

Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (codification)

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down ^{F1}... rules governing trade with [^{F2}other] 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.

Textual Amendments

- F1** Word in Art. 1 omitted (31.12.2020) by virtue of [The Trade in Torture etc. Goods \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1479\)](#), regs. 1, **2(2)(a)** (with reg. 3) (as amended by [S.I. 2020/1502](#), regs. 1(2), 13, 15)
- F2** Word in Art. 1 substituted (31.12.2020) by [The Trade in Torture etc. Goods \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1479\)](#), regs. 1, **2(2)(b)** (with reg. 3) (as amended by [S.I. 2020/1502](#), regs. 1(2), 13, 15)

Article 2

Definitions

For the purposes of this Regulation:

- (a) ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from that person or from a third person information or a confession, punishing that person for an act that either that person or a third person has committed or is suspected of having committed, or intimidating or coercing that person or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties. Capital punishment is not deemed a lawful penalty under any circumstances;
- (b) ‘other cruel, inhuman or degrading treatment or punishment’ means any act by which pain or suffering attaining a minimum level of severity, whether physical or mental, is inflicted on a person, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person

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acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties. Capital punishment is not deemed a lawful penalty under any circumstances;

- (c) ‘law enforcement authority’ means any authority responsible for preventing, detecting, investigating, combating and punishing criminal offences, including, but not limited to, the police, any prosecutor, any judicial authority, any public or private prison authority and, where appropriate, any of the state security forces and military authorities;
- (d) ‘export’ means any departure of goods from the ^{F3}United Kingdom to a destination outside of the territory of the United Kingdom,] including the departure of goods that requires a customs declaration and the departure of goods after their storage in a free zone within the meaning [^{F4}given by section 100A(2) of the Customs and Excise Management Act 1979;]⁽¹⁾;
- (e) ‘import’ means any entry of goods [^{F5}(excluding goods consigned from the Isle of Man) into the United Kingdom,] including temporary storage, the placing in a free zone, the placing under a special procedure and the release for free circulation ^{F6}...;
- (f) ‘technical assistance’ means any technical support related to repairs, development, manufacture, testing, maintenance, assembly or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services. Technical assistance includes verbal forms of assistance and assistance provided by electronic means;
- (g) ‘museum’ means a non-profit making, permanent institution in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, material evidence of people and their environment;
- (h) [^{F7}“competent authority” means the Secretary of State];
- (i) ‘applicant’ means:
 - (1) the exporter, in the case of exports referred to in Article 3, 11 or 16;
 - (2) the natural or legal person, entity or body transporting the goods within the ^{F8}... territory of the [^{F9}United Kingdom], in the case of transit referred to in Article 5;
 - (3) the supplier of technical assistance, in the case of supplies of technical assistance referred to in Article 3;
 - (4) the museum that will display the goods, in the case of imports and supplies of technical assistance referred to in Article 4;
 - (5) the supplier of technical assistance or the broker, in the case of supplies of technical assistance referred to in Article 15 or brokering services referred to in Article 19;
- (j) [^{F10}references to the “territory of the United Kingdom” include the Isle of Man;]
- (k) ‘brokering services’ means:
 - (1) the negotiation or arrangement of transactions for the purchase, sale or supply of relevant goods from a third country to any other third country, or

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- (2) the selling or buying of relevant goods that are located in a third country for their transfer to another third country.

For the purposes of this Regulation, the sole provision of ancillary services is excluded from this definition. Ancillary services are transportation, financial services, insurance or re-insurance, or general advertising or promotion;

- (l) ^{F11}“broker” means—
- (i) any person resident or established in the United Kingdom who supplies brokering services from the United Kingdom;
 - (ii) any United Kingdom national who supplies brokering services from the United Kingdom;
 - (iii) any United Kingdom person who supplies brokering services from a country within the European Union;
 - (iv) any person resident or established in the European Union who supplies brokering services from the United Kingdom;
 - (v) any European Union national who supplies brokering services from the United Kingdom;]
- (m) ^{F12}“supplier of technical assistance” means—
- (i) any person resident or established in the United Kingdom who supplies technical assistance from the United Kingdom;
 - (ii) any United Kingdom national who supplies technical assistance from the United Kingdom;
 - (iii) any United Kingdom person who supplies technical assistance from a country within the European Union;
 - (iv) any person resident or established in the European Union who supplies technical assistance from the United Kingdom;
 - (v) any European Union national who supplies technical assistance from the United Kingdom;]
- (n) ^{F13}“exporter” means any person, resident or established in the United Kingdom, who makes an export declaration or on whose behalf an export declaration is made, that is to say the person who, at the time the declaration is accepted, holds the contract with the consignee in the third country and has the power for determining the sending of the item out of the territory of the United Kingdom. If no export declaration has been made, the exporter is the person who holds the contract with the consignee in the third country and has the power for determining the sending of the item out of the United Kingdom to a destination outside of the territory of the United Kingdom. If no contract has been concluded, or if the holder of the contract does not act on its own behalf, the exporter is the person who has the power for determining the sending of the item out of the United Kingdom to a destination outside of the territory of the United Kingdom;]
- (o) ^{F14}“General Export Authorisation” means an authorisation for exports as defined under point (d) to certain countries which is available to all exporters who respect conditions and requirements for its use as listed in Annex 5];

