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Podgorica,03.12.2015.

**Questionnaire**

**Human Rights Council resolution 29/10 on "Human rights and the regulation of civilian acquisition, possession and use of firearms"**

**(Answers to the questionnaire)**

1. The Law on Weapons ("Official Gazette of Montenegro", No. 10/15) regulates the acquisition, possession, carrying, collecting and transmitting, as well as conditions for the production, testing and marking of firearms, repair and conversion, trade and transport of weapons, provision of sports and recreational shooting and training citizens for the proper use of firearms. Please, note that there were adopted the regulations for implementation of the mentioned Law: Rulebook on forms of documents on weapons ("Official Gazette of Montenegro", No. 35/15); Rulebook on the means of disabling the weapons ("Official Gazette of Montenegro", No. 34/15); Rulebook on the manner of disposing of seized and surrendered weapons and ammunition ("Official Gazette of Montenegro", No. 36/15); Rulebook on the mode of training citizens for the proper use of weapons ("Official Gazette of Montenegro", No. 34/15); Rulebook on conditions for the production, sale, repair and conversion of weapons and ammunition ("Official Gazette of Montenegro", No. 43/15) and Rulebook on conditions that must be fulfilled by the civil shooting range ("Official Gazette of Montenegro", No. 43/15). On the procedures carried out in accordance with the Law on Weapons, the Law on Administrative Procedure ("Official Gazette of Montenegro", no. 60/03 and 32/11) shall be applied.
2. The authorization for acquisition of weapons of Category B shall be issued to the legal entity if: it has a justified reason to acquire a firearm (registered for hunting activity, wild animals breeding, sport shooting, sport and recreational shooting and training of citizens for proper use of weapons at the shooting range mercury, possession and carrying of weapons, for performing physical protection of persons and property, scientific research for which weapons are necessary, collecting technical data on animal species, making films, showing theater performances or hold traditional knight games and other events which represent cultural heritage, etc., museums and the like); the responsible person in the legal entity meets the general and special conditions for the purchase of weapons; has the premises for the safe storage and safekeeping facilities fpr the firearms.

For the weapons which were acquired on the basis of a license to buy weapons, a legal entity shall submit an application for registration, in its headquarters, within eight days from the date of purchase and shall be issued a permission to hold a firearm with a validity period of ten years.

It is forbidden to carry weapons in public, except for legal entities (security guards, as well as members of sports, shooting and hunting organizations) who can carry weapons while performing tasks for which they are registered. Please note that legal entity may make the use of weapons for the execution of the activities to persons who meet the requirements for the procurement of weapons, whom will be certified for possession, carrying and transferring of weapons and ammunition.

1. Questions of control of small arms and light weapons are regulated by: Law on Weapons ("Official Gazette of Montenegro", No. 10/15), the Law on the Prevention of Money Laundering and Financing of Terrorism ("Official Gazette of Montenegro", No. 33/14), the Law on Foreign Trade in Arms, Military Equipment and Dual-Use Goods ("Official Gazette of Montenegro", No. 80 / 08 and 40/11), the Criminal Code ("Official Gazette of Montenegro", no. 70/03, 13/04, 47/06 , 40/08, 25/10 and 32/11) and the Law on Criminal Procedure ("Official Gazette of Montenegro", no. 57/09, 49/10, 47/14, 2/15, 35/1558/15).

Natural and legal persons are prohibited the purchase, possession and carrying of weapons and ammunition of category A and cold weapons the primary purpose of which is to attack or injure, as well as items suitable for inflicting injuries when worn in public, and the manner and circumstances of their wearing indicate that that those are being carried to be currently used for harassment, assault, or the infliction of injury.

