**Answer by Romania to the questionnaire on**

**„Human rights and the regulation of civilian acquisition, possession and use of firearms”**

**1.** The legal regime of weapons and ammunition is regulated by the following documents:

1. Law 295/2004 on the regime of weapons and ammunition , republished
2. Rules for the application of Law no. 295/2004, approved by Government Decision no. 130/2005 , as amended and supplemented,
3. Rules for the application of the provisions of Chapter VI of Law no. 295/2004 on the regime of weapons and ammunition , approved by GD 1914/2006 ,
4. Order of the Ministry of Internal Affairs nr.389 / 2004 on the organization and functioning of the National Firearms Register, as amended and supplemented;

In accordance with art.3 of Law no. 295/2004, the Romanian Police is the authority that controls the possession, carrying and use of weapons and ammunition, as well as the operations with arms and ammunition.

According to Article 6 para (1) of Law no.295 / 2004, any natural or legal person who meets the conditions established by the law is entitled to have at his domicile, residence, place of business arms and ammunition.

Art. 4 (2) - (4) of the previously cited legislative act contains provisions concerning the categories of weapons that can be held or, where applicable, worn and used by individuals, such as:

1. lethal weapons in B category of the Annex to the Law no.295 / 2004 may be held or, where applicable , worn and used by individuals only with gun license and by legal persons can be held and used only under the authorization according to the law;
2. Non-lethal weapons in categories C and D of the Annex to the law may be held and, where applicable, worn and used by natural or legal persons, provided that the procedures for registration or authorization , if any , to / from the competent authorities , under the terms of this act are met;
3. weapons and non-lethal devices in E category of the annex to the law may be held and, where applicable, worn and used by individuals and businesses , without fulfilling the registration or authorization procedures, as provided by law.

**2.** Regarding legally constituted "private security companies", they fall into the broad category of legal persons, and according to Law no.295 / 2004, they may hold and, where appropriate, wear and use certain weapons, expressly provided for by the legislation of reference. As a particularity in regard to "private security companies" in Article 2 pct. III.2. it includes the definition of weapons of defense and security, which are short firearms recognized as provided by law, for safeguarding the life, physical integrity and freedom of persons and property belonging to individuals or legal entities, and the pct. III .3. Weapons are defined utility, which is owns, among others, conduct by specialized security and protection companies, the activities of security objectives, goods, values, and the transport of goods and values, activities for the protection of persons.

**3.** Regarding any import -export restrictions for certain categories of firearms recalled that under Art. 5 (2) of Law no.295 / 2004, is prohibited the purchase, holding, carrying, use, import, export and marketing by natural or legal persons (...) of the following systems and devices for the weapons:

a) sighting systems that operate on the principle of laser sighting;

b) sighting systems at night;

c) devices designed or adapted to diminish the sound caused by firing a load .

According to the Annex of theLaw no.295 / 2004 the following types of firearms are prohibited from being sold on the market:

1. Explosive or incendiary instruments and military missiles launchers and corresponding ammunition
2. Automatic firearms and appropriate ammunition
3. Firearms disguised as another object
4. Ammunition with penetrating explosive or incendiary like projectiles for such ammunition
5. Pistol ammunition and revolver with expanding projectiles and those projectiles, except in the case of weapons for hunting or target shooting for persons entitled to use these weapons
6. The weapons that have the technical features of lethal weapons or , when applicable, non-lethal weapons, but not in the annex to theLaw no.295 / 2004

**4.**Romania has notified the United Nations Convention against Transnational Organized Crime and the Protocols Thereto (UNTOC) and has adhered to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition. Also, Romanian police experts are part of the expert coordinators group of the Regulation no. 258/2012 of the European Parliament and of the Council **of 14 March 2012 implementing Article 10 of the United Nations’ Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organized Crime (UN Firearms Protocol), and establishing export authorization, and import and transit measures for firearms, their parts and components and ammunition.**

**5.** According to art. 4 (2 ) - ( 4) of Law no.295 / 2004 , lethal weapons in B category of the Annex to the law may be held or, where applicable , worn and used by natural persons only under gun license and by legal persons can be held and used only under a permit issued under the law. Lethal weapons in categories C and D of the Annex to the law may be held and, where applicable, worn and used by natural or legal persons, provided that the procedures for registration or authorization, if any, to/by competent authorities, provided by law. Weapons and non-lethal devices in E category of the annex to the law may be held and, where applicable , worn and used by individuals and businesses, without fulfilling the registration or authorization procedures, as provided by law.

**6.** Art.2 point II -IV of Law no.295/2004 contains provisions on firearms categories, as follows:

1. weapons - weapons listed in A category of the Annex to the Law, whose purchase, possession, carrying and use are prohibited to individuals and businesses, except public institutions with competence in the field of defense, public order and national security units under its subordination or coordination, established by laws, as well as national companies established by normative acts to produce such weapons.
2. lethal weapons - the weapons whose use can cause death or serious injury to persons and are provided in Annex B of the law
3. Non-lethal weapons - weapons intended for commercial or recreational purposes or self-defense, made so by their use will not cause death of persons; ancient weapons are assimilated to this category.

