

Article 23

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.

Comment:

Even if this article establishes a procedure of consultation between Member States as regards granting import and export authorizations, it should be emphasised that sole consultation and notification of the decision of Member State national authorities is compulsory. Therefore, after having undertaken all required consultations Member State remains unrestricted as concerns the final decision on issue of authorisation.

In addition, the prohibition imposed by Member States on the basis of Article 14(1) and 15(4) concerning an export, import and brokering services of leg irons, gang chains and portable electric shock devices is not covered by this article. In other words, denials issued and based on prohibition prescribed under Article 14(1) and 15(4) shall not be notified to the Commission and national authorities of other Member States, as listed in Annex I of this Regulation.