Basic information

2018/0160(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. Codification **Subject** 6.10.08 Fundamental freedoms, human rights, democracy in general 6.20.02 Export/import control, trade defence, trade barriers	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	JURI Legal Affairs	GERINGER DE OEDENBERG Lidia Joanna (S&D)	03/09/2018
Council of the European Union			
European Commission	**Commission DG**	**Commissioner**	
	European External Action Service	MOGHERINI Federica	

Key events

Date	Event	Reference	Summary
24/05/2018	Legislative proposal published	COM(2018)0316	Summary
31/05/2018	Committee referral announced in Parliament, 1st reading		
20/11/2018	Vote in committee, 1st reading		
23/11/2018	Committee report tabled for plenary, 1st reading	A8-0387/2018	Summary
29/11/2018	Decision by Parliament, 1st reading	T8-0467/2018	Summary
29/11/2018	Results of vote in Parliament		
05/12/2018	Act adopted by Council after Parliament's 1st reading		
16/01/2019	Final act signed		
16/01/2019	End of procedure in Parliament		
31/01/2019	Final act published in Official Journal		

Technical information	
Procedure reference	2018/0160(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Codification
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 207-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/13227

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE627.604	06/11/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0387/2018	23/11/2018	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0467/2018	29/11/2018	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00059/2018/LEX	16/01/2019	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2018)0316	24/05/2018	Summary
Follow-up document	COM(2019)0445	01/10/2019	Summary
Follow-up document	COM(2019)0449	07/10/2019	Summary
Follow-up document	COM(2020)0343	30/07/2020	
Follow-up document	COM(2020)0799	14/12/2020	
Follow-up document	COM(2020)0803	14/12/2020	
Follow-up document	COM(2021)0075	22/02/2021	
	COM(2021)0632		

Follow-up document		14/10/2021	
Follow-up document	COM(2021)0633	14/10/2021	
Follow-up document	COM(2022)0567	31/10/2022	
Follow-up document	COM(2022)0568	31/10/2022	
Follow-up document	COM(2023)0689	08/11/2023	
Follow-up document	COM(2023)0694	08/11/2023	
Follow-up document	COM(2024)0529	19/11/2024	
Follow-up document	COM(2024)0530	19/11/2024	
Follow-up document	COM(2025)0482	12/09/2025	
Follow-up document	COM(2025)0704	21/11/2025	
Follow-up document	COM(2025)0748	09/12/2025	
Follow-up document	COM(2026)0509	28/09/2026	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2019/0125
OJ L 030 31.01.2019, p. 0001 Summary

Delegated acts

Reference	Subject
2020/2579(DEA)	Examination of delegated act
2020/2903(DEA)	Examination of delegated act

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) - 23/11/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Lidia Joanna GERINGER DE OEDENBERG (S&D, PL) on the proposal for a regulation 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 (codification).

The committee recommended that the European Parliament adopt its position at first reading, **taking over the Commission proposal** as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission.

According to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance.

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.

Autorisation 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.

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.

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) - 07/10/2019 - Follow-up document

In accordance with Regulation (EU) 2019/125 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, the Commission has submitted a report on the activities and consultations of the Anti-Torture Coordination Group.

Given the rather limited information in 2017, this report provides information on the activities of the Anti-Torture Coordination Group in 2017 and 2018, hence the period from the entry into force of the Regulation (EU) 2016/2134 of 23 November 2016, which established the group.

Activities of the Anti-Torture Coordination Group

This group allows Member States' experts and the Commission to exchange information on administrative practices and to discuss questions of interpretation of the Regulation, technical issues related to the listed goods, developments related to the Regulation and any other issues that may arise.

This group serves 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, developments related to the Regulation and any other questions that may arise. In addition, the Commission shall consult the group when drawing up the delegated acts.

Notifications concerning denials and prohibited exporters

The Regulation requires that the competent authorities in the European Union Member States use the DualUse electronic system (DUeS), a secure and encrypted system created by the Commission for the exchange of certain information between competent authorities, to communicate information on cases where a request for an export authorisation has been rejected (so-called denials).

The tools enable the competent authorities to notify: (i) data on exporters who have been prohibited from using the Union General Export Authorisation; (ii) data concerning technical assistance for which an authorisation has not been granted and (iii) data concerning brokering services for which an authorisation has not been granted.

Prior authorisation requirement for technical assistance and brokerage services

Members of the ATCG were requested to share any guidance they may have developed on these issues, including on the definition of certain terms, such as ‘broker’ and ‘supplier of technical assistance’.