In terms of destination, firearms are classified as follows:

1. military weapons - weapons for military use;

2. defense and security weapons - short firearms recognized as provided by law, for safeguarding life, physical integrity and freedom of natural persons and property belonging to individuals or legal entities;

3. self-defense weapons - short -lethal weapons, specially made to spread harmful gases, irritants, neutralization and rubber projectiles, for the purpose of self-defense;

4. marksmen shooting weapons - guns for target shooting practice recognized in the legal conditions;

5. hunting weapons - weapons for hunting, with one or more pipes, using bullet or and pellet ammunition recognized in the legal conditions;

6. utility weapons - weapons designed to ensure the proper conduct of activities in the fields of cinema, theater, artistic, sporting, cultural, industrial, agricultural, fisheries, veterinary medical, environmental protection and protection against pests and activities conducted by specialized security companies and protection of guarding of objectives, goods, valuables and transport of goods and values, activities to protect people;

7. entertainment weapons and devices - non-lethal weapons and devices built on principles similar to weapons that do not use ammunition that casts nonmetallic projectiles and are designed to be used both for recreational purposes and during competitions; shooting bows are included in this category;

8. guns replica airsoft type - replicas of real weapons and military devices at 1/1 scale, with electric mechanism, mechanical or gas-fired weapons built on similar principles, which do not use ammunition that cast nonmetallic projectiles;

9. paintball devices – non-lethal gas - based mechanism or mechanical devices, throwing projectiles filled with spherical non-metallic paint;

10. stunning weapons - weapons vans, used to immobilize animals, subjecting them to a mechanical shock in order subsequent slaughter;

11. arms for industrial use - commercial firearms, semiautomatic, intended for industrial civil use which resemble automatic firearms;

12. tranquilizer guns - weapons used for restraining animals by injecting tranquillizers;

13. panoply weapons - firearms that became inoperable due to their deactivation or due to the advanced degree of deterioration, certified by an authorized dealer under the law;

14. collectable weapons - weapons intended to be museum pieces, and the weapons that are not functional, which are rare or have historical, artistic, scientific or documentary;

15. old weapons - lethal weapons produced before 1899 and/or a replica thereof, intended to be kept in collections;

16. props weapons - especially manufactured weapons, produced or rendered harmless due to their amendment by an authorized dealer, market needed specialized institutions in the arts.

In terms of construction, weapons are classified as follows:

1. air guns or pressure gases – weapons that for throwing projectile use compressed air expansion force or cylinder pressured gas;
2. short firearms - weapons whose barrel do not exceed 30 cm or whose overall length doesn’t exceed 60 cm;
3. long firearms - weapons whose length of pipe size or length exceeds short firearms’ length;
4. automatic firearms - weapons which, after each fired cartridge automatically reload and shoot several more cartridges by holding the trigger;
5. semiautomatic firearms - weapons which after each fired cartridge automatically recharge, but do not shoot a series of multiple cartridges by holding the trigger;
6. repeating firearms – firearms which after each shot fired reload manually by entering the pipe taken from a cartridge through a mechanism;
7. one shot firearms - gun with no magazine which is loaded after each shot by manually inserting the cartridge in the loading chamber or in a place specially provided at the pipe entry;

**7.** According to Article 2 of Law pct.VI 295 /2004 an individual must hold a gun license, document proving the right to own and where appropriate, to carry and use lethal or non-lethal weapons subjected to authorization, whose type, brand, serial number and caliber are included in this document and corresponding ammunition.

As the conditions for issuance/extension gun permit, article 25 of Law no.295 / 2004 stipulates the following:

1. gun permit is valid for five years, which term shall be calculated from the date of issue or, where appropriate, since the last extension;
2. to extend the gun permit, the owner thereof shall submit before the deadline provided in par. (1) the competent police structure in whose jurisdiction they have domicile or residence permit with weapons entered and documents established in norms for the implementation of the Law no.295 / 2004 , approved by GD no.130 / 2005, as amended and supplemented;
3. gun license validity is extended by the competent authority for a period of 5 years if the holder meets the requirements of the law , and weapons for use in the law have made ​​periodic technical inspection

**8.** Civilians may own several weapons for hunting and marksmanship. Moreover, according to Article 63 para (2) a) of the Law no.295 / 2004 carrying non-lethal weapons is prohibited, intended for self-defense, in crowded places, stadiums, theaters and public gatherings, and other public gatherings where the use of such weapons is prohibited by law. Also, according to article 65 par (5) of the law, carrying and use of weapons or lethal devices intended for entertainment and shooting are prohibited in public places, which may only be used in enclosed spaces that are not available to public or in special designed places or marked in such a way as not to endanger the physical integrity or life.

