

SEESAC South Eastern Europe Arms Law Compendium

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STATE UNION OF SERBIA AND MONTENEGRO

REPUBLIC OF MONTENEGRO

LAW ON ARMS

I General Provisions

Subject of the Law

Article 1

Supply, possession, carrying, production, proliferation and transport of arms and munitions, as well as methods of handling weapons shall be conducted under the conditions stipulated by the present Law.

The provisions thereof do not refer to arms and ammunition for use by the military, police, and other governmental agencies that procure and keep weapons according to special regulations, as well as to museum exhibits.

The provisions thereof refer to the foreigners who have been accepted as permanently or temporarily resident (minimum one year), if it has not been regulated otherwise by an international agreement.

The concept of arms

Article 2

Arms, as per this Law, are considered to be:

- 1) firearms;
- 2) air weapons;
- 3) gas munitions and pyrotechnics;
- 4) fragmentation ordnance;

- 5) bows and arrows;
- 6) bladed weapons;
- 7) main arms components.

Weapons are also considered to be devices identified as weapons by this Law.

Firearms

Article 3

Firearms are all rifles, pistols and revolvers, and any devices from which a bullet, artillery shell, round, shot, flechette or another projectile can be discharged by the propelling action of powder charge; also hand or self-supporting devices intended for creating loud shots, and designed so as not to receive the whole charge, charged from the bottom of the barrel with a quantity of black powder and initiated with the burning fuse, flint or igniter (mortar).

The firearms set forth in paragraph 1 thereof denote a short or long barrel firearm that can have bolt-action mechanism, or semi-automatic or automatic weapons.

The terms of delivery, examination, marking and use of mortars are prescribed by the Ministry for internal affairs (hereinafter referred to as: Ministry).

Air weapons

Article 4

Air weapons are all rifles, pistols, revolvers and other weapons that exert air or gas pressure which propels a bullet, shot or other projectile through the barrel.

Gas munitions and pyrotechnics

Article 5

Gas munitions and Pyrotechnics are pistols, revolvers and rifles which, when propellant actuated, diffuse harmless short-term lachrymatory substances and activate a charge intended only for creating a loud shot or firing a flare.

By harmless teargases, in terms of paragraph 1 hereof, are intended chemical compounds CN (chloracetophenon), CS (orto-chlorbenzenmalon-dinitryl) and OC (oleoresin capsicum).

Fragmentation weapons

Article 6

Fragmentation weapons are all sorts of hand grenades, mines, shells and other devices equipped with explosives or a detonator (weight, percussion, stabbing, friction, chemical

reaction, electrical primer and so on), which produces the expansion of energy and their fragmentation.

String weapons

Article 7

String weapons are bows, crossbows, catapults and other devices, which by means of a spring, or another propelling mechanism eject arrows or other similar objects.

Bladed weapons

Article 8

Bladed weapons are daggers, switch-blades, case-knives, swords, sabres, bayonets, boxers and other objects, the main use of which is to attack or to cause danger, or objects intended for inflicting injuries when carried in public or at public events.

Main arms components

Article 9

Main arms components are: rifle, pistol and revolver barrels, adapters for firearms, bolts for rifles and pistols, revolver cylinders, pistol covers, rifle cases or frames or rifle butts.

Classification of weapons according to use and special types

Article 10

According to use and type weapons are classified into:

- 1) self-defense weapons;
- 2) hunting weapons;
- 3) sporting weapons;
- 4) trophies;
- 5) old weapons;
- 6) combined weapons.

Prohibition of carrying arms in public and the concept of a public place

Article 11

It is prohibited to carry arms in public.

A public place, as set forth herewith, is a place with a free access for everyone (street, square, public road, port, beach, park, waiting room, commercial, tourist or other facility of the

kind) or else with a free access under certain conditions (sports facility, cinema or theatre hall, a means of public transport, exhibition hall and so forth), as well as any other place intended for such purposes (a place where a public meeting, a sports competition or other happening is held).

A public place, as set forth herewith, is considered to be any other place where an offense has been made, with the consequence having occurred in public.

Weapon whose supply, keeping, carrying, production, repair, remaking, proliferation and transport is forbidden

Article 12

It is forbidden to procure, possess, carry, produce, repair, remake, proliferate and transport the following weapons and ammunition, if not stipulated otherwise hereunder:

- 1) all types of automatic weapons;
- 2) other semi-automatic weapons with the magazine capacity of more than five bullets, except rifles of 22 LR calibers;
- 3) all sorts of weapons with built-in silencer, silencers for use with weapons and silencer components;
- 4) telescopic sights with light ray or an electronic light intensifier or infrared devices;
- 5) weapons intended for ejection of explosive projectiles;
- 6) weapons in the form of another object, so that from the exterior it is not recognizable as weapon;
- 7) fragmenting weapons;
- 8) ammunition the main use of which is anti-armor, ammunition with explosive, inflammable or poisonous projectiles;
- 9) ammunition for which no approval for circulation was obtained in accordance with special regulation provisions;
- 10) switch blade knife, the blade of which is pressed by a spring, and which pops out by pressing a button or a lever; boxer or metal asterisks (suriken for throwing).

The Ministry can prescribe the ban on supply, handling, carrying, production, repair and remaking, transport or proliferation other weapons as well, if required by specific safety reasons or public order protection.

Weapons in free circulation and without registration

Article 13

Individuals over 18 years of age can without an approval and registration procure:

- 1) gas munitions and pyrotechnics, bows, crossbow with the drawing power of 45 kg (100 pounds), sprays which disperse harmless lachrymatory substances, life-saving devices, devices for slaughtering cattle and other similar devices for use in industry and technology, if obtained in accordance with the regulations;
- 2) weapons obtained and kept as a souvenir and reproduction of weapons for decoration purposes, out of which no bullets can be fired, and they cannot be transformed into firing weapons;
- 3) replicas of arms and objects for play out of which only bullets with kinetic energy up to 0,5 Jules can be fired, taps provoking a blast and so forth;
- 4) underwater rifles and other objects which can eject a harpoon with the power of a spring, tightened rubber or air-pressure, and are exclusively for intended for fishing (underwater ordnance).

Meaning of terms

Article 14

Certain terms used in this Law have the following meaning:

- 1) **weapons for self-defense** are pistols and revolvers of 5,56 mm calibre and more;
- 2) **hunting weapons** are long barrel firearms of various calibers with rifling and non-rifling Barrels obtained for hunting purposes. The hunting weapons also include short firearms for firing a "merciful" shot to the game. It is not considered to be short hunting a weapon with caliber less than 7,62 mm and designed to receive ammunition whose kinetic energy is less than 300 Jules;
- 3) **sporting weapons** are long barrel firearms of flat barrels up to 12mm caliber, rifling barrels up to 8,61 mm caliber, i.e. 0,338 inches, short firearms up to 11,43 mm caliber or else 0,45 inches, pistols and revolvers of big caliber adapted for sports use, small rifles and small caliber pistols and revolvers of 5,6 mm with rifling or non-rifling barrels, air rifles and air pistols and revolvers and spring arms, as well as other weapons used in sports disciplines;
- 4) **trophies** are firearms and bladed weapons held as a souvenir from wars, and something which is a personal or a family owned trophy;
- 5) **old use weapons** are weapons which are no longer in use, weapons of a historic or artistic value, weapons which are a main part of folklore wear, arms initiated with a flint, primer or an ignition cap or other firearms, except for military and police weapons which are out-dated and useless;
- 6) **combined weapons** are weapons with two or more rifling or non-rifling barrels of different caliber;
- 7) **short firearms** are arms whose barrel is not longer than 30 cm, and their total length does not surpass 60 cm;

- 8) **long firearms** are arms whose barrel is longer than 30 cm, and their total length does not exceed 60 cm;
- 9) **bolt action mechanism weapons** are weapons, which require manual placing of a bullet into the breach by means of the bolt, after firing each individual bullet;
- 10) **semi-automatic weapons** are machines that after firing each individual bullet are again ready for fire – by pressing once the trigger and firing one bullet at a time;
- 11) **automatic weapons** are weapons out of which by pressing the trigger one or more, bullets are fired;
- 12) **weapons registration** is filing the data on the weapon and owner, or else the in-service user of weapon, for purpose of official accounting prescribed by this law; it entails issuing the respective document (weapon certificate and permission for keeping arms);
- 13) **weapon documents are:** permission for purchasing arms, weapon certificate, permission for keeping arms, permit for carrying arms, permission for arms transfer and approval for arms collection;
- 14) **permission for purchasing arms** is an arms document on whose grounds an individual, commercial society and an entrepreneur can procure arms and obtain the right of property on arms;
- 15) **weapon certificate** is an arms document issued to an individual for keeping arms for self-defense purposes and keeping a trophy or else for keeping and carrying hunting and sports arms;
- 16) **permission for keeping arms** is a document on arms issued to a commercial society and an entrepreneur for keeping arms;
- 17) **permit for carrying arms** is a document on arms issued by a commercial society or an entrepreneur, and for use of an individual who performs duties of a bodyguard of facility protection, safety of property and goods, only during the time on duty;
- 18) **permission for arms transfer** is a document on arms issued by a commercial society or an entrepreneur, by which it authorizes the person who deals with professional security and protection of facilities, property and goods, and the person who handles money or precious goods, so that he can transfer the weapon out of the facility, zone or premises it guards, or protects;
- 19) **approval for arms collection** is a document on arms, which enables an individual (collector) to collect arms, without the right to carry them;
- 20) **carrying arms** is an action implying that an individual keeps with him a weapon ready for use;
- 21) **arms transfer** is an action which implies that arms kept on the grounds of an approval or an appropriate document on arms, and having previously been registered with the relevant authority, can be transferred in case of change of residence or address of the individual, or else change of seat of a commercial society or entrepreneur, in case of repair or remake of

arms, death of the owner, or by an arms user, going hunting, to a sports competition, to the shooting range or in other justifiable cases;

22) **firearms ammunition** is a whole bullet incorporating a shell, cap, powder charge and round or shot. A bullet without a round, shell or shot is not considered to be such; industrial devices charge or cattle slaughtering charge, or a bullet for gas munitions or pyrotechnics;

23) **owner of a weapon** is an individual, a commercial society and an entrepreneur disposing of a registered weapon;

24) **authorized dealer of arms** is a commercial society or an entrepreneur, who have been authorized by this law for the trade of arms and ammunition;

25) **user of a weapon** is an individual who performs the duty of a body guard or protecting facilities and property, and to whom a weapon has been entrusted only while being on duty, and a member of a local and foreign hunting organization who has been given hunting arms and ammunition for serving purpose;

26) **joint users of a weapon** are individuals who use the same hunting or sports weapon.

