Trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

2014/0005(COD) - 04/10/2016 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 612 votes to 11 with 54 abstentions a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

Parliament's position adopted in first reading following the ordinary legislative procedure, amended the Commission proposal as follows:

Prohibition of imports and exports: Parliament specified that Regulation (EC) No 1236/2005 prohibit the export and import of goods listed in **Annex II** to that Regulation and the supply of technical assistance in respect of such goods. Goods listed in Annex II have no practical use other than for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. Where such goods are located in **third countries**, brokers in the Union are prohibited from providing brokering services in relation to such goods.

Prohibition on training, promotion and advertising: as goods listed in Annex II to the Regulation have no practical use other than for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, the amended text:

- prohibits brokers and suppliers of technical assistance from **providing training** on the use of such goods to third countries;
- prohibits both the **promotion** of such goods in trade fairs or exhibitions in the Union, and the sale or purchase of advertising space in print media or on the Internet and of advertising time on television or radio in relation to such goods.

Prohibition on transit: in order to prevent economic operators from deriving benefits from transporting goods which pass through the customs territory of the Union on their way to a third country and which are intended to be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, the text **prohibits transport within the Union of such goods, if they are listed in Annex II.**

By way of derogation, a transit of goods may be authorised if it is demonstrated that, in the country of destination, such goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.

In addition, transit of **goods listed in Annex III or Annex IIIa** to the Regulation (EC) No 1236/2005 (goods that could be used for the purpose of capital punishment, torture or other cruel, inhuman or degrading treatment or punishment) is prohibited if the economic operator has **knowledge about the intended use.**

Criteria for granting export authorisations: Parliament introduced a number of rules that apply to the **verification of the intended end-use and the risk of diversion**.

If the manufacturer of goods listed in Annex III requests an authorisation for exporting such goods to a distributor, the competent authority shall make an assessment of the contractual arrangements made by the manufacturer and the distributor and of the measures that they are taking to ensure that these goods and, if applicable, the products in which they will be incorporated will not be used for torture or other cruel, inhuman or degrading treatment or punishment.

An authorisation shall be required for any supply, by a supplier of technical assistance or a broker, respectively, of one of the following services: (i) technical assistance related to goods listed in Annex III, irrespective of the origin of such goods; and (ii) brokering services related to goods listed in Annex III, irrespective of the origin of such goods.

Authorisations: authorisations for export, import or transit shall be issued on a **form** consistent with the models set out in Annexes V, VI and VII. Such authorisations shall be valid throughout the Union. The period of validity of an authorisation shall be **from three to twelve months** with a possible extension of up to 12 months. The period of validity of a global authorisation shall be from one year to three years with a possible extension of up to two years.

Urgent action on new goods: Members extended the scope of the procedure allowing the Commission to add new goods to the list of those that are prohibited or controlled.

Anti-Torture Coordination Group: the amended text provides for a coordination group to serve as a platform for Member States' experts and the Commission to exchange information on administrative practices and to discuss questions of interpretation of the Regulation, technical issues with respect to the goods listed, and developments related to the Regulation. The Commission shall submit an **annual report** in writing to the European Parliament on the activities, examinations and consultations of the Group.

Review: by 31 July 2020, and every five years thereafter, the Commission shall review the implementation of this Regulation and assess the need to include the activities of EU nationals abroad.