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Article 33 Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.
2. Member States shall notify the Commission without delay of any amendment affecting rules on penalties notified in accordance with Article 17(2) of Regulation (EC) No 1236/2005.

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Countries	Penalties (Art.33)
Austria	<p>Art. 79 of the Austrian Foreign Economy Act provides for penalties in case of an infringement of the Torture Regulation (esp. violations of prohibitions or authorization requirements or conditions or requirements attached to authorizations and actions to circumvent such prohibitions or authorization requirements). The penalties are up to five years of imprisonment.</p>
Belgium	<p style="text-align: center;">YES</p> <p>The sanctions are imposed by Law of 11thSeptember 1962 (confiscation, fines, imprisonment).</p>
Bulgaria	<p style="text-align: center;">YES</p> <p>The sanctions are imposed by Art. 11, 12 and 13 of the Act of implementation of Council Resolution No 1236/2005.</p> <p><u>Article 11</u> Persons who carry out import and export of goods listed in Annex II and Annex III of Regulation 1236/2005, or provide technical assistance related to such goods, without proper authorization shall be sanctioned with:</p> <ol style="list-style-type: none"> 1. a fine of BGN 500 to BGN 1,000 (250 to 500 Euro) - for natural persons as well as for officials of commercial companies in case the deed is not a crime; 2. a property sanction amounting from BGN 500 to BGN 1,000 (250 to 500 Euro) - for legal and natural persons; 3. fine or penalty in the amount of BGN 2,000 to BGN 10,000 (1,000 to 5,000 Euro) - for a repeated violation. <p><u>Article. 12</u> Persons who operate in violation of the scope and terms of the an authorization issued or provide documents, data, information and reports or obstruct and / or deny access to a public official in the exercise of control functions under this Act shall be sanctioned with:</p> <ol style="list-style-type: none"> 1. a fine of BGN 500 to BGN 1,000 (250 to 500 Euro) - for natural persons as well as for officials of commercial companies in case the deed is not a crime; 2. a property sanction amounting from BGN 1,000 to BGN 5,000 (500 to 2,500 Euro) - for legal and natural persons; 3. fine or penalty amounting of BGN 2,000 to BGN 10,000 (1,000 to 5,000 Euro) - for a repeated violation.

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	<p><u>Article. 13</u> Persons who fail to fulfil their obligations under Art. 9 shall be sanctioned with:</p> <ol style="list-style-type: none">1. a fine of BGN 200 to BGN 1,000 (100 to 500 Euro) - for natural persons as well as for officials of commercial companies in case the deed is not a crime;2. a property sanction amounting ranging from BGN 500 to BGN 2,000 (250 to 1,000 Euro) - for legal and natural persons;3. fine or penalty amounting of BGN 1,000 to BGN 10,000 (500 to 5,000 Euro) - for a repeated violation.
Croatia	<p style="text-align: center;">YES</p> <p>All penalties are covered under the Criminal law under the following articles:</p> <p><u>Criminal law (OG 125/11, 144/12, 56/15, 61/15)</u></p> <p>Illicit Trade Article 264</p> <p>(1) Whoever, without authorization, buys, sells, transfers or exchanges items or goods whose distribution is forbidden or limited, and who has not committed another offense which carries a heavier penalty, shall be punished by imprisonment of up to one year.</p> <p>(2) Items and goods which are illicitly traded shall be confiscated.</p> <p>But the Law also mentions that there is a possibility to replace the imprisonment punishment with a fine.</p> <p>Types of Punishment Article 40.</p> <p>(1) The penalties are fines, imprisonment and long-term imprisonment.</p> <p>(2) A fine may be imposed as a principal and as an accessory punishment.</p> <p>(3) Prison and long-term imprisonment may be imposed only as principal punishment.</p> <p>(4) When the law for a criminal offense punished with a term of imprisonment up to three years, the court may impose a fine as a principal punishment.</p> <p>(5) For criminal offenses motivated by greed, a fine as an accessory can be ordered and when it is not required by law or when the law prescribes that the perpetrator is punished by</p>

