

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) - 16/01/2019 - Final act

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

LEGISLATIVE ACT: Regulation (EU) 2019/125 of the European Parliament and of the Council concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (codified text).

CONTENT: in the interests of legal clarity and transparency, this Regulation codifies and replaces Regulation (EC) No 1236/2005, which has been substantially amended several times. The new Regulation replaces the various acts incorporated in it; it fully preserves the content of the acts and brings them together with only such formal amendments as are required by the codification exercise itself.

The aim of the Regulation is to prevent EU exports from contributing to human rights violations in third countries. At EU level, the Charter of Fundamental Rights prohibits capital punishment and provides that ‘no one shall be subjected to torture or inhuman or degrading treatment or punishment’.

The main elements are as follows:

Prohibition of exports, imports, brokering services and training

The Regulation:

- prohibits exports and imports of goods (set out in Annex II) which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment and prohibits the supply of technical assistance in respect of such goods;
- 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.

Authorisation system

For goods that may be used to inflict torture or other cruel, inhuman or degrading treatment or punishment (listed in Annex III to the Regulation) or to impose the death penalty (listed in Annex IV to the Regulation), an export licence shall be required, regardless of the origin 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-mentioned purposes.

The competent authority shall take into account:

- available international court judgements;

- findings of the competent bodies of the UN, the Council of Europe and the EU, and reports of the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment and of the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment.

The Regulation establishes, for certain exports, a Union general export authorisation, which is set out in Annex V to the Regulation. Export, import or transit authorisations and authorisations for brokering services and technical assistance shall be issued on an appropriate form drawn up in accordance with a model set out in the Annex to the Regulation.

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 annul, suspend, modify or revoke an authorisation they have already granted.

If an authorisation is not granted, the customs authorities shall detain the declared goods and draw attention to the possibility of applying for an authorisation. The property shall be destroyed if no request for authorisation is made within six months.

ENTRY INTO FORCE: 20.2.2019.