II Purchase, Keeping, Handling, Carrying Arms and Ammunition and Arms Collection

1. Arms purchase

Approval for arms purchase

Article 15

Firearms and crossbow with a power over 45 kg (100 pounds) can be procured only on the basis of an approval.

The Approval set out in paragraph 1 hereof is issued by the authority responsible for arms affairs (hereinafter referred to as: the arms authority).

A request for approving arms procurement is submitted to the arms authority.

The forms from paragraphs 2 and 3 hereof are prescribed by the Ministry.

Purchase of arms with sedating substance

Article 16

The procurement of firearms with a projectile filled with sedating substances, for use in temporary animal anesthetizing, can be approved to scientific institutions, governmental authorities and other legal persons and individuals for scientific research and collection of scientific data on animal species, animal protection, as well as in other justifiable cases when it is necessary for performance of regular activity.

Conditions for issuing approvals for arms procurement to an individual

Article 17

Approval for arms purchase can be issued to an individual who fulfills the following conditions:

- 1) that he is over 21 years of age;
- 2) that he has not been prosecuted for an offence he has made while on duty, or if for such an offense no action has been taken;
- 3) that he has not been punished for an offense, or else that against him no charge has been brought indicating the potential misuse of the weapon;
- 4) that no other circumstances exist indicating the misuse of the weapon, especially: frequent and excessive consumption of alcohol; gravely disturbed family relations, neighborhood or working relations; discipline violation in the context of hunting or sporting marksmanship regulations;
- 5) that he has a justifiable reason for arms procurement;
- 6) that at a health examination it has been found out that he is capable of handling and carrying weapons;
- 7) that he is trained at handling arms and he knows the regulations related to arms handling and keeping.

Upon receiving requests for issuing approvals for arms procurement the authority will ascertain if the conditions from par. 1 items 1 to 5 hereof have been fulfilled.

The relevant authority will require from the appellant who fulfills the conditions as set forth in paragraph 1 items 1 to 5 hereof to present evidence within 60 days from the day of submitting the request, related to fulfillment the conditions specified in par. 1 items 6 and 7 hereof.

Justifiable reason for arms procurement

Article 18

An individual is considered justified for procuring arms, if:

- 1) his personal safety has been threatened;
- 2) he hunts;
- 3) he is in sports marksmanship.

Certificate of physical fitness

Article 19

A Certificate of physical fitness hereof proves conditions from article 17 par. 1 item 6.

Certificate of physical fitness for keeping or handling and carrying weapons is released by the Health institution determined by the Ministry responsible for health matters.

Closer conditions to be fulfilled by health institutions performing health examination by which physical fitness is ascertained for keeping or keeping and carrying weapons, as well as ways and procedure of health examinations, inventory of diseases and health conditions that make an individual inadequate for handling and carrying weapons, the accounting methods and medical documentation and content of the Certificate on Health Examination are prescribed by the Ministry responsible for health matters.

Certificate of training in arms handling

Article 20

Conditions from Article 17 par. 1 item 7 hereof are substantiated by:

- 1) for hunting weapons – Certificate of a completed hunting exam;
- 2) for sporting weapons – Certificate of active membership in a sports marksmanship organization;
- 3) for short firearms – Certificate on aptitude for keeping and carrying and correct use of weapons issued by the Ministry.

Programme and method of professional training as set forth in par. 1 item 3 hereof is prescribed by the Ministry.

License for arms purchase issued to commercial societies and entrepreneurs for the performance of their activities

Article 21

A license for arms purchase can be issued only to the commercial societies and entrepreneurs who directly perform duties of bodyguard or protection of facilities and goods, as well as to marksmanship organization for their activities, if they have a storage facility for safe keeping of weapons.

A commercial society or an entrepreneur who manages a hunting area, can lend hunting weapons and ammunition for shooting game, to members of local and foreign hunting organizations that have a hunting license, for a specific period of time and in a determined hunting area.

The members of foreign hunting organizations can keep their own weapons, brought to the Republic of Montenegro for hunting purposes (hereinafter referred to as: Montenegro) with a legal person specified in paragraph 2 hereof, on the basis of a written agreement, for the period up to one year from the day of handing over the weapons for keeping.

Upon termination of period set forth in paragraph 3 here above a new agreement on keeping weapons will be reached.

Validity of the license

Article 22

The license for arms purchase is issued with the validity of 6 months from the day of issue.

The license for arms purchase that has not been used within the period set forth in paragraph 1 hereof, shall be returned to the relevant authority within 8 days from the day of expiry.

Refusal of request of issuing a license

Article 23

The relevant authority will refuse the request for issuing a license for arms purchase, if the applicant does not fulfill the requirements for arms purchase prescribed by the law.

Against the Decision on refusing the request of issuing the license set forth in paragraph 1 hereof a complaint can be lodged with the Ministry.

Ammunition purchase

Article 24

Firearms ammunition can be obtained on basis of a weapon certificate, in case of individuals, while commercial societies and entrepreneurs can obtain it on the grounds of the permission for keeping arms, if it has not been determined otherwise.

Responsibilities of an authorized arms dealer

Article 25

Weapons and ammunition can be sold only to an individual with a license for arms purchase and a weapon certificate.

The authorized arms dealer shall inform the relevant authority set forth in Article 15, par. 2 thereof on the sales of weapons, not later than eight days from the day of selling them.

The owner of the weapons who sells weapons to another person shall write off the weapons with the relevant authority, within eight days from the day of selling them.

Registration and weapon documentation

Article 26

For weapons obtained on the basis of a license, an individual, or a commercial society or an entrepreneur shall submit a request for their registration with a relevant authority, within eight days from the day of weapon procurement.

An individual shall be issued a weapon certificate, and commercial societies and entrepreneurs a permission for keeping arms.

The forms of a weapon certificate and permission for arms keeping are prescribed by the Ministry.

2. Possession and carrying arms

Weapon certificate

Article 27

The weapon certificate is issued for possessing arms or for possessing and carrying arms.

The weapon certificate for possession is issued to:

- 1) an individual who possess weapons for self-protection;
- 2) an owner of a trophy.

The weapon certificate for keeping and carrying arms is issued to an individual for the purpose of marksmanship and hunting.

The weapon certificate is issued in the name of the owner.

For the same hunting and sports weapons a weapon certificate can be issued for maximum three persons (one weapon- more users).

Validity of the weapon certificate for keeping arms for self-protection

Article 28

Weapon certificate of keeping arms for self-protection is issued with the validity of five years.

The weapon certificate can be extended for the subsequent five-year period on request of the applicant.

The relevant authority will not extend the validity of the weapon certificate, if the applicant does not fulfill the requirements set forth in Article 17 paragraph 1 thereof.

Validity of the weapon certificate for keeping trophies

Article 29

The weapon certificate for keeping trophies is issued for an unlimited period of time.

The weapon certificate set forth in par. 1 hereof shall not be issued to the person with any missing conditions set forth in Article 17 par. 1 hereof.

It is forbidden to use trophies and obtain and produce the related ammunition.

Refusal of the request for issuing a weapon certificate

Article 30

The weapon certificate shall not be issued if more than three months have expired from the day of releasing a Certificate on health aptitude.

The relevant authority will refuse through a decision the request for issuing a weapon certificate: if its origin cannot be proved; if before circulation it has not been marked with a seal or a serial number; it has been imported or brought from abroad without the due customs taxes paid, and in cases when in the process of registration a reason is identified to refuse the request for arms purchase.

In case from paragraph 1 here above the weapons will be confiscated, together with the license for arms purchase.

Against the Decision set forth in paragraphs 1 and 2 hereof a complaint can be lodged with the Ministry.

License for carrying and transporting weapons

Article 31

A commercial society or an entrepreneur who has been issued a license for arms keeping can give arms and ammunition for use only to individuals who have a direct responsibility of a bodyguard and protection of facilities and goods, and for whom no difficulties set forth in Articles 17 par. 1 thereof exist.

The person who performs tasks of security and protection can carry a weapon entrusted only while on duty, and shall not carry it out of the facility, or the premises he guards or protects.

Deviating from the paragraph 2 hereof, guards of crops, vineyards, hunting and fishing areas, and other persons who are professional body guards and deal with security of facilities, property and goods, may carry weapons outside the said facility, or area to the place of residence, while individuals who handle money and treasuries can carry weapons outside of the premises when transporting money or treasuries or handling them.

The commercial society and entrepreneur from paragraph 1 hereof shall issue a license for carrying or transporting weapons to the person entrusted with them, about which they shall inform the relevant authority.