1. Montenegro shall guarantee and protect the rights and freedoms that are exercised on the basis of the Constitution and ratified international treaties. Based on the principles and rules of international law, it shall cooperate and develop friendly relations with other countries, regional and international organizations. It is involved in international and regional activities in combating the organized crime, as an important dimension in the control of small arms and light weapons and ammunition. Montenegro is a member of the United Nations since June 28, 2006, the Organization for the Prohibition of Chemical Weapons (OPCW), the World Customs Organization (WCO), the International Criminal Police Organization (INTERPOL), the World Trade Organization (WTO). Montenegro implements the necessary measures, as well as international and regional cooperation, especially with the largest regional security organization, the OSCE, aimed at improving control in this area. It actively implements the Programme of Action of the United Nations to prevent, combat and eradicate the illicit trade in small arms and light weapons. Also, it is implementing the Stabilisation and Association Agreement between Montenegro and the Union and its Member States, thus contributing to combating organized crime and improve security.

The Ministry of Interior, being the leading one in the Government in implementing the Strategy for the control and reduction of small arms and light weapons and ammunition, for the period 2013-2018 and the Action Plan, on November 6, 2014, signed a Memorandum of Understanding with the United Nations Development Programme, the Organization for Economic Cooperation and Development and the Center for Democratic Transition - non-governmental organization, in order to improve the capacity and law enforcement in the field of control and arms reduction. The memorandum is the basis for realization of the project "Respect life - return arms", which is implemented in our country. Also, the project "Respect life - return arms" (the name of which is withheld from earlier), is supported by the Directorate, OSCE and UNDP, with the active participation of NGOs, in order to surrender weapons in lawful and unlawful possession of individuals and legal entities.

The Law on Weapons, which entered into force on March 19, 2015, stipulates that a physical or legal entity who illegally possesses weapons is obliged to report the possession of weapons to the police in the place where the weapon is located, for giving over or incapacitating, while the law is in force. Police officer takes the weapon and ammunition in a place where it is located. Also, a person who possesses weapons of category B without the weapons documents can report the possession of these weapons and submit an application for the issuance of the weapons certificate, which will give exact data on those weapons not later than two years after the entry into force of this Law or to give it to the country at its disposal or to disable it and keep as a souvenir. Against persons who give over their weapons or apply for registration thereof, a criminal proceeding shall not be initiated. Please note that we, in 2014 and 2015, marked the 09th July and destroyed 2,346 pieces of weapons, in cooperation with the UNDP Office in Podgorica (seized weapons and handed over), as well as that, as of the entry into force of the Law on weapons, there were handed over 239 requests for registration of weapons - without origin, as well as that, out of the registered weapons, 200 were handed over to the state at its disposal.

The Law on Weapons prescribes the legal framework harmonized with the EU Directive 91/477 / EEC and Directive 2008/51 / EC, for the implementation of which there were adopted the by-laws, as well as with United Nations standards.

1. Physical and legal entities may purchase and possess weapons of category B, C and D.

It is not limited the number of weapons in the possession of physical entities.

1. The weapons are classified into categories A, B, C and D. It is prohibited a purchase, possession and carrying of weapons and ammunition of category A and cold weapons the primary purpose of which is to attack or injure, as well as items suitable for inflicting injuries when worn on a public place, and the manner and circumstances indicate that those are carried to be currently used for harassment, assault, or the infliction of injury. It is allowed the acquisition, possession, carrying and transferring of weapons and ammunition, weapons of the category B - if issued an appropriate document on weapons; of category C - if it is reported and category D - without the weapons documents and reporting.

Category A weapon is: a military projectile with explosive charges and pitcher; automatic firearm; firearms disguised as other objects; Ammunition with penetrating, explosive or incendiary projectiles and the projectiles for such ammunition; ammunition for pistols and revolvers with a projectile that has a fragmentation effect and projectile for such ammunition, except ammunition for hunting or sport shooting; military weapons; explosive weapons and their parts; all kinds of weapons with silencers and integral silencers intended for weapons.

