

Article 3

CHAPTER II: Goods which have no practical use other than for the purposes of capital punishment, torture and other cruel, inhuman or degrading treatment or punishment

Type of Control	Content	Reference
Export Prohibition	Goods listed in Annex II Supply of technical assistance related to goods listed in Annex II. Derogation if demonstrated that goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.	Regulation Article 3
Import Prohibition	Goods listed in Annex II. Acceptance of technical assistance related to goods listed in Annex II. Derogation if demonstrated that the goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.	Regulation Article 4
Transit Prohibition	Goods listed in Annex II. Derogation if demonstrated that the goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.	Regulation Article 5
Prohibition of Brokering Services	To any person, entity or body in a third country of goods listed in Annex II.	Regulation Article 6
Prohibition of Training	Training related to goods listed in Annex II.	Regulation Article 7
Prohibition of Trade Fairs in the EU	Display or offer for sale any of the goods listed in Annex II, unless it is demonstrated that, given the nature of the exhibition or fair, such display or offering for sale is neither instrumental in nor promotes the sale or supply of the relevant goods to any person, entity or body in a third country	Regulation Article 8
Prohibition of Advertising	Buying selling in third country advertising space in print media or on the Internet or advertising time on television or radio in relation to goods listed in Annex II.	Regulation Article 9

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Article 3 Export prohibition

1. Any export of goods listed in Annex II, shall be prohibited, irrespective of the origin of such goods.

Annex II shall comprise 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.

A supplier of technical assistance shall be prohibited from supplying technical assistance related to goods listed in Annex II to any person, entity or body in a third country, whether for consideration or not.

2. By way of derogation from paragraph 1, the competent authority may authorise an export of goods listed in Annex II, and the supply of related technical assistance, if it is demonstrated that, in the country to which the goods will be exported, such goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.

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Countries	Criteria considered by Member States to grant or not the export authorisation (Art. 3. 2)
Austria	<p style="text-align: center;">YES</p> <p>The criteria of Art. 3 through 12 of the Austrian Foreign Economy Act are applicable including the criterion concerning human rights (no use for internal repression or serious human rights violations) and the criterion concerning a deviation for the purposes of human rights violations.</p>
Belgium	<p style="text-align: center;">NO</p> <p>No formal criteria. However, the FPS Economy has not received any application for export of such goods.</p>
Bulgaria	<p style="text-align: center;">YES</p> <p>According to Art. 3, par. 1 of the Act of implementation of Council Resolution No 1236/2005, the persons applying for issuing an authorization shall submit to the Ministry of Economy an application and the following documents:</p> <ol style="list-style-type: none"> 1. Filled in form model - Annex V of Regulation 1236/2005; 2. Copy of the document certifying the technical and the functional characteristics of the product; 3. Import authorization and/or a document by the end user certifying the final end use of the goods; 4. Copy of the document confirming the foreign trade relations between the transaction's parties. <p>So far the Ministry of Economy has not received any application for export of such goods.</p>
Croatia	<p style="text-align: center;">YES</p> <p>In the process of issuing export or import license for goods listed in Annex II. Regulation (EC) 1236/2005 State office will request a confirmation from the Ministry of Culture that the export of the goods in accordance with Article 3 paragraph 2, and imports of goods in accordance with Article 4 paragraph 2 of the Council Resolution (EC) No 1236/2005.</p> <p>If the Ministry of Culture does not submit a confirmation within 15 days from receipt of the request for confirmation and does not request an extension of this</p>

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	time period, it shall be deemed that the export of the goods is in accordance with Article 3 paragraph 2, and imports of goods in accordance with Article 4 paragraph 2 of the Council Resolution (EC) No 1236/2005.
Cyprus	NO
Denmark	NO
Estonia	NO No defined criteria. As the regulation stipulates, the exporter must prove that these goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.
France	YES Throughout an inter-ministerial consultation by Ministry of Internal Affairs, Ministry of Foreign Affairs and Ministry of Defence.
Germany	YES The criteria are the same that the one defined by Article 6 of this Council Regulation.
Greece	NO Import license of the competent authority of the country of destination is required. No specific criteria defined. Case by case examination and decision.
Hungary	NO Hungary does not apply derogation (Art 3.2) in its national Legislation to the general export prohibition.
Ireland	NO The Department of Jobs, Enterprise and Innovation has not received an application for authorization to export goods in Annex II or to supply related technical assistance. Should such an application be received in the future it will be reviewed on a case-by-case basis in consultation with other relevant Government Departments and Bodies.
Italy	In granting such a kind of license, Italy carefully considers if the above-mentioned condition for the item of being displayed in a museum will be respected. An End User Statement from the relevant museum is required.