The license form set forth in par. 4 hereof is prescribed by the Ministry.

On request of the authorized representative of the relevant authority, a person carrying or transporting a weapon is to show the license.

3. Weapons collection

Old weapons collection

Article 32

An individual can, without an approval from the authorities, procure, collect and keep up to three pieces of old weapons.

For the procurement, keeping and collecting more than three pieces of old weapons permission for collecting old weapons is required.

The permission for collecting old weapons from par. 2 hereof is issued by the authorities to the person who fulfills the conditions from article 17 par. 1 item 1 to 5 thereof and who has a secure storage facility for the weapons collected.

Collection of automatic and semi-automatic weapons

Article 33

An individual, who has been issued permission for old weapons collection, can, apart from old weapons, collect bladed weapons, automatic and semiautomatic firearms that is no longer in use by the military or police, and has been permanently deactivated.

The weapons are permanently deactivated, if the barrel has been closed by its length, together with the seat of bullet.

In case of weapons whose barrel can be replaced without using any tools, the barrel must be permanently closed and linked to the case.

Ban of using and carrying old weapons

Article 34

Old weapons and weapons kept on the ground of permission for arms collection cannot be carried, used, nor can ammunition be procured, kept or produced for them.

Firearms rendered unserviceable in terms of Article 33 par. 2 hereof, shall not be prepared for use.

Weapons from 33 par. 1 hereof can be sold or handed over only to persons who have been issued permission for arms collection.

Purchase and keeping of weapons by legal persons and individuals from the culture sector

Article 35

Legal persons and individuals than deal with shooting films or showing theatre performances and museums can procure and hold old weapons, self-defense weapons, hunting, sporting and weapons mentioned in Article 12 par. 1 items 1 and 2 thereof, remade in order to fire only inert ammunition, provided that they fulfill the conditions set forth in Articles 32 and 33 par. 1 thereof.

III Method of Handling Weapons and Ammunition

Rules of handling weapons

Article 36

The owner, i.e. user of a weapon shall handle it in a correct and cautious manner, ensure that it is in working order and make it inaccessible to an underage person or an unauthorized individual.

The weapons shall not be carried without a respective document and identity card of the person carrying it.

Service and use of a weapon

Article 37

A hunting weapon shall not be used out of the hunting ground, shooting ranges or other places meant for shooting practice.

Sports weapons shall not be used outside of shooting ranges or other places meant for shooting practice.

Deviating from par. 1 here above, air weapons and bows can be used outside of shooting ranges or in an inhabited place, if no lives and property are thus endangered.

Children over 11 can use air weapons and bows at shooting ranges and or other places meant for shooting practice, only under supervision of a competent trainer.

Outside a hunting area, shooting range or other places meant for shooting practice or competition, long hunting and sports weapons can be carried only in their covers or cases uncharged, while short hunting and sports weapons must be closed in their covers or cases with no added ammunition.

Permission for transfer of shooting weapons

Article 38

Shooting organizations can give away weapons and ammunition only to members of shooting organizations during their shooting activities at the range, while for transfer of ammunition to the range permission must be issued to the person carrying it.

The permission set forth in par. 1 hereof is prescribed by the Ministry.

Ban of carrying weapons out of residential or business area and of weapon transfer

Article 39

The owner who possesses weapons on grounds of a weapon certificate for keeping arms must not carry such weapon out of a residential or business area

Deviating from par. 1 hereof, the owners who possess weapon on the basis of a weapon certificate for keeping arms can transport weapons only for the purpose of repair or remake and for shooting activities, unarmed and dismantled, so that one or more weapon components as set forth in article 9 thereof are separate from it, while hunting weapons and weapons that cannot be dismantled must be in another way deactivated for current use (transport in the case, lock on the trigger and so forth).

Lending weapons

Article 40

The owner of a weapon must not lend weapons for use of other persons.

Deviating from paragraph 1 hereof, the owner of a hunting or sports weapon can lend such weapons that have a weapon certificate.

Keeping arms and ammunition

Article 41

Weapons and ammunition are kept in such a way so that they are protected from being misused, in other words locked and isolated, except in the case they are kept in a metal cupboard, safe or in a similar store that can be opened by common tools.

Weapons and ammunition must be kept in residential or business area in the place of residence, or else seat of the owner, i.e. user of the weapon and ammunition.

Giving weapons for storage

Article 42

The owner of a weapon who is leaving his residence for more than three months, and is not taking with him weapons and ammunition kept by means of a Weapon certificate, shall hand them over for keeping to an individual entitled to hold or carry such weapons.

The owner of weapons shall inform, in case set forth in paragraph 1 hereof, the relevant authority about handing over the weapons and ammunition for keeping, within eight days from the day of delivery.

The relevant authority shall issue a confirmation on receiving the notification mentioned in par. 2 here above.

The person to whom weapons have been handed over for keeping shall return them to the owner upon his return in his place of residence.

Loss and theft of weapon

Article 43

The owner of a weapon shall denounce immediately, and not later than 8 days, a loss or theft of the weapon.

The denunciation mentioned in par. 1 hereof is submitted to the authorities, according to the site of event and identification of the loss or theft of a weapon.

Procedure with lost and found weapons

Article 44

Lost and found weapons are reported to the authorities within 48 hours.

If the owner of a weapon found is not identified within one year, the relevant authorities will proceed in the manner prescribed by Article 54 hereunder.

Change of residence and seat

Article 45

When a person to whom a weapon document was issued changes his residence or seat, he shall report to the relevant authority before leaving to another place of residence, or seat.

The person from par. 1 hereof shall, within 15 days on his arrival in the new residence, or seat, present the weapon to the relevant authorities for registration.

Procedure related to weapons in case of death of the owner

Article 46

The spouse, i.e. a member of family of age, who lived in the same household with the deceased weapon owner shall hand over the weapon and ammunition within 30 days to the relevant authority.

The authority will issue a certificate on handed weapon.

The heir of the weapon, on his request, can be issued a weapon certificate for keeping the weapon, if he fulfills the conditions from Article 17 par. 1 hereof.

IV Weapon, Ammunition and Arms Document Confiscation

Confiscation of weapons for untimely submitting a request

Article 47

If the heir does not submit a request for issuing a weapon certificate within 60 days from the probate proceedings or if such a request has been rejected, the relevant authority will

confiscate the weapon and ammunition and proceed in the way prescribed by Article 54 hereunder.

Decision on weapon and ammunition confiscation and weapon documentation

Article 48

The Decision on confiscating the weapon, ammunition and weapon documentation is made by the relevant authority.

Against the Decision from par. 1 hereof a complaint can be lodged with the Ministry.

The complaint does not postpone the execution of the Decision.

Temporary confiscation of weapon, ammunition and weapon certificate

Article 49

Weapons, ammunition and weapon documentation can be temporarily confiscated even before the termination of the proceedings, if special safety reasons or public security demand this, or if it is a question of taking urgent immediate precautions, and the facts on which the Decision is based have been identified or made plausible.

The relevant authority will issue a Certificate on weapons, ammunition and weapon documentation confiscated.

Reasons for confiscation of weapons, ammunition and weapon certificate

Article 50

The relevant authority will confiscate weapons, ammunition and weapon documentation in case of difficulties set forth in Article 17 par. 1 items 2 to 5 thereof.

Instruction for health examination

Article 51

The relevant authority will instruct the owner, or user of a weapon who is justly suspected of not being adequate for keeping arms, to undergo a health examination.

In case set forth in par. 1 hereof, the owner or else user of the weapon shall submit, within 60 days from the day of receiving the instruction, a Certificate on health fitness to the relevant authority.

The owner, or user of the weapon who has been found incapable of keeping arms at the health examination, or who does not submit the Certificate of health fitness for keeping arms, within the period mentioned in par. 2 hereof the relevant authority will confiscate the weapon, ammunition and weapon documentation.

The expenses of the health certificate of the owner, or else user of the weapon, who has been declared physically fit for keeping arms, shall be borne by the authority that instructed him to undergo a health examination.

Confiscation of outdated weapons

Article 52

When in the procedure of extension of a weapon certificate, or a license for keeping arms, it is found out through an examination that the weapons are deteriorated to such an extent that their use can threaten the safety of people, and that they are not possible to repair, the weapons and the weapon certificate will be confiscated by means of a Decision, together with the license for keeping arms.

For the weapons confiscated, the owner is not entitled to any compensation.

Sales and resale of weapons and ammunition confiscated in the administration procedure

Article 53

Upon entry into force of the Decision on confiscation of weapons and ammunition, the relevant authorities invite the owner to disown, within two months, the weapons and ammunition confiscated, or to find by himself a buyer or to sell them by mediation of an authorized arms dealer.

If the owner of the confiscated weapon and ammunition does not sell or hand over weapon and ammunition within the period mentioned in par. 1 hereof, the relevant authorities will deliver the weapon and ammunition to an authorized arms dealer, for further sale.

The weapon and ammunition from par. 2 hereof can be subject to sales for maximum three months from the day of being handed over to an authorized arms dealer.

For the sold arms and ammunition the owner of the arms and ammunition is entitled to remuneration in the amount agreed with the authorized arms dealer. If the authorized arms dealer does not sell the weapon and ammunition mentioned in paragraph 3 hereof, he shall return them to the relevant authorities.

Disposing with weapons and ammunition confiscated without a right to compensation

Article 54

Weapons and ammunition confiscated pursuant to Article 53 thereof that are not sold or handed over not even after six months from the entry into force of the Decision on confiscation of weapons and ammunition, or else seized in a lawfully completed penal or offense proceedings, shall be forwarded to the Ministry by the relevant authority.