**9.** Storage and carrying of lethal weapons are laid down in Article 31 of Law no.295 / 2004, as follows:

1. the person who has the right to wear and use lethal weapons is required to keep the registered gun and ammunition safe, not to allow access to unauthorized personnel;
2. keeping the weapon and ammunition in special designed places at the domicile or residence of the person, as specified in the Implementing Rules of the Law no.295 / 2004;
3. weapon of defense and security may only be worn by the permit holder, with the following cumulative conditions:
* it must be ensured and not be armed;
* no damage, unless it is transported to the dealer;
* must permanently stay inserted into the holster and concealed, unless the person is authorized by law to use;
* to be permanently only on himself and not be handed in any way to other people, except to dealers, intermediaries, police authorities, as well as personnel authorized by law to preserve and to ensure the temporary safety of weapons, at the entrance in public, in naval and air transport and in other places where carrying weapons is prohibited by law;
* the holder not to be under the influence of alcohol or narcotics, drugs with similar effects or in advanced state of fatigue or not to suffer from temporary illnesses that can generate a state of danger, while carrying gun on to.

Concrete issues concerning the preservation and carrying of weapons are regulated in Article 14 of the Implementing Rules of the Law no.295/2004, approved by GD no.130/2005, as:

1. owner of the weapon holding rights has to keep lethal weapons and ammunition at home or residence mentioned in gun license, in specially designed cabinets or metal boxes, approved by the National Authority for Approval of firearms and ammunition, which are provided with at least two independent systems closing, cipher or key, so as to not allow unauthorized persons’ access.
2. lockers or, where appropriate, the boxes above mentioned shall be provided with separate compartments which are each with a locking system for storing ammunition separately from guns, the locks belonging to rifles and, where appropriate, the third piece of the long pipe dump lethal weapon.
3. long-lethal weapons with semiautomatic operating system are kept only with a special device approved under the law, intended to lock the trigger.
4. in case of more than 15 lethal weapons, the holder has an obligation to ensure at the address provided in the gun permit a room specially equipped for storage, equipped with electronic alarm, endorsed by the police and connected to warning and specialized intervention dispatchers.

Regarding the loss or theft of firearms, according to Art.7(1) of Law no.295 / 2004 lethal or non-lethal weapons holders have to immediately notify but no later than 24 hours, the nearest police authority, the disappearance, loss or theft of these weapons .

**10.** According to article 97 of Law no.295 / 2004, within the General Inspectorate of Romanian Police is established the National Firearms Registry, as a complex system to process data regarding weapons, gun owners and operations with weapons and ammunition. Retention period of the data contained in the National Firearms Registry is 20 years. The General Inspectorate of Romanian Police exercises, through the structure which manages the National Firearms Registry, the following responsibilities in managing the regime of movement of weapons and ammunition:

* + 1. maintain records of transactions with arms and ammunition, and of the people who have purchased and to whom these were alienated;
		2. manage records of dealers and brokers that operate transaction with weapons, parts and ammunition;
		3. maintain records of the procedural steps taken by the competent authorities in cases of declaration of loss, theft or destruction of weapons and ammunition in circulation, operating corresponding entries in the records;
		4. cooperate with similar foreign institutions and diplomatic missions and consular offices abroad to monitor operations with firearms, parts and ammunition.

Issues related to the organization and functioning of the National Firearms Registry, and access to it are established by Order of the Ministry of internal Affairs no.389/2004.

**11.** Regarding the issue of ownership transfer of firearms between natural persons, according to Article 17 para.( 4) in conjunction with para. ( 1) of Law no.295 / 2004, the purchase of weapons from other natural or legal person can only be done through a dealer or authorized intermediary to market weapons in Romania, also from any authorized person from outside Romania, which sells under the law of the country where guns are in this category .

**12.** Romanian Companies may be authorized by the specialized structures of the Romanian Police to trade firearms, parts and ammunitions. In order to obtain such an authorization, trade companies must prove they own properly secured spaces to deposit and sell firearms, parts and ammunition, and the administrator, associates and manager of the company must have judicial, medical and behavioral credit - worthiness.

**13.** It is illegal according to art. 342 of the Penal Code to own guns without the proper permits, own a larger number of firearms and ammunition than authorized or owning prohibited firearms.

**14.**Statistic data related to all the crimes covered by the Romanian legislation, Penal Code, special laws and even poaching, committed with firearms (lethal and non-lethal) is collected.

**15.**Annual average of murders committed with firearms is 10, but the high majority is actually manslaughter due to misuse of firearms during hunting. Therefore, there is no significant impact on human rights, regarding public safety, but the Romanian Police supervises these types of activities.

**16.**In order to lower the risk of misuse of firearms by civilians, the Romanian Police has taken measures to supplement and modify the legal provisions setting up tighter rules for firearms procurement by civilians, on one side and on the other side to develop various sweeps and awareness campaigns for firearms owners.

**17.** In order to protect himself or in case of necessity, every citizen has the right to own firearms as long as he complies with the national legislation, as previously mentioned.