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Latvia	<p style="text-align: center;">YES</p> <p>Additional criteria is defined by the Regulation of Cabinet of Ministers of the Republic of Latvia No 927 <i>Procedures for the Issuance of Export and Import Authorizations for Goods, Which Could be Used for Capital Punishment, Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment</i> (adopted on 11.11.2008). According to Article 5 of Council Regulation No. 1236/2005, an applicant (legal or natural person) must provide: an export transaction contract or its copy, a confirmation of the end-use – if the goods are going to be exhibited in a museum and a confirmation that the goods will be used for the declared purposes only and will not be utilised for torture. Contents of a confirmation of the end-use is further explained in Article 6 of the Regulation, where, apart from personal and contact information of end user of the goods and the state of end-use, also a reference to the contract by and between the exporter of goods and the end user of the goods and a confirmation that the goods will be used for the declared purposes only and will not be utilised for torture, is required. Also an official agreement between museums of Latvia and destination country (according to the Article 91 of the Regulation of Cabinet of Ministers of the Republic of Latvia No 956 (adopted on 21.11.2006) <i>Regulations Regarding the National Holdings of Museums</i> may provide basis for permitting an export as a confirmation of end-use of goods.</p>
Lithuania	<p>According to the paragraph 7.5 of the Order No 5-V-203 confirmed on March 29th, 2006 by Police Commissioner General of Lithuania it is required to present document proving that goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.</p>
Luxembourg	NO
Netherlands	<p style="text-align: center;">NO</p> <p>In addition to the criteria mentioned in Article 6 of the Regulation, no criteria have been predefined in national legislation. Authorities do consider several ‘relevant considerations’ when deciding upon a license application. These considerations concern end-user, type of end-use, risk of diversion, considerations of national foreign and security policy and international obligations and commitments.</p>

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Poland	<p style="text-align: center;">YES</p> <p>Goods Ordinance of the Minister of Economy of 7 June 2006 on import licenses from or to a third country of certain goods which could be used for punishment or torture (Journal of Laws of 2006 No.118, poz.806). The application for a permit on export of goods listed in Annex II of Council Resolution No 1236/2005 must be accompanied by the end-user's declaration containing:</p> <ul style="list-style-type: none">- a name of the final destination's country;- an end-user's name and address;- an description, quantity and value of exported commodity;- end-uses' declaration;- list of intermediary customer and purchasers. <p>Regarding export of goods to the third county, an and-user declaration shall be approved by Poland-based competent diplomatic mission or consular post of particular third country.</p> <p>To the application for a permit on export of goods, besides listed above documents, applicant shall attach:</p> <p>1) One of the following documents:</p> <ul style="list-style-type: none">a) The copy of a agreement with third-country customer, to whom the goods shall be exported;b) The copy of the legal right to dispose of a commodity for export, provided that the applicant is entitled to dispose of this commodity;c) The copy of concluded agreement with a person who is entitled to dispose of this commodity, authorizing its export, along with a copy of document corroborating the legal right of this person to dispose of a commodity which is the subject of the application;d) A power of attorney issued by a person who has the legal right to dispose of this commodity, along with a document corroborating the legal right to dispose of this commodity by a principal; <p>2) Concerning an application for export of goods, a statement of a person having the right to make a declaration of intent on behalf of museum, that exported goods, in the view of their historic significance, are for museum purposes only, is also required.</p> <p>Technical assistance Ordinance of the Minister of Economy of 7 June 2006 on licenses delivering or receiving technical assistance of certain goods which could be used for punishment or torture (Journal of Laws of 2006 No.118, poz.807). For the application for an export authorisation of goods the following documents must be attached:</p> <ul style="list-style-type: none">1) A statement of a person having the right to make a declaration of intent on behalf of museum, that exported goods in the view of their historic significance are for museum purposes only;2) An authenticated by a notary or competent authority certified true copy of an agreement with museum on provision of technical assistance.
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	Provided that the technical assistance would be provided to the third country from the customs territory of Community, the statement must be approved by Poland-based competent diplomatic mission or consular post of this country.
Portugal	NO
Slovakia	YES Criteria are defined by Articles 3, 4 and 5 of Act 474/2007.
Slovenia	NO In the case of derogation from paragraph 1 Article 3 or paragraph 1 Article 4 of Council Regulation 1236/2005/EC, the criteria for issuing an authorisation are the same as the one defined in Article 6 of Council Regulation 1236/2005/EC and fulfilment of conditions set in paragraph 2 of Article 3 and paragraph 2 of Article 4 of Council Regulation 1236/2005/EC.
Sweden	NO