The weapons of the category B: semi-automatic or repeating short firearms; short firearms for single fire with central ignition; short firearms for single fire with perimeter lighting, with a total length up to 28 cm; semi-automatic long firearms with magazine and chamber that can hold more than three rounds; semi-automatic long firearms with magazine and chamber that can hold more than three rounds, in which the mechanism for filling can be removed, or when it is uncertain whether the weapons are so constructed that those can be converted by ordinary used tools to a weapon with a magazine and chamber that can hold more than three rounds; repeating and semi-automatic long firearms with smooth pipes with a total length up to 60 cm; repeating long firearms that are not included in paragraph 6 above; long firearms with single fire with one or more grooved tubes; semi-automatic long firearms other than those in paragraphs 4 to 6 above; short firearms for single fire with border burning of a total length of more than 28 cm; long firearms with single fire, with one or more the smooth tubes; antique weapons; long firearms with single fire with a combination of smooth and grooved tubes; semi-automatic firearms for civilian use, similar to automatic firearms, which were not included in the listing above.

The category C weapon is: gas weapons; reproduction of firearms in which it is not used a single charge; mortar; air guns the kinetic energy of which is greater than 10.5 J or velocity of the projectile is greater than 250 m / s or is of a caliber of 4.5 mm; weapons with tendon with the force of tendon greater than 450 N.

The category D weapon is: air weapons the kinetic energy of which is 10.5 J or velocity to 250 m / s and caliber up to 4,5 mm; weapons with tendon with the force of tendon less than 450 N; electric stun gun; atomizer; weapon.

The main parts of the weapon, when those are detachable items, are included in the categories of firearms that are set or are to be set to.

7. a) An approval for purchase of a Category B weapon is issued to a physical entity for personal safety or the possession and carrying of hunting and sporting weapons, if it meets the general and specific requirements of this law (Article 13). General conditions for issuing a license to buy weapons in category B to a physical entity are the following: having a justifiable reason for acquiring weapons (personal security, and hunting and sporting weapons); he/she has reached 18 years of age; he/she has not been convicted of crimes against: constitutional arrangement and security of Montenegro, humanity and other goods protected by international law; life and body, general safety of people and property, as well as offenses that contain elements of violence, and are contained in crimes against: property, freedom and human and civil rights, sexual freedom, marriage and family, justice, public order and peace, official duty, the Army, the environment related to the killing and torture of animals, or if these offenses are initiated proceedings against; he/she has not been convicted for an offense that suggests that the weapons could be misused, especially for an offense involving violence in the family, and that has not been prosecuted for these offenses; there are no circumstances indicating that the weapons could be misused, especially: alcohol, drugs or other psychoactive substances used, disrupted family relationships, conflicts with the environment, aggressive behavior, as well as other behavioral disorders, disciplinary infringement of regulations on hunting or sport shooting (the police officer seeks and collects data and information about these facts).

Special conditions for granting authorization for the purchase of weapons to a physical enity are the following: he/she is medically fit to possess and carry weapons; has technical skills for a proper use, possession and carrying of weapons.

b) For the weapons which were acquired on the basis of the authorization to acquire a firearm or is inherited, a physical entity shall apply for registration, in the place of residence or place of residence within eight days from the day of its purchase. He/she shall be issued a firearm license to possess weapons for personal security and weapons licence for possession and carrying of weapons for hunting and sporting weapons, with a validity of ten years.

A physical or legal entity the weapons licence of which expired must apply for a new document, within 30 days of the expiration date. Namely, it is checked whether the person meets the requirements (whether legally convicted or the proceedings were instituted for certain crimes or offenses; whether there are circumstances indicating that the weapons could be misused and whether he/she is medically capable). If it is determined that a gun owner does not meet the conditions, the cited weapons will be confiscated.

