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

2014/0005(COD) - 23/11/2016 - Final act

PURPOSE: to amend 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.

LEGISLATIVE ACT: Regulation (EU) 2016/2134 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.

CONTENT: the amending Regulation amends Council Regulation (EC) No 1236/2005 in the light of developments since it entered into force in 2006. It lays down Union rules governing **trade with third countries in goods that could be used for the purpose of capital punishment or for the purpose of torture or other cruel, inhuman or degrading treatment or punishment**, and rules governing the supply of brokering services, technical assistance, training and advertising related to such goods.

It amends the definition of “other cruel, inhuman or degrading treatment or punishment” to align it with the case-law of the European Court of Human Rights.

The amending Regulation:

- **prohibits imports and exports** 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;
- **prohibits the supply of technical assistance** related to goods listed in Annex II to any person, entity or body in a third country, whether for consideration or not;
- **prohibits the transit** of goods listed in Annex II or Annex IIIa (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;
- prohibits brokers from supplying to any person, entity or body in a third country brokering services in relation to goods listed in Annex II, irrespective of the origin of such goods;
- prohibits **promotion and advertising** of goods listed in Annex II to the Regulation at trade fairs or exhibitions in the Union;
- introduces a **prior authorisation system** for the supply of brokering services and technical assistance in respect of the goods listed in Annex III or in Annex IIIa;
- provides **authorisations** for export, import or transit, authorisations concerning brokering services and authorisations concerning technical assistance shall be issued on a form consistent with the model 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;
- provides an **urgency procedure** in the cases where amendments to the Annexes to the Regulation are needed when new goods enter into the market;

- establishes an **anti-torture coordination group** enabling 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.

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.

ENTRY INTO FORCE: 16.12.2016 with the exception of certain provisions which shall enter into force on 17.3.2017.

DELEGATED ACTS: the power to adopt delegated acts shall be delegated to the Commission to amend Annexes I, II, III, IIIa, IIIb, IV, V, VI and VII of Council Regulation (EC) No 1236/2005. The power to adopt delegated acts shall be conferred on the Commission for a period of five years (renewable) from 16 December 2016. The European Parliament or the Council shall have the right to object to a delegated act within a period of two months (extendable for two months) from the date of notification.