The way of disposing with weapons and ammunition will be decided by the Ministry, on suggestion of a special commission.

The composition, method of work and functional area of the commission mentioned in par. 2 hereof is to be determined by the Ministry.

The weapons and ammunition set forth in par. 1 hereof can be used for similar purposes of the relevant authority, ceased to a museum or destroyed.

For the weapons and ammunition from par. 1 hereof, the owner is not entitled to any compensation.

Keeping of seized weapons and ammunition

Article 55

The seized weapons and ammunition shall be kept with a relevant authority.

V Repair and Remake of Weapons

Permission for repairing and remaking weapons

Article 56

Repair of weapons implies removing defects on the weapon and replacement or building in the original components.

By repair of weapons it is meant shortening of weapons, adapting weapons to different ammunition, replacement or building in unoriginal weapon components, and other interventions on the weapon by which its operation or technical characteristics are being influenced.

Repairing and remaking weapons can be the activity of commercial societies and entrepreneurs who have the permission for the performance of their activities.

The permission mentioned in par. 3 hereof is issued by the relevant authority.

The provisions of Articles 60 and 61 paragraph 1 thereof shall be applied accordingly to the repair and remake of weapons.

Mandatory examination and marking of weapons

Article 57

The repaired weapons is subject to mandatory examination and sealed.

The commercial society and the entrepreneur from Article 56 par. 3 hereof can admit for repair, or remake only the weapons that have been registered.

The commercial society and entrepreneur who have repaired the weapons by changing the caliber, technical or ballistic characteristics shall inform the relevant authority on this within 8 days from the day of weapons repair.

Prohibition of carrying weapons that are being repaired or remade

Article 58

Weapons received for repair or remake shall not be carried out of the premises established for this kind of work, up to their return to the owner, except in case it is necessary for the sake of repair, remake or examination of the weapon.

With the view to examining characteristics of the repaired or remade weapons, the commercial societies and entrepreneurs registered for performance of such activities can procure and hold the necessary types and quantities of ammunition on the grounds of a license for arms purchase.

VI Trade of Weapons and Ammunition

Permission for trade of weapons and ammunition

Article 59

By trade of weapons and ammunition, as set forth herewith, it is intended procurement of weapons and ammunition for their further sale, storage and holding and their wholesale and retail trade.

The trade of arms and ammunition can be done by commercial societies and entrepreneurs who obtain the respective permission.

The permission from par. 2 hereof is issued by the relevant authority.

The provisions of Article 60 and 61 paragraph 1 hereunder shall be applied accordingly to the trade of arms and ammunition.

Storage facilities in which weapons and ammunition for wholesale are kept must fulfill the requirements prescribed by a special law and regulations for storage and keeping of explosives, enforced by the law.

VII Production of Weapons and Ammunition

Conditions for issuing a permission for performing the activity of weapons and ammunition production

Article 60

Production of weapons, in terms herewith, is considered to be design of new weapons, and production of ammunition is considered to be making of ammunition and refilling of bullets.

The commercial societies and entrepreneurs who have obtained a permission for their activities can deal with the production of weapons and ammunition.

The permission from paragraph 2 hereof is issued by the relevant authority.

Together with the request for issuing the permission, the applicant shall enclose:

- 1) Certificate from the Central Register from the Commercial Court for commercial society, or a Certificate of registration for the entrepreneur;
- 2) Treatise on technical and technological support, in accordance with the regulations on specific premises and technical conditions required for safe production and storage of weapons and ammunition and fire, theft and other disasters or misuse prevention measures;
- 3) Proof on ownership, or use of business premises in which weapons and ammunition will be produced;
- 4) Proof on human resources;
- 5) Proof that the founder of the commercial society, responsible for the society, or the entrepreneur fulfills the conditions set forth in Article 17 paragraph 1 items 1 to 4 and item 6 hereof.

The permission from par. 4 hereof shall be cancelled, if the production of arms or ammunition was not initiated within one year from the day of issuing the permission, or if the activity in question had not been performed at least for a year from the day of fulfillment of the condition for initiating the activity.

Special spatial and technical conditions from par. 4 item 2 hereof are prescribed by the Ministry.

Special weapons handling and storage conditions

Article 61

The weapons in production cannot be directly handled by individuals who do not fulfill conditions set forth in Article 17 par. 1 item 1 to 6 thereof.

Storage facilities for the weapons produced must be safeguarded from access of unauthorized persons.

VIII Transport of Weapons and Ammunition

Authorization for weapons and ammunition transport

Article 62

The transport of weapons and ammunition, in terms thereof, is considered to be weapons and ammunition transport from the sender to the receiver.

Weapons and ammunition transport need a permission.

For weapons in free sale and without the registration, as set forth in Article 13 thereof, it is not necessary to have a transport permission.

Permission set forth in par. 2 hereof is issued by the relevant authority.

For transport of less than 12 pieces of firearms and for transport for ammunition for personal use up to 500 pieces no permission is required.

Content of a request for issuing a permission for transport of weapons and ammunition

Article 63

The request for issuing a permission for weapons and ammunition transport contains the following information:

- 1) name and address of the sender;
- 2) name and adress of the receiver;
- 3) name and address of arms producer;
- 4) type, model, bach number, caliber, quantity and packaging of weapons;
- 5) mark of the type of means of transport;
- 6) date and time of beginning transport, route and destination;
- 7) name of entry and exit border passing and time when weapons and ammunition will be transported accross the border;
- 8) safety measures during the weapon transport.

The authority responsible for issuing permission for transport of weapons can, if necessary, order taking special safety measures during the weapon transportation (route, escort of the sender or shipping agent, police escort etc.).

The expenses of taking special safety measures set forth in paragraph 2 hereof shall be borne by the shipping agent.

Adequate application of rules

Article 64

Transport of ammunition is subject to rules on transport of explosive substances.

IX Shooting Ranges

Concept of shooting range

Article 65

The shooting range is a facility for sports-recreation shooting, which fulfills the prescribed technical and safety conditions in accordance with specific regulations.

Commercial societies and entrepreneurs can start performing the activity from paragraph 1 hereof upon receiving the permission of the relevant authority.

The provisions of articles 60 and 61 paragraph 1 thereof are duly applied to shooting ranges, as well.

Handling weapons at shooting ranges

Article 66

Firearms at a shooting range can be used only by individuals who have obtained a weapon certificate for the purpose of marksmanship.

An individual who does not fulfill the conditions set forth in par. 1 hereof can perform shooting only under the supervision of the shooting range operator and exclusively with weapons and ammunition which is the property of shooting range.

The shooting operator will ban shooting and access to individuals from paragraphs 1 and 2 hereof, if they are under the influence of alcohol, drugs or other psycho-active materials and if their psycho-physical conditions point at the inability of handling arms.

The weapons and ammunition at the shooting range can be directly handled by the persons who fulfill the conditions from Article 17 paragraph 1 thereof.

Acquisition of arms and ammunition for their use at the shooting range

Article 67

Commercial societies and entrepreneurs set forth in Article 65 paragraph 2 hereof can obtain the necessary quantities of arms and ammunition for their use at the shooting range.

Ammunition for weapons which the commercial society and entrepreneur from article 65 paragraph 2 hereof do not possess and the permission for keeping such weapons can be obtained on the basis of the permission of the relevant authority.

In case set forth in article 2 hereof, depending on the possibilities of accommodation and the quantity of ammunition consumed, an approval can be issued for a number of ammunition supplies with the validity term up to one year.

X Supervision and Accounting

Supervision

Article 68

Supervision of implementation of the law is done by the Ministry.

Accounting

Article 69

The relevant authority keeps record on the issued licences for arms and ammunition purchase, weapon certificates and permissions for keeping weapons, permissions for arms collection, as well as on the weapons seized, found and surrendered.

Types of accounting

Article 70

Sports, shooting and hunting organizations and other commercial societies and entrepreneurs registered for performance of their activities shall keep a register on the weapons and ammunition procured, as well as on those lent for service.

Besides registers set forth in par. 1 hereof the commercial societies and entrepreneurs shall keep record on:

- 1) the weapons produced and delivered;
- 2) weapons and ammunition procured and sold;
- 3) weapons repaired and remade;
- 4) weapons procured, and given away for use, and on ammunition procured and consumed;
- 5) weapons collected.

Form of accounting

Article 71

The form and method of accounting mentioned in Articles 69 and 70 hereof are prescribed by the Ministry.

XI Penal Provisions

Offenses

Article 72

An individual will be punished for offense with a money fine in the amount three times to ten times bigger than a minimal wage in Montenegro, if he/she:

- 1) holds more than three old weapons or collects weapons without a permission (Article 32 paragraph 2);
- 2) carries old weapons and carries and uses weapons collected with a respective permission or procures, holds or makes ammunition for them (Article 34 paragraph 1);
- 3) activates for use unuseable firearms (Article 34 paragraph 2);
- 4) sells or hands over the weapons set forth in Article 33 par. 1 hereabove to an individual without a permission for arms collection (Article 34 par. 3);
- 5) does not keep weapons in regular order or does not take safety measures so that the weapons would not be accessible to an under age or unauthorized person (Article 36 par. 1);
- 6) carries weapons without the respective weapon document and identity card (Article 36 paragraph 2);
- 7) uses hunting, sporting and air weapons and bows out of places determined for shooting practice, i.e. in such places the location or safety of which can threaten the public security (Article 37 par. 1, 2 and 3);
- 8) gives away air weapons or bows for use of children younger than 11, outside of sporting ranges or places determined for shooting practice, and without supervision of a competent trainer (Article 37 par. 4);
- 9) owns weapons on the grounds of a weapon certificate, and transports it contrary with Article 39 par. 2 thereof;
- 10) gives away weapons, in contrast with Article 40 thereof;
- 11) does not keep weapons and ammunition in accordance with Article 41 thereof;
- 12) does not report loss or theft of a weapon (Article 43);
- 13) does not write off weapons on leaving the place of residence or seat (Article 45 par. 1);
- 14) repairs or remakes weapons without authorization (Article 56 par. 3).