1. It is forbidden to carry weapons in public, except for use in the hunting field, shooting range, a sports competition or other place designated for the shooting exercise, and a physical entity who has been issued a license to possess weapons can transfer weapons only to rebuild, convert those or in the case of a change of residence or to carry it only for use at the shooting range. A physical entity must not carry and use weapons when under the influence of alcohol, drugs or other psychoactive substances. It was set the procedure for confiscation of weapons, ammunition and weapons licences from physical or legal entities, if the owner fails to fulfill any of the conditions as in the case when it is determined that the weapon was technically incorrect.
2. Weapons and ammunition must be stored so that they are not accessible to unauthorized person, especially a juvenile, locked away in a separate metal cabinet, safe or similar store or to another safe way, in a residential or other area of the gun owners that are located in the residence place or residence or headquarters of the legal entity.

A natural or legal person holding a weapon based on a firearms licence shall immediately report the loss or theft of weapons and ammunition, to the police in the case occurrence or his/her knowledge of the loss or theft. The person who finds the weapons or ammunition, or finds out of the hidden weapons or ammunition is obliged to promptly inform the police (Article 39 and 40).

1. There were prescribed the records are in electronic form, as well as deadlines for keeping data.

a) The Ministry of Interior shall keep the records of: the registered firearms, the European pass for weapons and other weapons documents issued on the basis of certified international treaties; registered firearms in category C; given over the firearms and ammunition; Seized weapons and ammunition; issued permits for manufacturing weapons and ammunition, transportation of arms and ammunition, arms brokering; repair and conversion of weapons, transport of weapons and ammunition, as well as for the provision of sports and recreational shoot at the civilian shooting range and the training of citizens for the proper use of firearms; certificates for individual filling ammunition - issued by hunting or shooting organizations, and the authority of the state administration responsible for the economy of manufactured and supplied arms and ammunition, which are kept permanently.

a) The police keep records of: applications of the loss, theft and finding the weapons and ammunition; found weapons and ammunition; temporary seized weapons and ammunition, as well as documents on weapons; Transferred weapons across state borders and issued permits for the weapons and ammunition are kept for five years.

c) diplomatic and consular missions of Montenegro keep the records on the entry of weapons and ammunition in a travel document that is kept for five years.

* The state authority responsible for health affairs shall keep records of issued certificates of medical fitness for possession and carrying of weapons, which are kept for five years.

The records are kept by:

1. a physical or legal entity involved in collection of old weapons, collected old weapons;
2. a company or entrepreneur who is engaged in the production of weapons and munitions on manufactured and supplied weapons and ammunition, as well as the testing and marking of firearms and its main parts; traffic in arms and ammunition on acquired and sold weapons and ammunition; mediation in transport of weapons, the purchase, selling or arranging the transfer of weapons between manufacturers and firearms dealers;

repair and conversion of weapons: repaired and converted weapons, weapons testing, as well as permanently incapable weapons, which are kept permanently.

