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

2018/0160(COD) - 24/05/2018 - Legislative proposal

PURPOSE: to establish EU rules concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (codification of Council Regulation (EC) No 1236/2005).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Council Regulation (EC) No 1236/2005 has been substantially amended several times. On 1 April 1987, the Commission decided to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that their provisions are clear and readily understandable.

The European Parliament, the Council and the Commission agreed by an Interinstitutional Agreement of 20 December 1994 that an accelerated procedure may be used for the fast-track adoption of codification instruments.

CONTENT: in the interests of clarity and rationality, the purpose of this proposal is to **undertake a codification of 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.

The proposed new Regulation will **supersede the various acts incorporated in it**. It fully preserves the content of the acts and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

The main elements of the proposal are as follows:

Prohibition of exports and imports: the proposed Regulation prohibits exports and imports of goods (listed in Annex II of the Regulation) which have no practical use other than capital punishment or torture and other cruel, inhuman or degrading treatment or punishment.

It also prohibits a supplier of technical assistance or a broker from supplying or offering such goods to third countries. Furthermore, it prohibit 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.

Obligation of an export licence: for goods which may be used to inflict torture or other cruel, inhuman or degrading treatment or punishment (listed in Annex III to the Regulation) or to inflict capital punishment (listed in Annex IV to the Regulation), an export authorisation is required, irrespective of the provenance

of the goods. The competent authority shall not grant an authorisation if there are reasonable grounds to believe that the goods could be used for the above purposes.

Authorisations: authorisations for export, import or transit shall be issued on a form consistent with the **model** set out in Annex VII. Authorisations concerning brokering services shall be issued on a form consistent with the model set out in Annex VIII. Authorisations concerning technical assistance shall be issued on a form consistent with the model set out in Annex IX. 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 twelve 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.

The Regulation allows competent authorities to refuse to grant an authorisation and to cancel, suspend, modify or withdraw an authorisation they have already granted.

If an authorisation is not granted, the customs authorities must detain the declared goods and draw attention to the possibility of requesting an authorisation. Property shall be destroyed if no application for authorisation is submitted within six months.

The competent authorities, acting in accordance with this Regulation, may refuse to grant an authorisation and may annul, suspend, modify or revoke an authorisation which they have already granted.

If no authorisation has been granted, the authorities shall detain the goods declared and shall make the exporter or importer aware of the possibility to apply for an authorisation. If no application for an authorisation is made within six months of the detention, or if the competent authority dismisses such an application, the customs authorities shall dispose of the detained goods in accordance with applicable national law.