

**COMMISSION DELEGATED REGULATION (EU) 2021/1423****of 21 May 2021****laying down the detailed arrangements under Directive (EU) 2021/555 of the European Parliament and of the Council for the systematic exchange, by electronic means, of information relating to refusals to grant authorisations to acquire or possess certain firearms****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2021/555 of the European Parliament and of the Council of 24 March 2021 on the control of the acquisition and possession of weapons <sup>(1)</sup>, and in particular Article 18(5), the second subparagraph, thereof,

Whereas:

- (1) Articles 9 and 10 of Directive (EU) 2021/555 provide for the grant of authorisations to acquire or possess firearms classified in category A or category B, including grants made by confirming, renewing or prolonging an existing authorisation. Chapter 2 of that Directive also provides for the periodic review and withdrawal of such authorisations.
- (2) Article 18(4) of Directive (EU) 2021/555 requires the competent authorities of the Member States to exchange information with regard to refusals to grant authorisations as provided for in Articles 9 and 10 of that Directive on grounds of security or relating to the reliability of the person concerned. Since Directive (EU) 2021/555 does not define the concepts of grounds of security or relating to the reliability of the person concerned, Member States should take into account the objectives of Directive (EU) 2021/555 and in particular of Article 6(1)(b) thereof, when interpreting those concepts.
- (3) The obligation under Article 18(4) of Directive (EU) 2021/555 with regard to refusals to grant authorisations is understood to cover any administrative or judicial decision made by a public authority of a Member State, the object or effect of which is to preclude a person from acquiring or possessing a firearm falling within the scope of Article 9 or 10 of that Directive, whether or not following a request for authorisation, whether or not relating to specific firearms and whether or not made pursuant to powers arising under that Directive specifically. For example, the obligation covers a blanket ban on the acquisition or possession of firearms by a particular person, regardless of whether that person had previously applied for an authorisation. It also covers any administrative or judicial decision withdrawing an existing authorisation or refusing to confirm, renew or prolong an existing authorisation. Article 18(4) of Directive (EU) 2021/555 requires competent authorities to exchange information on all these various types of decision, provided the decision was made either on grounds of security or relating to the person's reliability.
- (4) Article 18(5) of Directive (EU) 2021/555 requires the Commission to provide for a system for the exchange of any information mentioned in that Article. This would therefore include a system for exchange of the information mentioned in paragraph 4 of that Article relating to refusals to grant authorisations.

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<sup>(1)</sup> OJ L 115, 6.4.2021, p. 1.

- (5) The administrative cooperation provisions in Article 18 of Directive (EU) 2021/555 relating to the transfer of firearms from one Member State to another are the subject of a pilot project under Article 4 of Regulation (EU) No 1024/2012 of the European Parliament and of the Council <sup>(2)</sup>. The Internal Market Information System established by that Regulation could also be an effective tool in implementing the administrative cooperation provision set out in Article 18(4) of Directive (EU) 2021/555 relating to refusals to grant authorisations. Accordingly, Commission Implementing Decision (EU) 2021/1427 <sup>(3)</sup> makes that provision subject to a pilot project under Article 4 of Regulation (EU) No 1024/2012. In order to protect the personal data of individuals and their rights to privacy, that Implementing Decision specifies that the Internal Market Information System will only allow national authorities to check whether information relating to specific individuals is included in the Internal Market Information System, not to search by reference to more general criteria. Regulation (EU) No 1024/2012 also contains specific safeguards governing access to and the processing of personal data in the Internal Market Information System, for example the rules under Article 9(4) allowing access on a need-to-know basis only. It is therefore appropriate to identify the Internal Market Information System as the system to be used by the competent authorities of the Member States for the purposes of the exchange of information relating to refusals to grant authorisations, and to lay down the detailed arrangements for such exchanges.
- (6) In order to avoid a disproportionate administrative burden on Member States, the detailed arrangements laid down by this Regulation for the exchange of information via the Internal Market Information System should only apply to refusal decisions made by national administrative or judicial authorities on or after the date of application of this Regulation.
- (7) In order to respect the data protection rights of the individuals concerned, the information to be entered into the Internal Market Information System by a competent authority should be confined to the minimum necessary to enable the competent authorities of other Member States to verify whether a given person is or has been the subject of a refusal decision made on grounds of security or relating to their reliability. The information should therefore only include personal data such as a person's name, their place and country of birth and their nationality.
- (8) Similarly, in order to protect the personal data of individuals and their rights to privacy, information on the specific reasons why a refusal decision was made should not be recorded in the Internal Market Information System. In particular, information on a person's criminal record or their medical or psychological status should not be recorded in the Internal Market Information System. Where a competent authority in a Member State needs further information about the reasons for a refusal decision made in another Member State, that competent authority would be able to contact the relevant authority in the other Member State outside of the Internal Market Information System using an appropriate means of communication and in compliance with relevant data protection legislation. To that end, when recording a refusal decision in the Internal Market Information System, Member States should indicate the name and contact details of the administrative or judicial authority that made the refusal decision and, where different, the name and contact details of the authority that can be contacted by the competent authorities of other Member States when they are seeking further information about the refusal decision.
- (9) Refusals should be recorded in the Internal Market Information System even if they may be subject to administrative or judicial appeal. If a refusal decision is annulled or otherwise held to be invalid after information relating to it has been entered in the Internal Market Information System, the relevant authority should be required to remove the entry relating to that refusal no later than 30 calendar days after the refusal decision was annulled or found to be invalid.