1. A company or entrepreneur who is transporting arms and ammunition, on completed transport of weapons and ammunition, as well as on the transporter, the recipient, the manufacturer, type and quantity of arms and ammunition, which are transported, which are kept for five years;
2. a legal entity or entrepreneur who is engaged in providing sports and recreational shooting at the civilian shooting range, as well as for the training of citizens for the proper use of firearms on acquired weapons, use of weapons, acquired and used ammunition and issued certificates of qualification for a proper use of firearms , which are kept for five years;
3. In a case of expired existence of the company, other legal entity or entrepreneur, the records that those have maintained in relation to: antique weapons; repair and conversion; transport; sports and recreational shooting; shall be submitted to the Ministry, and the records of: produced weapons and ammunition, traffic or Brokerage to the state administration body in charge of the economy.
4. The weapons and ammunition may be sold or transferred only to a physical or legal entity that holds a valid authorization to acquire weapons or weapons license for possession of weapons or weapons license for possession and carrying of weapons or approval for possession of weapons. Weapons and ammunition can be sold to an entity directly or through a firearms dealer. The firearms dealer is obliged to inform the Ministry of the firearms sale to a physical or legal entity, and the customer to submit an application for the registration of weapons within eight days from the date of sale or purchase.
5. There were prescribed the conditions for authorization for performance of activity: production of weapons and ammunition; testing and marking of weapons; transactions and dealing in arms and ammunition; repair and conversion of weapons; as well as the transport of arms and ammunition for the purpose of transport and the provision of sports and recreational shooting, issued by the Ministry, and it is required that those are registered. The conditions are that: the responsible person in the legal entity or entrepreneur or a natural person must meet the requirements for approval for the purchase of weapons, as well as the employed person who directly handle weapons; safe space for operations and storage of a firearm or ammunition; and to have an expert in handling firearms. Those are bound to comply business and industry with the law within a period of one year, and a legal entity or entrepreneur who performs the activity of providing sport and recreational shooting within two years from the entry into force of the law.
6. The Criminal Code contains the following crimes sanctioning unauthorized use of weapons and explosives: Developing and procurement of weapons and funds intended to commit a criminal offense (Article 402); illegal possession of weapons and explosives (Article 403); Illegal manufacture of weapons the use of which is prohibited (Article 433) and the use of the lethal explosives-- chemical or biological or radioactive agents or toxins (Article 447e). Specifically, it is stipulated that whoever manufactures, sells, procures, exchanges, carries or possesses firearms, ammunition or explosive devices, shall be punished with imprisonment of three months to three years, and whoever holds, carries, manufactures, repairs, processes, sells, procures, exchanges, transports or otherwise distributes a firearm, ammunition, explosive substances, fragmentation or gas weapons the keeping of which is prohibited to citizens shall be punished with imprisonment from six months to five years, and if the subject of the offence is a greater quantity of weapons or means or it is a weapon or other means of great destructive power shall be punished by imprisonment of one to eight years (Article 403).

Criminal prosecution is governed by the provisions of the Code of Criminal Procedure, so it is enabled a fair conduct of the criminal proceedings and no innocent person is convicted, and that the offender is imposed the criminal sanctions on the basis of lawfully conducted proceedings.

Criminalistic Police Sector - Department for Combating Organized Crime is responsible for prosecuting offenses of illegal possession of weapons and explosives, when committed by a group or other association or criminal organization.

Sanctions are stipulated by the Law on Weapons.

1. The Police collects and processes data on the abuse of firearms, in both legal and illegal possession of persons. The official records shall contain data on persons (personal perpetrator and the damaged party - their age, gender, address of living) and weapons (mark, type and serial number, whether it is registered), the place of event (closed space, opened one) and time (day, month and year, time of day, what day of the week is in question, etc.). Data used by the police to enforce the necessary measures to combat the misuse of used firearms shall implement international and regional cooperation.
2. The abuse of weapons threats the human rights, especially the right to life and security of the country, the region and beyond. That is why we are taking measures to reduce the number of firearms in lawful and unlawful possession, through a collection and destruction of weapons and ammunition and media campaigns, as well as the registration and recording of the permitted categories of weapons in illegal possession of individuals and legal entities, tightens criminal policy in this area and we are taking the necessary measures for safer and more efficient inventory management of arms and ammunition, which suppress the abuse of illegal possession of weapons and ammunition, which affects the increase of general security, the implementation of the obligations deriving from membership in international and regional organizations such as the UN, OSCE.
3. Research the origin of the seized firearms and ammunition and extend knowledge of methods of smuggling and other. The activities of criminal police are focused on increased action to combat smuggling, illicit manufacturing and trafficking of firearms. These activities are carried out in accordance with the Action Plan to combat illegal possession, production, trafficking and smuggling of weapons and explosives. Training of civil servants is carried out in the Training Centre of right holders of judicial office, the Human Resources Administration and the Police Academy, and the presence at international seminars and workshops.
4. We are taking actions to improve the capacities of the law enforcement services in the field of firearms control and their reduction, as well as to update the records kept in electronic form, which will contribute to more efficient work in this sensitive area, and thereby contribute to the Safety of an individual, state, region and beyond. By implementation of the regulations and compliance with the criminal policy in this area, it will be contributed to the protecting of the rights to life and security of persons.

**From the institution of the Protector of Human Rights and Freedoms**