The offense set forth in paragraph 1 hereof is subject to prevention measure of seizing weapons and ammunition.

Article 73

An individual who makes an offense will be punished with a money fine in the amount once to five times bigger than the minimal salary in Montenegro, if he/she:

- 1) does not return the unused license for arms purchase within the time specified (Article 22 par. 2);
- 2) does not write off the sold weapons with the relevant authority within the time envisaged (Article 25 par. 3);

- 3) does not submit a request for arms registration within the time specified (Article 26 par. 1);
- 4) transports hunting and sporting weapons contrary to Article 37 par. 5 thereof;
- 5) carries weapons and ammunition of a sports shooting organization without a permission of the organization (Article 38);
- 6) does not entrust weapons for keeping to an individual who has the right of carrying or holding such weapons (Article 42 paragraph 1);
- 7) does not inform the relevant authority within the period envisaged about handing over weapons and ammunition for keeping (Article 42 par. 2);
- 8) does not give back to the owner the weapons entrusted, upon his return in the place of residence (Article 42 par. 4);
- 9) does not hand over the weapons within the period of time prescribed to the relevant authority, upon the death of the owner of the weapon (Article 46 par. 1).

The offense set forth in paragraph 1, items 2 to 5, and item 7 hereof is subject to prevention measures of seizing weapons and ammunition.

Article 74

A commercial society will be punished with a money fine in the amount ten times to two hundred times bigger than the minimal salary in Montenegro, if it:

- 1) procures, holds, produces, repairs, remakes, proliferates and transports weapons and ammunition the procurement of which is forbidden (Article 12 paragraph 1);
- 2) procures and hold without permission the weapons for whose procurement a permission is necessary (Article 15 par. 1);
- 3) procures weapons for temporary anesthetizing animals, contrary to Article 16 hereof;
- 4) procures or hold ammunition or weapons for which he has no permission for keeping arms (Article 24);
- 5) sells weapons or ammunition to an individual without a license for purchase or a weapon certificate (Article 25 par. 1);
- 6) does not inform the relevant authority within due time on the sales of weapons and ammunition (Article 25 par. 2);
- 7) gives away weapons for use of individuals who perform duties of bodyguard or protection of facilities and goods, and do not fulfill the conditions set forth in Article 17 par. 1 thereof (Article 31 par. 1);
- 8) in case of change of residence or seat does not register the weapons with the relevant authority (Article 45 par. 2);

- 9) repairs or remakes weapons without authorization (Article 56 par. 3);
- 10) entrusts the weapons that are being repaired or remade to an individual who does not fulfill the conditions (Article 56 paragraph 5, and in this connection Article 61 paragraph 1);
- 11) does not hand over the repaired weapons for examination and sealing, or receives unregistered weapons for repair or remake (Article 57 par. 1 and 2);
- 12) does not inform about the weapon repair within due time the relevant authority (Article 57 par. 3);
- 13) deals with turnover of weapons and ammunition without authorization (Article 59 par. 2);
- 14) entrusts weapons and ammunition in circulation for handling of an individual who does not fulfill the conditions (Article 59 par. 4, and the related Article 61 par. 1);
- 15) produces weapons without authorization (Article 60 par. 2);
- 16) does not protect the premises for storage of the weapons produced from access of unauthorized persons (Article 61 par. 2);
- 17) transports weapons without permission (Article 62 par. 2);
- 18) performs shooting activities without permission (Article 65 par. 2);
- 19) allows an individual without a weapon certificate to shoot unsupervised by the authorized range operator, and with the weapons and ammunition which is not the property of the shooting range (Article 66 par. 2);
- 20) does not keep record from Article 70 par. 1 thereof;
- 21) does not keep record from Article 70 par. 2 thereof.

The entrepreneur will also be punished with a money fine in the amount ten times to twohundred times bigger than a minimal wage in Montenegro for an offense set forth in par. 1 items 3, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20 and 21 hereof.

For an offense set forth in par. 1 items 1, 2, 5, 8 and 11 a disciplinary measure of seizing weapons and ammunition will be taken.

For an offense set forth in paragraph 1 hereof a responsible person in a legal entity will be punished with a money fine in the amount once to four times bigger than a minimal wage in Montenegro.

For an offense set forth in par. 1 hereof, together with a money fine, a disciplinary measure will be enacted of forbidding the activities of production, turnover, repair and remake of weapons and ammunition or opening a shooting range.

XII Final Provisions

Surrender of arms

Article 75

Owners who possess arms the purchase, holding and carrying of which is forbidden according to this law, shall hand over the weapons and ammunition to the relevant authority, not later than within one year from the day of entry into force of the present Law.

Against the person who observes paragraph 1 hereof no criminal or penal action will be taken.

A minutes on weapon surrender shall be taken.

Weapons surrendered is the ownership of Montenegro.

Weapon legalization

Article 76

Weapon owners who do not have a weapon certificate shall, within six months from the day of entry into force of the Law, submit a request that the certificate of the kind be issued to them.

In case of par. 1 hereof the owners of a weapon are not obliged to prove the origin of the weapon, except if it has been acquired in committing an offence.

Against the individual mentioned in paragraph 1 hereof, no penal action will be taken.

The relevant authority may refuse to issue the weapon certificate, i.e. the permission for keeping trophies for reasons prescribed in Article 17 par. 1 thereof.

If the relevant authority refuses a request for issuing the weapon certificate, i.e. permission for keeping a trophy, the weapons will be treated in the way prescribed in Article 53 thereof.

Surrender of weapons that must not be possessed

Article 77

Commercial societies and entrepreneurs who own weapons for security of their lives and the facilities, property, and goods which according to this law they must not possess, shall hand them over to the relevant authorities, within three months from the day of entry into force of the present Law.

Weapons from paragraph 1 hereof, which have not been surrendered within the term set forth in paragraph 1 hereof, will be seized by the authorities without a compensation.

Validity of the documents on weapons

Article 78

Weapon certificates and certificates of keeping and carrying weapons, permissions for keeping weapons and permissions for keeping trophies, issued before entry in force of the present Law, are valid until the expiry of their validity as documents regulating the right for keeping arms.

Weapon certificate for keeping and carrying hunting and sporting weapons, issued before entry in force of this Law, are valid until the expiry of their term, being the documents regulating the right of holding and carrying such weapons only in hunting areas and shooting ranges.

On expiry of the term set forth in paragraphs 1 and 2 hereof, the relevant authority, on request of the weapon owner (individual), replace the weapon documents, as follows:

- the weapon certificate for holding and carrying weapons with the weapon certificate for holding weapons for self-protection;
- permission for keeping arms, with a weapon certificate for keeping trophies;
- weapon certificate for holding and carrying hunting and sporting weapons, with a weapon certificate for holding and carrying such weapons.

Resolving the initiated proceedings

Article 79

Proceedings initiated before entry into force of the present Law, will be finalized according to the Law.

Enforcing sublegal documents

Article 80

Sublegal acts for enforcement of this Law will be enacted within six months from entry into force of the present Law.

Decoration of business premises in accordance with the Law

Article 81

Commercial societies and entrepreneurs who deal with weapon production, weapon and ammunition proliferation, weapon repair and remake, are either founders of shooting ranges, or entered into the Central register of the Commercial Court, and before entry into force of the present Law; they have to furnish their business premises according to the conditions prescribed in Article 60 paragraph 4 item 2 thereof, within six months from the day of entry into force of the Law.

Termination of the old law

Article 82

On the day of entry into force of this Law, the Law on arms ("Official paper of RCG", no. 31/92 and 20/93) ceases to be valid.

Entry into force of the Law

Article 83

The present Law enters into force on the eighth day from the day of being published in the "Official paper of the Republic of Montenegro".

PREAMBLE AND EXPLANATIONS OF THE LAW

I Constitutional Grounds for Enacting the Law

The constitutional grounds for enacting the Law is contained in the Provision of Article 12, par. 1 item 4 of the Constitution of the Republic of Montenegro, by which it has been prescribed that the Law should regulate other issues of interest for the Republic.

II Reasons for Enacting the Law

The main reasons for enacting the Law are numerous, and especially significant are the following:

- ❑ Improvement of total safety situation in Montenegro and the region;
- ❑ Reduction of level of threat induced by holding, carrying and use of firearms, especially the prohibited ones;
- ❑ Prevention of criminality, mostly with underage persons;
- ❑ International reputation, improved regime of circulation of people and goods, and contribution to combating organized crime;
- ❑ Contribution to the reform of state services and confidence-building as regards the MUP authorities;
- ❑ Fulfillment of international duties;
- ❑ Adaptation and harmonization of Montenegrin legislation with the European Union law.

The fundamental reason for enacting the new law is certainly the need to synchronize the right to ownership of weapons, i.e. limitation of the right, with the request to provide and achieve a higher level of general safety.