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

<sup>(3)</sup> Commission Implementing Decision (EU) 2021/1427 of 21 May 2021 on a pilot project to implement the administrative cooperation provisions relating to refusals to grant authorisations set out in Directive (EU) 2021/555 by means of the Internal Market Information System (See page 20 of this Official Journal).

- (10) In order to ensure that the information contained in the Internal Market Information System remains accurate and complete, Member States should be required to update their entries whenever a relevant change occurs. For example, if a 5-year ban were subsequently reduced to 3 years, the Member State would need to update the entry to record the new end date of the ban. In the case of bans of more than 10 years, including indefinite bans, Member States should also be required to review the entry at least once every 10 years and confirm that it remains valid (or update it accordingly).
- (11) It is necessary to determine the period of time that information on a given refusal is to remain accessible by Member States in the Internal Market Information System. That period has to strike a balance between the need to make the information exchange system as effective and useful as possible for Member States and the need to protect the personal data of individuals and their rights to privacy. A refusal could be a simple, one-off decision rejecting a request for authorisation and leaving the applicant free to re-apply for authorisation at any time in the future, or it could be a decision with on-going effect, such as a rejection decision that has the effect, directly or indirectly, of barring the applicant from re-applying for authorisation for a period of time or a decision banning a person from possessing firearms for a fixed or indefinite period. Taking into account current practices in Member States for the various types of refusal that could occur, it is appropriate to provide in this Regulation for information on a refusal decision to remain accessible in the Internal Market Information System for a period of 10 years after the refusal decision was made, in the case of simple, one-off decisions, or for a period of 10 years after the refusal decision ceased to have effect, in the case of decisions with on-going effect.
- (12) The Commission should review this Regulation within two years of its date of application in order to take into account possible implementation issues that could be raised by Member States.
- (13) Application of this Regulation should be deferred in order to allow Member States sufficient time to put in place the necessary procedures,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

#### **Scope**

This Regulation applies to the exchange, via the system referred to in Article 18(5) of Directive (EU) 2021/555, of information concerning refusals to grant authorisations as provided for in Articles 9 and 10 of that Directive on grounds of security or relating to the reliability of the person concerned.

A refusal falls within the scope of this Regulation only if the administrative or judicial decision by which the person concerned is precluded from acquiring or possessing the relevant firearms (referred to in this Regulation as 'the refusal decision') was made on or after the date of application of this Regulation.

#### *Article 2*

#### **The electronic exchange system**

For the purposes of exchanging information to which this Regulation applies, the system referred to in Article 18(5) of Directive (EU) 2021/555 shall be the Internal Market Information System as provided for in Implementing Decision (EU) 2021/1427.

*Article 3***Information to be exchanged**

1. The information to be exchanged pursuant to Article 18(4) of Directive (EU) 2021/555 with regard to a refusal to grant an authorisation as provided for in Article 9 or 10 of that Directive on grounds of security or relating to the reliability of the person concerned shall comprise the following:

- (a) the name of the person concerned;
- (b) the date of birth of that person;
- (c) the place and country of birth of that person;
- (d) the nationality of that person;
- (e) the date on which the refusal decision was made;
- (f) the national reference number or other unique identifier of the refusal decision, if such a number or identifier has been allocated to the refusal decision in the Member State where it was made;
- (g) the name and contact details of the administrative or judicial authority that made the refusal decision and, if different, the name and contact details of the authority to be contacted in order to seek further information about the refusal;
- (h) to which one of the following three categories the refusal decision belongs:
  - (i) refusal decisions that operate to preclude a person from acquiring or possessing a firearm indefinitely, without a fixed end date;
  - (ii) refusal decisions that operate to preclude a person from acquiring or possessing a firearm for a defined period, with a fixed end date (including decisions rejecting a request for authorisation that have the effect of barring the person from re-applying for authorisation within a defined period, with a fixed end date);
  - (iii) refusal decisions that do not fall within either point (i) or point (ii);
- (i) if the refusal decision falls within point (h)(ii), the fixed end date in question;
- (j) to which one of the following three categories the refusal decision belongs:
  - (i) refusal decisions made in response to a request for authorisation as provided for in Article 9 or 10 of Directive (EU) 2021/555, or in response to a request to confirm, renew or prolong such an authorisation;
  - (ii) refusal decisions withdrawing an authorisation granted, confirmed, renewed or prolonged under Article 9 or 10 of Directive (EU) 2021/555;
  - (iii) refusal decisions that do not fall within either point (i) or point (ii).

2. In addition to information mentioned in paragraph 1, points (a) to (d), Member States may choose to provide further identification details of the person concerned, such as a tax code, passport number or identity card number, where necessary to correctly identify that person.

3. The information listed in paragraph 1 and, where applicable, the further details referred to in paragraph 2 shall be entered in the Internal Market Information System within 30 calendar days of the date on which the refusal decision was made and shall be immediately accessible by the competent authorities of all Member States.

*Article 4***Obligations to remove, update and review information**

1. Where a refusal decision is annulled or otherwise held to be invalid after information relating to it has been entered in the Internal Market Information System, the competent authority shall remove the entry from the Internal Market Information System within 30 calendar days of the annulment or finding of invalidity.

2. Where, in circumstances other than those referred to in paragraph 1, information entered in the Internal Market Information System relating to a refusal decision ceases to be accurate and complete for whatever reason, including as a result of the subsequent revocation or amendment of the refusal decision, the competent authority shall update the information in the Internal Market Information System relating to that refusal within 30 calendar days from the date on which the information ceased to be accurate or complete. In a case involving revocation of the refusal decision, the date from which the revocation takes effect ('the revocation date') shall be added to the entry in the Internal Market Information System.

3. In the case of an entry in the Internal Market Information System for a refusal decision falling within Article 3(1)(h)(i), the competent authority shall review the entry at least once every 10 years from the date on which the refusal decision was made and shall update the entry, immediately following each such review, to confirm that the refusal decision remains in force or, if the decision has been revoked, to record the revocation date in accordance with paragraph 2.

4. In the case of an entry for a refusal decision falling within Article 3(1)(h)(ii) with a fixed end date that is more than 10 years after the date on which the refusal decision was made, the competent authority shall review the entry at least once every 10 years from the date on which the refusal decision was made, up until the date recorded in the Internal Market Information System as the fixed end date, and shall update the entry, immediately following each such review, to confirm that the refusal decision remains in force or, if the decision has been revoked, to add the revocation date in accordance with paragraph 2.

5. If a refusal decision is revoked, the obligation in paragraph 3 or, as applicable, paragraph 4 shall cease to apply to the entry once it has been updated to add the revocation date in accordance with paragraph 2.

#### *Article 5*

##### **Period for which information remains accessible in the Internal Market Information System**

1. Information exchanged via the Internal Market Information System in accordance with this Regulation shall remain accessible in the Internal Market Information System for 10 years from whichever of the following dates is the latest one, insofar as they are applicable to the refusal decision in question and taking account of any updates made pursuant to Article 4:

- (a) the date recorded in the Internal Market Information System as the date on which the refusal decision was made;
- (b) the date recorded in the Internal Market Information System as the date on which the entry was last updated to confirm that the refusal decision remains in force;
- (c) the date recorded in the Internal Market Information System as the fixed end date of the refusal decision.

However, in the case of an entry in the Internal Market Information System subject to the obligation under Article 4(4), if the competent authority fails to comply with that obligation, the entry shall cease to be accessible in the Internal Market Information System on expiry of the deadline set by that Article for compliance with that obligation.

2. Notwithstanding paragraph 1, for any refusal decision for which a date is recorded in the Internal Market Information System as the date from which revocation of the decision takes effect, the entry shall cease to be accessible in the Internal Market Information System on expiry of the period of 10 years from the date so recorded in the Internal Market Information System as the revocation date.

*Article 6*

**The Commission shall review this Regulation within two years of its date of application.**

*Article 7*

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

It shall apply from 31 January 2022.

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

Done at Brussels, 21 May 2021.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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