

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 V

**AUTHORISATION PROCEDURES**

*Article 20*

**Types of authorisations and issuing authorities**

1 A Union General Export Authorisation for certain exports as set out in Annex V is established by this Regulation.

The competent authority of the Member State where the exporter is resident or established may prohibit the exporter from using this authorisation, if there is reasonable suspicion about the exporter's ability to comply with the terms of this authorisation or with a provision of the export control legislation.

The competent authorities of the Member States shall exchange information on all exporters deprived of the right to use the Union General Export Authorisation, unless they determine that a specific exporter will not attempt to export goods listed in Annex IV through another Member State. A secure and encrypted system for exchange of information shall be used for this purpose.

2 An authorisation for exports other than those referred to in paragraph 1 for which an authorisation is required under this Regulation shall be granted by the competent authority of the Member State where the exporter is resident or established, as listed in Annex I. Such authorisation may be an individual or a global authorisation, if it concerns goods listed in Annex III or in Annex IV. An authorisation concerning goods listed in Annex II shall be an individual authorisation.

3 An authorisation for transit of goods listed in Annex II shall be granted by the competent authority of the Member State where the natural or legal person, entity or body transporting the goods within the customs territory of the Union is resident or established, as listed in Annex I. If that person, entity or body is not resident or established in a Member State, an authorisation shall be granted by the competent authority of the Member State in which the entry of goods into the customs territory of the Union takes place. Such an authorisation shall be an individual authorisation.

4 An authorisation for imports for which an authorisation is required under this Regulation shall be granted by the competent authority of the Member State where the museum is established, as listed in Annex I. An authorisation concerning goods listed in Annex II shall be an individual authorisation.

5 An authorisation for the supply of technical assistance related to goods listed in Annex II shall be granted by:

- a the competent authority of the Member State where the supplier of technical assistance is resident or established, as listed in Annex I, or, if there is no such Member State, the

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competent authority of the Member State of which the supplier of technical assistance is a national or under whose law it has been incorporated or constituted, if the assistance is to be supplied to a museum in a third country; or

- b the competent authority of the Member State where the museum is established, as listed in Annex I, if the assistance is to be supplied to a museum in the Union.

6 An authorisation for the supply of technical assistance related to goods listed in Annex III or in Annex IV shall be granted by the competent authority of the Member State where the supplier of technical assistance is resident or established, as listed in Annex I, or, if there is no such Member State, the competent authority of the Member State of which the supplier of technical assistance is a national or under whose law it has been incorporated or constituted.

7 An authorisation for the supply of brokering services related to goods listed in Annex III or in Annex IV shall be granted by the competent authority of the Member State where the broker is resident or established, as listed in Annex I, or, if there is no such Member State, the competent authority of the Member State of which the broker is a national or under whose law it has been incorporated or constituted. Such an authorisation shall be granted for a set quantity of specific goods moving between two or more third countries. The location of the goods in the originating third country, the end-user and its exact location shall be clearly identified.

8 Applicants shall supply the competent authority with all relevant information required for their applications for an individual or global authorisation for exports or for brokering services, for an authorisation for technical assistance, for an individual import authorisation or for an individual authorisation for transit.

As regards exports, the competent authorities shall receive complete information in particular on the end-user, the country of destination and the end-use of the goods.

As regards brokering services the competent authorities shall in particular receive details of the location of the goods in the originating third country, a clear description of the goods and the quantity involved, third parties involved in the transaction, the third country of destination, the end-user in that country and its exact location.

The granting of an authorisation may be subject to an end-use statement, if appropriate.

9 By way of derogation from paragraph 8, where a manufacturer or a manufacturer's representative is to export or to sell and transfer goods included in point 3.2 or 3.3 of Annex III or in Section 1 of Annex IV to a distributor in a third country, the manufacturer shall provide information on the arrangements made and the measures taken to prevent the goods included in point 3.2 or 3.3 of Annex III from being used for torture or other cruel, inhuman or degrading treatment or punishment or to prevent the goods included in Section 1 of Annex IV from being used for capital punishment, on the country of destination and, if available, information on the end-use and the end-users of the goods.

10 Upon request of a national preventive mechanism established under the Optional Protocol to the 1984 United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the competent authorities may decide to make the information they have received from an applicant on the country of destination, the consignee, the end-use and the end-users or, where relevant, the distributor and the arrangements and measures referred to in paragraph 9, available to the requesting national preventive mechanism. The competent authorities shall hear the applicant before the information is made available and may impose restrictions on the use that can be made of the information. The competent authorities shall make their decisions in accordance with national laws and practice.

11 Member States shall process requests for individual or global authorisations within a period of time to be determined by national law or practice.

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## Article 21

### Authorisations

1 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.

2 An authorisation for export granted in accordance with Article 12 or with Article 17 implies an authorisation for the exporter to supply technical assistance to the end-user to the extent that such assistance is necessary for the installation, operation, maintenance or repair of those goods whose export is authorised.

3 Authorisations may be issued by electronic means. The specific procedures shall be established on a national basis. Member States availing themselves of this option shall inform the Commission.

4 Authorisations for export, import, transit, the supply of technical assistance or the supply of brokering services shall be subject to any requirements and conditions the competent authority deems appropriate.

5 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.

## Article 22

### Customs formalities

1 When completing customs formalities, the exporter or importer shall submit the duly completed form set out in Annex VII as proof that the necessary authorisation for the export or import concerned has been obtained. If the document is not filled out in an official language of the Member State where the customs formalities are being completed, the exporter or importer may be required to provide a translation into such official language.

2 If a customs declaration is made concerning goods listed in Annex II, III or IV and it is confirmed that no authorisation has been granted pursuant to this Regulation for the intended export or import, the customs authorities shall detain the goods declared and shall make the exporter or importer aware of the possibility to apply for an authorisation pursuant to this Regulation. 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.

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### Article 23

#### **Notification and consultation requirement**

1 A Member State shall notify the other Member States and the Commission if its competent authorities, as listed in Annex I, take a decision dismissing an application for an authorisation under this Regulation or if they annul an authorisation they have granted. Such notification shall be made not later than 30 days following the date of the decision or annulment.

2 The competent authority shall, through diplomatic channels where required or appropriate, consult the authority or authorities which, in the preceding three years, dismissed an application for authorisation of an export, a transit, the supply of technical assistance to a person, entity or body in a third country or the supply of brokering services under this Regulation, if it receives an application concerning an export, a transit, the supply of technical assistance to a person, entity or body in a third country or the supply of brokering services involving an essentially identical transaction referred to in such earlier application and considers that an authorisation should, nevertheless, be granted.

3 If, after the consultations referred to in paragraph 2, the competent authority decides to grant an authorisation, the relevant Member State shall immediately inform the other Member States and the Commission of its decision and explain the reasons for its decision, submitting supporting information as appropriate.

4 Where a refusal to grant an authorisation is based on a national prohibition in accordance with Article 14(1) or Article 15(4), it shall not constitute a decision dismissing an application within the meaning of paragraph 1 of this Article.

5 All notifications required under this Article shall be made via a secure and encrypted system for exchange of information.

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