The Law on arms still in vigour was enacted in 1992, and modified and amended in 1993. It was supposed to provide a normative framework intended for preventing the misuse of weapons and tragic consequences of the misuse, and to achieve a comprehensive and adequate control of legal owners of firearms. However, the goals projected by this law were not entirely fulfilled, as in the course of its application the following shortcomings were observed:

- The regime of procuring, holding and carrying weapons did not establish adequate relations and control over the state of arms in civilian possession, owned by commercial companies and entrepreneurs;
- Restrictive conditions for procurement of arms and ammunition, with considerable crackdowns especially on private individuals, prescribed by Law on modifications and amendments of the Law on arms ("Official paper of RCG", no. 20/93), did not significantly improve the condition in this area. Numerous initiatives and warnings from expert and scientific community and appeals for citizens to refrain from using weapons on the occasion of family, religious and other celebrations and feasts, did not reduce various form of weapon misuse at public places, which led to public order and peace disturbance, insecurity and agitation of citizens, and more often than not, their lives and personal security were threatened, together with their property and other means of criminal, legal and other protection, which is obviously demonstrated in a great number of crimes and offenses, where weapon were used for committing a offence.

Thus with firearms a total of 255 murders were committed in the period from 01.01.1992 to 31.12.2002, out of which: 189 with short barrels and 66 with long barrels, 24 murders were committed with an assault rifle - kalasnikov, 13 with a military pistol, 16 with a hunting gun, 3 with a semi-automatic rifle.

In the same period, due to weapon misuse at weddings and celebrations, or due to inexperienced handling firearms or explosives, 241 people was wounded, out of which 28 incidents were fatal (resulted in death);

In the period from 1999 to 2003, 379 offenses were committed by firing weapons, outh of which in 1999 - 117, in 2000 - 77, in 2001 - 67, in 2002 - 58 and in 2003 - 60 offenses;

In the period from 01.01.1998 to 31.12.2001 a total of 6,367 firearms and 67,874 ammunition were seized, as follows:

- 318 assault rifles, 24 submachine guns, 1 machine gun, 121 semi automatic guns, 324 M-48 guns, 5 hand rockets, 446 hand grenades, 93 explosives and 65 mines.

According to the data of the Ministry of the interior, as with 25 May 2004 there are 100,298 long and short barrel weapons, out of which 98,028 are held and carried, and 2,270 long and short barrel weapons are held (trophy weapons and other).

Figures of weapons held and carried (a weapon certificate for possession and carrying) per type are as follows: 59,519 - pistols, 23,559 – hunting rifles - shotguns, 7,690 – hunting rifles - carabins, 4,490 - revolvers, 2,280 - rifles, 390 – small caliber rifles, 56 – automatic weapons and 44 – combined hunting weapons.

Number of weapons held (permission for holding trophies and other weapons) per type is as follows: 1,125 permissions for keeping hunting rifles - shotguns, 601 permission for holding

pistols, 237 permissions for holding rifles, 146 permissions for holding hunting carabins, 107 permissions for holding revolvers, 44 permissions for holding automatic weapons, 9 permissions for holding small caliber rifles and 1 permission for holding combined hunting weapons.

Legal entities possess 1,591 firearms, out of which: 1,188 - pistols, 152 - rifles, 137 – hunting carabins, 39 – hunting rifles (shotguns), 35 - revolvers, 25 – automatic weapons and 15 – small caliber rifles.

Thus, the total number of registered weapons in Montenegro by 25 May 2004 was 101,889 firearms.

In the meantime, the problem of keeping illegal weapons, mines and explosive devices increased. Considerable quantities of unregistered weapons (according to some estimates we deal with several thousands of pieces) are a legacy from the past or were procured by various illegal channels in the course of the last decade. Namely, in the territory of ex Yugoslavia there was a civil war. The participation of para-military and national factions and other groups made an influence on the citizens in terms of possessing considerable quantities of weapons, ammunition and mines and explosives, which made the region of southeast Europe, and Montenegro likewise, an unstable area. In May 2002, jointly hosted by SAFERWORLD (London) and OSCE in Belgrade, a Conference was held entitled "Stability Pact on the Balkans" on which occasion it was concluded that the Ministries of the interior of the region countries should implement through their governments, parliaments and NGO-s, a civil disarmament campaign, with the view to building citizens' confidence in their government and to creating a safer security environment.

International and regional organizations deal with problems of illegal arms trade and control with much commitment and devotion. OUN and its agency (UNDP) have taken the lead in these activities, together with OSCE and SE.

On the regional level, having learnt lessons from the near past, a special entity was established in the framework of Stability Pact to address such problems (SEESAC). The Project mandates Serbia and Montenegro, Croatia, Bosnia and Herzegovina, Albania, Bulgaria, Macedonia, Romania and Moldova. Montenegro is taking an active part in this context. Thus, small arms and light weapons, in terms of harm they cause can be defined as "Weapons of mass destruction" (Millennium Report of the Secretary – General of UN - 2000). A fact illustrative enough of this observation is that cca. 550 million of light weapons are being proliferated worldwide.

Bearing in mind the strategy of the Government of the Republic of Monenegro to provide a greater level of safety for its citizens, and to implement the undertaken international commitments, a comprehensive social action has been taken with the view to turning the public attention to the problem of illegal possession of arms, which will include the whole company.

To this end, in the course of 2003 the Ministry of the interior, in cooperation with NGO "MREŽA", in the framework of Stability Pact for Southeast Europe, organized an action of voluntary surrender of weapons and explosive devices, entitled "RESPECT LIFE – RETURN HIDDEN WEAPONS". The action was taken in the period from 12.03 to 27.05.2003 with the assistance of NGOs Mreža, USAID, UNDP and SEESAC.

The aim of the action was that the citizens should voluntarily surrender the weapons, which they may not possess and carry according to the Law on Arms. In order to fulfill its aims, the action taken in Montenegro was so far the best prepared and conducted initiative, for its intensity, efforts, scope, number of participants and method of implementation.

In course of implementation of the action, the citizens of Montenegro surrendered the following quantities of weapons and explosive devices:

FIREARMS AND EXPLOSIVE DEVICES

- Anti-aircraft gun 30 mm	1 piece
- Sniper rifles M-76 cal. 7,9 mm	5 pcs.
- Submachine guns M-53, and M-76	22 pcs.
- Automatic rifles M-72 cal. M-76	188 pcs.
- PAP M-59/66 cal. 7,62 mm	113 pcs.
- Various automatic weapons cal. 7,62 and 9mm	28 pcs.
- Rifles M-48, carabins and hunting rifles	377 pcs.
- Pistols of various caliber	30 pcs.
- Small caliber rifles	300 pcs.
- Ari rifles	700 pcs.
- Hand rockets 64 mm (Zolje)	63 pcs.
- Strike and defence hand grenades	2,021 pcs.
- Infantry mines	17 pcs.
- Rifle grenades (hollow charge and instant)	126 pcs.
- Mortar and artillery shells	17 pcs.
- Various explosives (vitesit, kamnitit and trotile)	145 pcs.
- Detonating caps	135 pcs.
- Detonating and safety fuzes	250 m.
- Various ammunition (rifle and pistol)	29,322 pcs.
- Frames for AP M-72 cal. 7,62 mm	463 pcs.
- Ammunition case for M-53 cal. 7,9 mm	15 pcs.
- Cartridge belt for M-53 cal. 7,9 mm	150 pcs.
- Rifle knives M-48 and M-72	25 pcs.

In the ironworks "Boris Kidrič" and at the shooting range of "Kunovo" in Nikšić, on 27.05.2003, 5,028 weapon barrels and 70,274 ordnances.

In the course of the action "Respect life – return hidden weapons" the following results were achieved:

- The state of illegal and legal weapons possession was examined, and the respective threats were considered;
- A consensus with the citizens was reached, as more than 2.200 citizens responded to the action of returning weapons;
- Cooperation was established with NGOs, international donors, media, state agencies, education institutions, individual participants and citizens, and
- The necessity of changing legal regulations in this area was identified.

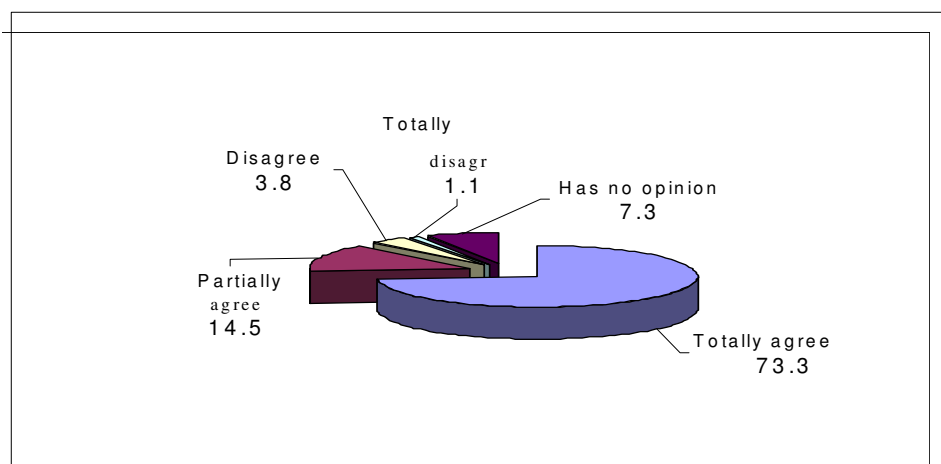
The problems encountered were a basis for production of a new legal text based on the existing social background and adapted to the innovations related to the reform of the Ministry of the interior and the role it should have in the country and society.