Prohibitions on trade fairs and advertising

Exchanges focused on possible guidance for competent authorities and on how to implement these prohibitions, which were introduced when the Regulation was amended in 2016 and entered into force on 16 December 2016. It was noted that there had been reported instances of goods being advertised on some European suppliers’ websites, which could suggest that the scope of the prohibition as laid down in the Regulation may be insufficient.

Global Alliance for Torture-Free Trade

The Anti-Torture Coordination Group was informed of the main developments regarding the Global Alliance for Torture-Free Trade.

Promoted by the European Union and co-sponsored by Argentina and Mongolia, the Global Alliance was launched on 18 September 2017 with the adoption by 57 members of a political declaration on its founding principles, including a commitment to take effective measures for restricting trade in goods used for torture and death penalty through domestic legislation and efficient enforcement. All EU Member States along with over thirty countries have joined the Global Alliance.

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) - 29/11/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 512 votes to 73, with 4 abstentions, a legislative resolution on the proposal for a regulation 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 (codification).

The European Parliament adopted its position at first reading taking over the Commission's proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission. According to the Consultative Working Party, the proposal in question contains a **straightforward codification of the existing texts** without any change in their substance.

The Regulation seeks to lay down Union rules on trade with third countries in goods which could be used for the purpose of capital punishment and in goods which could be used for the purpose of torture and other cruel, inhuman or degrading treatment or punishment and rules governing the provision of brokering services, technical assistance, training and publicity related to such goods.

The proposed Regulation:

- prohibit exports and imports of goods 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 to prohibit 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 as well as to 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.

The proposed Regulation also defines an export authorisation system designed to prevent certain goods from being used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

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) - 01/10/2019 - Follow-up document

Pursuant to Regulation (EU) 2019/125 of the European Parliament and of the Council, the Commission presented a first report providing information on Member States' authorisation activities concerning exports of goods which could be used for torture or for capital punishment, in 2017 and 2018.

All 28 Member States reported on the number of export authorisations that were granted and refused under the Regulation and on the goods and countries of destination concerned by them. Except for one Member State, they also reported the numbers or quantities of goods authorized for export and the category of end-user to which those goods would be supplied.

Authorisations granted and refused

The report noted that in 2018, the total number of reported authorisations amounted to 231, with 11 Member States reporting that they had granted authorisations. In 2017, the total number of reported authorisations was 292, granted by 12 Member States. The remaining Member States informed the Commission that they have not received any applications for authorisations.

During the two-year period, nine applications for an export authorisation were reported as dismissed: five in 2018 and four in 2017. The reported cases of dismissal in 2018 concerned certain intended transactions with customers in Bangladesh, China (Macao), Egypt, Moldova and Vietnam, whereas in 2017 the rejections concerned certain intended transactions with customers in Côte d'Ivoire, Kazakhstan, Togo and Moldova. The unauthorised transactions primarily concerned goods listed in Annex III (the goods might be used for torture or other cruel, inhuman or degrading treatment or punishment); those with Bangladesh and Egypt, however, would have involved goods listed in Annex IV (the goods might be used for capital punishment).

Such a dismissal, also known informally as a 'denial', typically means that the exporter has not provided the competent authority with sufficient information to show that, in the case at hand, the goods concerned were going to be used for a legitimate purpose. In other words, a denial does not necessarily imply that there was evidence that the goods were going to be used for torture or for capital punishment.

One Member State mentioned that it had granted three global authorisations concerning goods listed in Annex III; they concerned exports of goods that certain national authorities were going to use to fulfil their duties abroad

End-users

The information that was provided indicates that trading firms represent an important part of the exports of portable electric discharge weapons, of portable weapons or equipment for administering a dose of an incapacitating or irritating chemical substance, and of thiopental sodium salt. One Member State did not provide information on the category of end-users concerned by its authorisations.

It is unclear whether the second paragraph of Article 12(3) of Regulation (EU) 2019/125, which provides how the competent authority should assess exports of pelargonic acid vanillylamide (PAVA) and of oleoresin capsicum (OC) to a distributor, was applied by analogy when assessing those exports.

Goods and countries of destination concerned by the export authorisations

The information provided by the competent authorities sometimes includes authorisations for exports to destinations listed in the Union General Export Authorisation (Annex V to Regulation (EU) 2019/125) of goods listed in Annex IV. It is not clear whether in those cases the terms of the Union General Export Authorisation were not met or whether there is another explanation. For example, it is possible that the exporter preferred to obtain an individual or a global authorisation.

One Member State did not specify to which of the goods listed in Annex IV the reported authorisations relate. Another Member State reported that goods had been ‘exported’ to one of the Channel Islands. This information was not taken into account for the purposes of the present report.