIK Regulation NO. 2001/7 on The Authorization Of Possession Of Weapons In Kosovo (UNMIK/DIR/2003/1)</b> <b>Draft Law on Weapons, Article 7 to Article 11</b>
<b>Dealers</b>	<b>Article 4 (3)</b> Private and professional integrity	Permits for these enterprises require the same extensive criminal and character requirements as firearms licensing	<b>Draft Law on Weapons, Article 22 and Article 27</b>
<b>Modification</b>	<b>Article 1 (ANNEX I)</b> <b>Article 2 (a)</b>	Addresses converted weapons specifically and also requires comprehensive testing marking and verification of repairs	<b>Draft Law on Weapons, Article 40.12 and Article 51.10</b>
<b>Deactivation</b>	<b>Category D - III</b> Rendered permanently unfit for use by deactivation... incapable of a modification that would permit the firearm to be reactivated in any way	Legislation specifies the methods for rendering firearms permanently inoperable	<b>Draft Law on Weapons, Article 2, Paragraph 1.35 and Article 54</b>

STANDARD	DIRECTIVE 91/477/EEC	COMPLIANCE (MINIMUM CRITERIA)	LEGISLATIVE REFERENCE
<b>Transfers</b>	<b>Articles 11 and 12</b>	Regulates closely the international movement and sale of firearms	<b>Draft Law on Weapons, Article 59 to Article 64</b>
<b>Penalties</b>	<b>Article 16</b> Penalties provided for must be effective, proportionate and dissuasive	Punitive measures address illicit modification and the manufacture of weapons for criminal purposes	<b>Draft Law on Weapons, Article 72 through Article 76</b> <b>Criminal Code, Unauthorised Supply, Transport, Production, Exchange or Sale of Weapons, Article 327;</b> <b>Unauthorised Ownership, Control, Possession or Use of Weapons, Article 328; Manufacturing and Procuring Weapons and Instruments Designed to Commit Criminal Offences, Article 330</b>

Table: Comparison between legislation in United Nations administered territory of Kosovo and EU regulations











South Eastern and Eastern Europe Clearinghouse  
for the Control of Small Arms and Light Weapons

Hadži Milentijeva 30  
11 000 Belgrade, Serbia  
Tel. (+381) (11) 344 6353  
Fax. (+381) (11) 344 6356  
URL: [www.seesac.org](http://www.seesac.org)  
Email: [info@seesac.org](mailto:info@seesac.org)

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