

## Article 26 Exchange of information between Member States' authorities and the Commission

1. Without prejudice to Article 23, the Commission and the Member States shall, upon request, inform each other of the measures taken under this Regulation and supply each other with any relevant information at their disposal in connection with this Regulation, in particular information on authorizations granted and refused.
2. Relevant information on authorisations granted and refused shall comprise at least the type of decision, the grounds for the decision or a summary thereof, the names of the consignees and, if they are not the same, of the end-users as well as the goods concerned.
3. Member States, if possible in cooperation with the Commission, shall make a public, annual activity report, providing information on the number of applications received, on the goods and countries concerned by these applications, and on the decisions they have taken on these applications. This report shall not include information the disclosure of which a Member State considers to be contrary to the essential interests of its security.

### Comment:

On 1 October 2019, the European Commission published the Report from the Commission to the European Parliament and the Council on export authorisation in 2017 and 2018<sup>46</sup>.

This first report provides information on Member States' authorisation activities concerning exports of goods which could be used for torture or for capital punishment, in 2017 and 2018<sup>47</sup>. According to the report *All 28 Member States reported on the number of export authorisations that were granted and refused under Articles 11(1) and 16(1) 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.*

Annex 1 to the report displays the number of reported export authorisations granted by Member States pursuant to Article 20(2) of Regulation (EU) 2019/125 (see table below).

Annex 2 and Annex 3 displays respectively reported end-use of authorized exports to third countries in 2017 and in 2018, by product category.

Annex 4 and Annex 5 displays respectively reported destinations of authorized exports in 2017 and in 2018, by product category.

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<sup>46</sup> Report from the Commission to the European Parliament and the Council on export authorisation in 2017 and 2018 pursuant to the Regulation concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, European Commission, Brussels, 1/10/2019, COM(2019) 445 final, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1586846349516&uri=CELEX:52019DC0445>.

<sup>47</sup> This report does not provide information on exporters' use of the Union General Export Authorisation for export of goods listed in Annex IV (Annex V to Regulation (EU) 2019/125).

**Number of reported export authorisations granted by Member States 1 pursuant to Article 20(2) of Regulation (EU) 2019/125 (from the Commission Report, Annex 1)**

	<b>2017</b>	<b>2018</b>
<b>EU</b>	292	231
<b>Austria</b>	6	6
<b>Czech Republic</b>	11	17
<b>Denmark</b>	1	1
<b>France</b>	8	5
<b>Germany</b>	187	142
<b>Italy</b>	5	2
<b>Netherlands</b>	46	37
<b>Poland</b>	3	0
<b>Portugal</b>	3	1
<b>Slovenia</b>	1	0
<b>Spain</b>	1	3
<b>Sweden</b>	0	2
<b>United Kingdom</b>	23	12
<b>Other Member States</b>	0	0

4. The Commission shall prepare an annual report comprised of the annual activity reports referred to in paragraph 3. That annual report shall be made publicly available.

5. Except for the supply of information mentioned in paragraph 2 to the authorities of the other Member State and to the Commission, this Article shall be without prejudice to applicable national rules concerning confidentiality and professional secrecy.

6. The refusal to grant an authorisation, if it is based on a national prohibition adopted in accordance with Article 14(1), shall not constitute an authorisation refused within the meaning of paragraphs 1, 2 and 3 of this Article.

**Comment:**

The main purpose of this Article is to encourage the exchange of information between the authorities of Member States and the Commission. This information exchange shall not be confused with the notification mechanism established by Article 23 of this Regulation. Notification procedure consists in Member States' obligation to notify the authorities of other Member States, as listed in Annex I of this Regulation, and the Commission, if they dismiss an application for an authorisation under this Regulation or if they annul an authorisation they have granted.

In addition, the prohibition imposed by Member States on the basis of Article 14(1) and 15(4) concerning an export and import of leg irons, gang chains and portable electric shock devices is not covered by this Article. In other words, an authorisation denial issued under a prohibition established under Article 14(1) and 15(4) may not be communicated to the Commission and national authorities of other Member States, as listed in Annex I of this Regulation.