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	<p>imprisonment or a fine, and the court as the principal punishment imposes imprisonment.</p> <p>(6) Community service shall be imposed as an alternative to imprisonment or a fine.</p>
Cyprus	<p style="text-align: center;">YES</p> <p>The illegal import or export of controlled goods is punished by two years imprisonment maximum and/or a fine of 17 000 Euro. In case of repeated offences the penalties increase to a maximum of four years imprisonment and/or 34 000 Euro fine.</p>
Denmark	<p>Denmark has laid down rules on penalties applicable to infringements of Regulation 1236/2005 in Section 2(3) of the Ministry of Economics and Business Affairs Consolidating Act No 635 of 9 June 2011 on the application of certain European Union Acts on economic relations to third countries (Enabling Act).</p> <p>The Consolidating Act is available only in Danish.</p>
Estonia	<p style="text-align: center;">YES</p> <p>According to Penal Code § 392: fine and imprisonment up to 5 years, 10 years when committed by a group or by official.</p>
France	<p style="text-align: center;">YES</p> <p>The sanctions are imposed by art. 414 of National Customs Code.</p>
Germany	<p style="text-align: center;">YES</p> <p>According to § 18 section 4 AWG (revised version) a prison sentence up to five years could be imposed to anyone who violates Council Regulation (EC) No. 1236/2005 of 27 June 2005 (intentionally) by</p> <ol style="list-style-type: none"> 1. Exporting the specified goods contrary to Article 3 Para. 1 sentence 1, 2. Providing technical assistance related to the specified goods contrary to Article 3 Para. 1 sentence 2, 3. Importing the specified goods contrary to Article 4 Para. 1 sentence 1,

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	<p>4. Accepting technical assistance related to the specified goods contrary to Article 4 Para. 1 sentence 2, or</p> <p>5. Exporting the goods referred to in Article 5 Para. 1 sentence 1 without a licence.</p> <p>According to § 19 section 1 AWG (revised version) a regulatory offence is deemed to be committed by anyone who violates Council Regulation (EC) No. 1236/2005 of 27 June 2005 negligently in the above mentioned manner.</p>
Greece	<p>Administrative. fine of up to the value of the goods to be exported (Law 936/1979 on external trade).</p> <p>The National Customs Code (N. 2960/2001, OJ no 265A/22-11-2001) Art. 155 par. 2, (b) and Art. 160 Para. 1, stipulates:</p> <ul style="list-style-type: none"> -The export of controlled items without authorization is assimilated to smuggling and provides for administrative penalties. -In addition, as smuggling is a criminal offense, an unauthorized import or export may be punished with imprisonment, subject to court's judgment. <p>For the items referred to in art. 7.1 of the Reg. 1236/2005 (Q.4 above), penalties provided by National Law 2168/1993 for small arms apply.</p>
Hungary	<p style="text-align: center;">YES</p> <p>The sanctions regulated by Gov. Decree No. 160 and Penalty Code No. 100 of 2012 are:</p> <ul style="list-style-type: none"> - Revocation of licence: The Authority shall withdraw a licence if changes take place following its issuing on the basis of which the application should be rejected. The Authority may withdraw a licence if an undertaking breaches the requirements laid down in the Decree or infringes the conditions specified in the licence or violates the commercial legislative provisions. - Gov. Decree No.160. 25§ (1) b). - Penalties: Range from five million to ten million forints in the event of a breach of the provisions of Council Regulation (EC) No 1236/2005 dated 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. Gov. Decree No.160, 8§ (2). - 2 to 8 year imprisonment: Activity without license- Penalty Code, 329§. - 5 to 10 years imprisonment in aggravating circumstances.

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Ireland	YES The European Communities (Control of Trade in Goods that may be used for Torture) Regulations 2006 provides that a person guilty of an offence under this Regulation shall be liable on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both.
Italy	Penalties - fines and/or prison, according to the seriousness of a crime -are provided for in Art. 16 of the above mentioned Legislative Decree No. 96 of 9 April 2003.
Latvia	YES Rules on penalties applicable to infringements of the provisions of this Regulation are laid down by the laws and regulations of the Republic of Latvia depending on a criminal or administrative nature of violation. According to the Article 201 ¹⁰ of <i>The Latvian Administrative Violations code</i> , there are penalties in form of fine for violation of the rules of customs regime. According to the Article 190 ¹ of <i>the Criminal Code of Latvia</i> there are penalties in form of fine, community work or imprisonment for illegal movement of the goods that are banned or require a special regulation. According to the Article 201 ¹² of the <i>Latvian Administrative Violations code</i> as well as the Article 190 of <i>The Criminal Law</i> (regarding smuggling) there are penalties applicable to infringements of the Regulation. According to the Article 18 of <i>the Law On the Circulation of Goods of Strategic Significance</i> , penalties for the violation of the law are applied according to the civil, administrative or criminal responsibilities set by the relevant legislation of the Republic of Latvia ⁵¹ .

⁵¹The Ministry of Foreign Affairs of the Republic of Latvia, Division of export control of strategic goods, precises that this law is separate from 1236.