In the course of ongoing activities aimed at changing legal regulations in this area, the following was used:

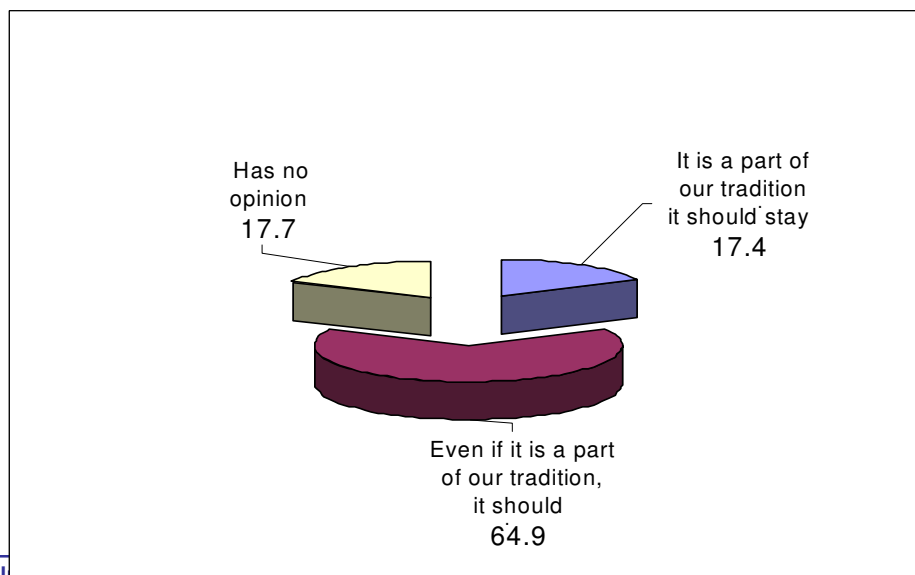
- **Solutions in comparative legislation of Australia, Germany, Great Britain, as well as of the neighboring countries, such as Slovenia and Croatia and the state member Serbia;**
- **Experiences of the institutions that directly confront the problems of procurement, possession, carrying and using weapons.**

The assurance that the solutions contained in the Draft Law will be accepted by the citizens is shown, inter alia, in the results of public opinion research, conducted by the NGO network "Akcija« and CEDEM - Podgorica".

The question: "Do you approve of crackdowns on unauthorized possession of weapons" was answered affirmatively by 73.3 % of citizens.



The citizens' attitude on shooting at celebrations and related occasions is also shown.



The need of integration processes and integration of Montenegro into the European Union, in the context of overall reform of legal system, is also an important reason for enforcement of the new law. To this end, the law aims at providing stronger democratic institutions of the system and their preparation to accept the best practice of developed countries. In this context, the commitment to synchronize and harmonize i.e. adapt local legislation to that of the European Union is inevitable, as well as efforts to achieve conformity with international standards and recommendations.

An especially significant reason to enact this law is the accomplishment of the constitutional principle about the rule of law and legal state and building citizens' confidence in the system institutions, as well as protection of freedom and rights of citizens. The projected solutions are also designed to create conditions for total social, material and personal security.

III Explanation of Basic Legal Institutes

Conceptually and contextually, the Law on arms is a special law which prescribes specific provisions of the administration procedure related to procurement, carrying, transporting, proliferating weapons and so on. The law was divided in 12 units, as follows: I – Main provisions, II Supply, storage, carrying arms and ammunition, III – Method of handling of arms and ammunition, IV – Seizing arms, ammunition and weapon certificate, V – Weapon repair and remake, VI – Proliferation of arms and ammunition, VII – Production of arms and ammunition, VIII – Transport of arms and ammunition, IX – Shooting range, X – Surveillance and accounting, XI- Penal provisions and XII- Final provisions.

Art. 1 - 14 of the Draft

The main provisions regulate the subject of the Law, the concept of arms, firearms, air weapons, gas munitions and pyrotechnics, fragmentation weapons, bows and arrows, bladed weapons, main weapon components, division of weapons according to special uses and types. The important novelty is that the Draft Law formulates the term of air weapons, pyrotechnics, main weapon components, as well as devices identified as ordnance in accordance with European standards (Art. 1-10); Firearms are all rifles, pistols and revolvers, and any devices from which a bullet, artillery shell, round, shot, flechette or another projectile can be discharged by the propelling action of powder charge; also hand or self-supporting devices intended for creating loud shots, and designed so as not to receive the whole charge, charged from the bottom of the barrel with a quantity of black powder and initiated with the burning fuse, flint or igniter (mortar). As opposed to the past law, a more precise definition of firearms has been given, which is also in accordance with European standards and solutions established in countries of Southeast Europe. The term of gas munitions and pyrotechnics was specified in more detail (Article 5) and of bladed weapons (Article 8), which is also a novelty. By force of the Draft law (Article 8), bladed weapons are knives, daggers, swords, sabers, bayonets, boxers and other objects the main use of which is to attack or to cause danger, or objects intended for inflicting injuries when carried in public or at public events. By this provision everyday use of bladed weapons in private, was clearly distinguished from carrying such weapons at public places, whereby all doubts were eliminated as regards the application of these provisions.

- The weapons are divided according to use and special types (Article 10). As opposed to the past law, the main innovation is that the weapons intended for sports and recreation can also be used for self-defence.

- By prohibition of carrying arms at public places, the so far regime of carrying and holding has been significantly modified and a new regime of holding arms by individuals is being established. With the view to facilitating the implementation of this Law, the term of a public place has been more precisely defined. This will considerably reduce the risk of weapon misuse and provide a bigger level of safety, which is, as already said, the main goal of the Law (Article 11).

Article 12 of the Draft regulates any type of Weapon whose supply, keeping, carrying, production, repair, remaking, proliferation and transport is forbidden. As opposed to the solution already contained in the past law, the list of such weapons has been enlarged to include weapons intended for ejection of explosive projectiles; weapons in the form of another object, so that from the exterior it is not recognizable as weapon; ammunition the main use of which is anti-armor, ammunition with explosive, inflammable or poisonous projectiles; ammunition for which no approval for circulation was obtained in accordance with special regulation provisions; switch blade knife, the blade of which is pressed by a spring, and which pops out by pressing a button or a lever; boxer or metal asterisks (suriken for throwing).

- The Draft law (Article 13) enlists, item per item, all kinds of weapons in the regime of free procurement and without the mandatory registration, which is a novelty.
- In accordance with the requirement of having a more systematic text of the Law, the meaning of certain expressions in the law has been given, which was not the practice of the past law.

Articles 15 -35 of the Draft

The Draft law precisely stipulates that the firearms and crossbows with drawing power can be obtained exclusively provided that a permission has been given. With respect to the so far practice, first of all the commercial and scientific research requirements, the Draft law stipulates the possibility of issuing a permission for procurement of firearms by the scientific institutions, state agencies and other legal persons and individuals for use in scientific research, but with a projectile filled with sedating substances, for use in temporary animal anesthetizing, (Article 16), which is also a novelty.

Article 17 of the Draft stipulates point per point, the conditions for issuing a license for arms procurement to an individual. As opposed to the past law, which established obstacles to issuing such a permission by means of a system of negative enumeration, now by applying a contrary principle conditions are prescribed which an individual must fulfill in order to get the license. Moreover, an age limit was raised, (from 18 to 21 year) as one of conditions for submitting a request for license for arms procurement. An important novelty is that the appellant should provide evidence justifying the arms procurement (reasons of personal safety or evidence he goes hunting or is a marksman, as well as skillfulness at handling arms). The past law enumerated offences that could pose a difficulty in issuing a permission for firearms procurement. In contrast, the Draft Law prescribes that an individual convicted of a offence that is awaiting legal action, or if charges have been brought for such an act, or an individual that has been punished for an offence, i.e. against whom legal action has been taken suggesting the misuse of weapons, will be refused a request for issuing a license for arms procurement, which is much stricter than the past law. The past law regulated discretion right of the relevant authority to reject the request of issuing a license for arms procurement for reasons of public order or safety. The Draft modifies this request for issuing a permission for arms procurement in such a way that the appellant is denied the permission if there are

circumstances indicating that the weapons could be misused (frequent and excessive consumption of alcohol; gravely disturbed family relations, neighborhood or working relations; discipline violation in the context of hunting or sporting marksmanship regulations and so forth). Finally, having in mind the principle that the appellant should not be put to useless expenditure, it has been prescribed that the Certificate of health fitness and Certificate of arms handling skills should be submitted subsequently, only when it has been verified that other conditions are fulfilled as well. These certificates shall be submitted within 60 days from the day of request. In the past law the Health certificate accompanied the request.

In article 25 of the Draft, in accordance with the standards, "the institution of an authorized arms dealer" is being established (in the past law this is "Authorized enterprise for trade of arms and ammunition"). The novelty is the duty of the authorized arms dealer to inform the relevant authority about the sales of arms and ammunition that are procured on the basis of the license within 8 days from the day of sale.

For the first time, the term of »Weapon registration« is established as a legal formulation, which is adequate and generally used in everyday practice.

In accordance with the changed regime of arms carrying, in Article 27 of the Draft law, various weapon documents are indicated. The weapon certificate, being a document that according to the past law enabled an individual to hold and carry weapons, by means of the Draft Law is being transformed in the right of holding arms by an individual but without the right to carry them. Individuals who are in hunting and shooting are issued a weapon certificate for holding and carrying weapons in a hunting or a shooting area. The validity of this document has been reduced from 10 to five years, which is in conformity with the solutions contained in legislation of the EU countries.

Trophies are kept on the grounds of a weapon certificate for keeping, whereby the previous name (permission) has been changed. The weapon certificate for keeping trophies is issued for an unlimited period of time.