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- (p) ‘individual authorisation’ means an authorisation granted to:
- (1) one specific exporter for exports as defined under point (d) to one end-user or consignee in a third country and covering one or more goods;
 - (2) one specific broker for the supply of brokering services as defined under point (k) to one end-user or consignee in a third country and covering one or more goods; or
 - (3) a natural or legal person, entity or body transporting goods within the ^{F15}... territory of the [^{F16}United Kingdom] for transit as defined under point (s);
- (q) ‘global authorisation’ means an authorisation granted to one specific exporter or broker in respect of a type of goods listed in Annex III or in Annex IV, which may be valid for:
- (1) exports as defined under point (d) to one or more specified end-users in one or more specified third countries;
 - (2) exports as defined under point (d) to one or more specified distributors in one or more specified third countries, where the exporter is a manufacturer of goods included in point 3.2 or 3.3. of Annex III or in Section 1 of Annex IV;
 - (3) the supply of brokering services related to transfers of goods which are located in a third country, to one or more specified end-users in one or more specified third countries;
 - (4) the supply of brokering services related to transfers of goods which are located in a third country, to one or more specified distributors in one or more specified third countries, where the broker is a manufacturer of goods included in point 3.2 or 3.3. of Annex III or in Section 1 of Annex IV;
- (r) ‘distributor’ means an economic operator performing wholesale activities in relation to goods listed in point 3.2 or 3.3 of Annex III or in Section 1 of Annex IV, such as procuring such goods from manufacturers or holding, supplying or exporting such goods; wholesale activities of such goods do not include procurement by either a hospital, a pharmacist or a medical professional for the sole purpose of supplying such goods to the public;
- (s) ‘transit’ means a transport within the [^{F17}territory of the United Kingdom] of [^{F18}goods not in free circulation] which pass through the [^{F17}territory of the United Kingdom] with a destination outside the [^{F17}territory of the United Kingdom];
- (t) [^{F19}“third country”] means any country or territory other than the United Kingdom or the Isle of Man;
- (u) “United Kingdom national” means a person who is a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, or a person who, under the British Nationality Act 1981, is a British subject or a British protected person within the meaning of that Act;
- (v) “United Kingdom person” means a United Kingdom national or a person, entity or body incorporated or constituted under the law of the United Kingdom or of any part of the United Kingdom;
- (w) “European Union national” means a natural person who is a national of a member State;

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- (x) a person is “resident or established” in the country or territory in which, in the case of a natural person, that person has their habitual residence and, in the case of any other person, that person has its registered office, central headquarters or a permanent business establishment;
- (y) “permanent business establishment” has the meaning given by Article 5(32) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code.]

Textual Amendments

- F3** Words in Art. 2(d) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(a)(i)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F4** Words in Art. 2(d) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(a)(ii)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), **13**, 15)
- F5** Words in Art. 2(e) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(b)(i)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F6** Words in Art. 2(e) omitted (31.12.2020) by virtue of The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(b)(ii)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F7** Art. 2(h) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(c)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F8** Word in Art. 2(i)(2) omitted (31.12.2020) by virtue of The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(d)(i)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), **13**, 15)
- F9** Words in Art. 2(i)(2) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(d)(ii)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), **13**, 15)
- F10** Art. 2(j) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(e)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F11** Art. 2(l) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(f)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F12** Art. 2(m) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(g)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F13** Art. 2(n) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(h)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F14** Art. 2(o) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(i)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F15** Word in Art. 2(p) omitted (31.12.2020) by virtue of The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(j)(i)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)
- F16** Words in Art. 2(p) substituted (31.12.2020) by The Trade in Torture etc. Goods (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1479), regs. 1, **2(3)(j)(ii)** (with reg. 3) (as amended by S.I. 2020/1502, regs. 1(2), 13, 15)

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- F17** Words in Art. 2(s) substituted (31.12.2020) by [The Trade in Torture etc. Goods \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1479\)](#), regs. 1, **2(3)(k)(i)** (with reg. 3) (as amended by [S.I. 2020/1502](#), regs. 1(2), 13, 15)
- F18** Words in Art. 2(s) substituted (31.12.2020) by [The Trade in Torture etc. Goods \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1479\)](#), regs. 1, **2(3)(k)(ii)** (with reg. 3) (as amended by [S.I. 2020/1502](#), regs. 1(2), 13, 15)
- F19** Arts. 2(t)-(y) inserted (31.12.2020) by [The Trade in Torture etc. Goods \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1479\)](#), regs. 1, **2(3)(l)** (with reg. 3) (as amended by [S.I. 2020/1502](#), regs. 1(2), 13, 15)

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- (1) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ([OJ L 269, 10.10.2013, p. 1](#)).

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