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Lithuania	<p style="text-align: center;">YES</p> <p>Penal sanctions are provided in Article 199 (1) of the Penal Code of the Republic of Lithuania.</p> <p>Administrative sanctions are provided in Article 210 of the Code Administrative Offences.</p>
Luxembourg	<p>In the present national legislation, penalties are foreseen under Article 9 of the Law dated 5 August 1963 as amended, which foresees fines of an amount up to twice the value of the goods.</p> <p>A new legislation is in preparation; it will introduce additional criminal sanctions.</p>
Netherlands	<p style="text-align: center;">YES</p> <p>Penalties are laid down in the Economic Offences Act (Wet Economische Delicten). Those who violate the provisions of the regulation may face a jail sentence of maximum six years, a fine up to 78.000 Euros, or a work assignment (maximum 480 hours). Furthermore the Economic Offences Act offers additional possibilities for penal sanctions such as a temporary or even permanent ban to perform related economic activities, and/ or confiscation of the goods in question and the profits gained by the illegal transaction. Finally, the Court may order the destruction of commodities that present a threat to the public order of public safety.</p> <p>The penalty is decided upon on a case-by-case basis. It is dependent upon the type, number and the seriousness of the infringements (e.g. intentional or unintentional offences, first time offence or repeat offence, voluntary self-disclosure etc.).</p>
Poland	<p style="text-align: center;">YES</p> <p>With reference to penalties applicable to infringements of EU provisions concerning banning the import to and export from the Community, there are the provisions of the “Fiscal Penal Code” (hereinafter referred to as “FPC”) of 10 September 1999 currently applicable in Poland (Journal of Laws of 2007, No 111, item 765, with further amendments). As regards penalties applicable to infringements of Regulation No 1236/2005 the key articles are the following Art. 86, Art. 87 and Art. 91 of FPC. Taking into account the above provisions, the penalties are levied in case of:</p> <ol style="list-style-type: none"> 1. smuggling (import or export without customs declaration – Art. 86 of FPC),

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	<ul style="list-style-type: none"> - pecuniary penalty or imprisonment, or both of them simultaneously, - in case of low value of merchandise – pecuniary penalty, <p>2. fraud (misleading of a competent customs control authority - Art. 87 FPC),</p> <ul style="list-style-type: none"> - pecuniary penalty or imprisonment, or both of them simultaneously, - in case of low value of merchandise – pecuniary penalty, <p>3. handling (purchasing, storage, transportation, dispatch, transmission, selling off, receiving or concealing),</p> <ul style="list-style-type: none"> - pecuniary penalty or penalty of up to 3 years of imprisonment, or both of them simultaneously, - in other forms of crime or offence – pecuniary penalty or pecuniary penalty against fiscal offence. <p>Moreover, depending on the case, the court adjudicates on forfeiture of goods descended directly from crime, tools or goods that were to be used or were used in a crime, or goods which production, possession, trade, storage, transportation or transmission is prohibited. In some cases the court may also adjudicates on forfeiture of packaging or the goods combined with the good directly descended from crime, which is to take place in case the goods combined cannot be separated from the goods in question without damage. Furthermore, in some cases the court can also adjudicate the prohibition on running a business activity.</p>
Slovenia	<p style="text-align: center;">YES</p> <p>Administrative penalties Articles 9 and 10 of Decree on trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (Uradni list RS No 60/2006):</p> <ul style="list-style-type: none"> - Any individual who imports or exports goods referred to in Annex II of the Regulation 1236/2005/EC without an authorisation shall be fined from EUR 150 to EUR 1,000. - Any legal person, entrepreneur or individual who pursues his/her activity as a self-employed person and commits an offence as referred to in the previous paragraph, shall be fined from EUR 15,000 to EUR 100,000. <p>A fine from EUR 500 to EUR 3,800 shall also be imposed upon the responsible person of a legal entity or the responsible person of an entrepreneur or an individual who</p>

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	<p>pursues his/her activity as a self-employed person if he/she commits an offence referred to in the first paragraph of this Article.</p> <ul style="list-style-type: none"> - Any individual who exports goods referred to in Annex III of the Regulation 1236/2005/EC without an authorisation shall be fined from EUR 100 to EUR 800. - Any legal person, entrepreneur or individual who pursues his/her activity as a self-employed person and commits an offence as referred to in the previous paragraph, shall be fined from EUR 10,000 to EUR 80,000. A fine from EUR 400 to EUR 3,200 shall also be imposed upon the responsible person of a legal entity or the responsible person of an entrepreneur or an individual who pursues his/her activity as a self-employed person if he/she commits an offence referred to in the first paragraph of this Article. <p>Penalties are also provided in the Criminal Code imposing a prison sentence up to five years.</p>
Slovakia	<p>YES</p> <p>The penalties applicable to the infringements of the provisions are described in Article 12 of Act 474/2007.</p>
Sweden	<p>YES</p> <p>The Law (2006:1329) concerning trade in certain goods which could be used for capital punishment or torture, defined different penalties depending of the seriousness of the offense. It could be fines or imprisonment not exceeding two years, but if the offense is considered serious, it could be to imprisonment for at least six months but not exceeding six years.</p>