The validity of the Certificate of health fitness is three months, so the weapon certificate shall not be released if this certificate is older. It is for the first time that the validity of this certificate is determined by the law. In the so far practice, although there were no explicit legal provisions, such certificates were accepted if no more than six months have passed from the date of their issue.

The past law established the right that the commercial companies and entrepreneurs who deal with protection of facilities and goods can give over weapons to an individual who directly works as bodyguard. The Draft law renamed this permission to carry arms into a license to transport and carry arms. The novelty is also that the person carrying and transporting weapons ought to show this license at the request of an official at the relevant authority.

The Draft provisions relating to arms collection (Art. 32 to 34) prescribe the possibility of procuring and holding up to three pieces of old weapons without the permission of the relevant authority. Besides old weapons bladed weapons can also be collected, as well as automatic and semiautomatic weapons that is no longer in use by the military or police, and it has been rendered unserviceable, which decision is much different from the past one (old weapons, as per the past provisions could be obtained, kept and carried without a permission, if previously registered with a relevant authority). By means of the provision of Article 34 of the Draft it has been prescribed that old weapons may be kept only on the basis of a

permission for arms collection, and that it shall not be carried and used. Such weapons shall not be activated.

The provisions of Article 35 of the draft are also a novelty. Namely, legal entities and individuals who deal with shooting films or showing theatre performances, and museum may procure and keep old weapons, weapons for self-defence, hunting, sporting, automatic and semiautomatic weapons that have been remade in such a way as to discharge only inert ammunition.

Articles 36-46 of the Draft

By means of provisions of articles 36 - 46 of the Draft - Chapter III, the rules about handling arms and ammunition have been set precisely, which is contrary to the past legal solutions. These rules were described under different topics, which made the past practice more difficult.

- In accordance with the Draft law, the projected regime of holding, carrying and transporting arms (Article 37 of the Draft), the use of sporting weapons outside of shooting areas and other zones established for shooting practice was banned, which is also a novelty. Air weapons and bows may be used by children over 11 at sports shooting ranges, under the supervision of an authorized trainer, which is more liberal in comparison to the past law.
- In article 39 of the Draft law, general ban was prescribed on carrying weapons on basis of a weapon certificate for keeping arms, outside residential or business premises, which is in accordance with a Decision given in Article 11 of the Draft. The weapons that are in the regime of keeping (for self-defence) may be transported exclusively for the sake of repair or remake, and for use at ranges, unarmed and dismantled, so that one or more weapon components as set forth in article 9 thereof are separate from it, while hunting weapons and weapons that cannot be dismantled must be in another way deactivated for current use (transport in the case, lock on the trigger and so forth), whereby the respective provision of the past law was aggravated with regard to sporting and hunting weapons.
- The novelty is also the duty of the owner of a weapon who is leaving his residence for more than three months, and is not taking with him weapons and ammunition kept by means of a Weapon certificate, to hand them over for keeping to an individual entitled to hold or carry such weapons. (Article 42 of the Draft) and also the established obligation to inform the relevant authority about handing over the arms within 8 days from the day of delivery.
- The past law prescribed the duty of an arms owner to report the loss of the weapon certificate of permission for keeping trophies. The Draft prescribes that the weapon owner should report the loss or theft of a weapon or weapon documentation immediately, within 8 days at the latest.
- The Draft Law has reduced the time for handing over the weapons with the relevant authority in case of death of the owner from 90 to 30 days.

Articles 47 - 55 of the Draft

Provisions related to seizing weapons, ammunition and weapon documentation are more precise and consistent in comparison with the past law. The provision of Article 50 of the Draft

prescribes: " The relevant authority will confiscate weapons, ammunition and weapon documentation in case of difficulties set forth in Article 17 par. 1 items 2 to 5 thereof". By this precise formulation weapons shall be seized in a criminal, offense and administration proceedings, as well as for safety reasons, no matter if it is a case of temporary or permanent weapon confiscation.

The novelty is also that the owner, or the weapon user is instructed to undergo a health examination (Article 51 of the Draft), in case of a justified suspicion that he is incapable of holding arms for health reasons. The owner shall submit the Certificate of health fitness within 60 days from the day of instruction for health examination.

The terms in which the seized arms can be sold or surrendered are precisely defined: two months from entry into force of the Decision on seizing arms and ammunition; three months from the day of handing over to an authorized arms dealer, where arms and ammunition may be offered for sale. Finally, a special commission appointed by the relevant Ministry of the interior will decide on the way of disposing with arms and ammunition, which even after six months from the entry into force of the Decision on seizing have not been surrendered or sold.

Articles 56 - 58 of the Draft

- The past law regulated issues of repair and remake of arms by a very general provision prescribing the appropriate spatial and technical conditions for weapon storage and conditions concerning the person handling the weapons, weapon components and ammunition;

The Draft law defines the repair and remake of weapons, as well as precise conditions for issuing a permission for the activity of repair and remake of weapons (extract from the Central register of Commercial court for a commercial company, or a Confirmation on registration for the entrepreneur, treatise on technical and technological adequacy, in accordance with the regulations on special premises and technical conditions for safe production and storage of weapon and ammunition and fire prevention, theft and other disaster or misuse protection; evidence on the ownership or use of business premises, evidence on human resources, as well as evidence that the founder of a commercial company, responsible official or an entrepreneur fulfills the conditions for arms procurement prescribed by the law).

- The novelty is that Montenegrin legislation in this field has prescribed the duty of examining and marking with a seal the remade weapons, and the duty of informing the relevant authority about the weapon modifications where caliber, technical and ballistic characteristics have been changed, withing 8 days from the day of remaking. For these weapons it was also established that they shall not be carried outside of working premises until they are handed over to the owner, except if it is necessary for the sake of repair, remake or examination of weapons.

Article 59 of the Draft

The previous law on arms (Article 78 a) contained only the provision on the terms of reference of the Ministry of the interior for issuing a permission for trade of weapons and ammunition. Provisions of Article 59 of the Draft, which is also a novelty, define trade of arms and indicate precise conditions to be observed by the commercial companies and entrepreneurs in performing this activity. These conditinos have been established on a unique basis and

include repair and remake, trade and production of arms and ammunition. The storage facilities where weapons and ammunition for wholesale are kept must fulfill the conditions stipulated by a special law for storage and holding explosive substances.

Articles 60-61 of the Draft

Provisions regulating transport of weapons and ammunition are a novelty with regard to the provisions of the past law, which regulate the t.o.r. of the Ministry in this area. The novelty is that the concept of transport of arms and ammunition has been defined, as well as the duty of obtaining a permission for transport of arms and ammunition, with the exception of the weapons in free market and without the duty of registration, and of transport of less than 12 pieces of firearms, old weapons and weapons kept on the basis of permission for collection and for transport of ammunition for personal use. The content of request for issuing permission for transport of arms and ammunition has also been prescribed.

Articles 65 - 67 of the Draft

The provisions related to the operation of shooting ranges are an absolute novelty in comparison to the solutions from the past law. Apart from the definition of a shooting range, it has been prescribed that it should also be subject to the provisions for issuing permission for doing repairs and remakes, trade and production of weapons and ammunition. Precise rules on the use of firearms at a shooting range have been prescribed: they may be used only by individuals who have been issued a weapon certificate for use in marksmanship, and in case an individual does not have a weapon certificate, he may shoot under the supervision of an authorized operator at the range, and exclusively with arms and ammunition which belong to the range. Also for reasons of safety the law prescribes a ban of shooting and access to persons who are under the influence of alcohol, narcotics and other tranquillizers, or whose psychic and physical condition shows incapacity to deal with weapons.

Articles 68-71 of the Draft

Provisions on accounting are more comprehensive in comparison to the past law. Thus it has been prescribed that commercial companies and entrepreneurs ought to keep, inter alia, record on the weapons produced and delivered, obtained and sold, repaired and remade, procured, lent for use and on the ammunition obtained and consumed, as well as on the weapons collected, which is a novelty in comparison with the past law.

Articles 72-74 of the Draft

These provisions regulate offenses and the respective money fines, and prevention measures of seizing arms. The Draft law has not envisaged any imprisonment sentence, which is in accordance with the principle that the offenses should be sanctioned with a monetary fine. Prevention measures concerning misuse, or conduct contrary to the provision of Article 11 thereof, as well as related to unauthorized production, sales, procurement, exchange, carrying and keeping firearms, ammunition and explosive substances have been regulated by Article 403 of the Penal code of the Republic of Montenegro.

Articles 75 - 83 of the Draft

In final provisions of the Draft an important novelty is the obligation of the weapon owner who possesses arms the procurement, keeping and carrying of which is forbidden, to hand them over to the relevant authority within one year from the entry into force of the Law on arms. Against the owners (private individuals) who surrender the weapons in the prescribed period, no legal action will be taken, which introduces the institute of abolition in the law. The contrary behaviour of the owner will be sanctioned by the Criminal code (Article 403). The identical commitment has been prescribed for commercial companies and entrepreneurs who possess the forbidden weapons for protection of their property, but the period for handing over the weapons is shorter (three months from the day of entry into force of the Law on arms). For the purpose of legalization of weapons a period of six months from the day of entry into force of the Law on arms has been prescribed. The Draft law regulates the obligation for commercial companies and entrepreneurs who deal with production, turnover, repair and remake of weapons and ammunition, or they are the founders of ranges, and have been inscribed in the court register before entry into force of the Law on arms, to furnish their business premises in accordance with the conditions prescribed by the law, within six months from day of entry into force of the Law.

IV Assessment of Necessary Funds for the Implementation of the Law

For the purpose of implementing this Law no special funds from the Republic budget are necessary.