



Council of the
European Union

Brussels, 19 February 2020
(OR. en)

6172/20

COMER 20
WTO 22
UD 37
COHOM 19
DELECT 25

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 18 February 2020

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: C(2020) 819 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 18.2.2020
amending Annexes I and V to Regulation (EU) 2019/125 concerning trade
in certain goods which could be used for capital punishment, torture or
other cruel, inhuman or degrading treatment or punishment

Delegations will find attached document C(2020) 819 final.

Encl.: C(2020) 819 final



Brussels, 18.2.2020
C(2020) 819 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 18.2.2020

amending Annexes I and V to Regulation (EU) 2019/125 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2019/125 of 16 January 2019 codifies Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, and its amending acts. It empowers the Commission to adopt delegated acts to amend the Annexes (Article 24).

Commission Delegated Regulation (EU) 2018/181¹ amended the list of relevant third countries in Part 2 of the Union General Export Authorisation (Annex IIIb, now Annex V to Regulation (EU) 2019/125). Taking into account recent developments since that act was approved, it is appropriate to amend that list. More specifically Gambia and Madagascar ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, one of the listed countries changed its name to North Macedonia and several Member States have requested amendment of the details concerning their competent authority.

This delegated act amends both the list of relevant third countries and the list of competent authorities (Annex I).

Article 29(6) of Regulation (EU) 2019/125 provides that the European Parliament and the Council shall have a scrutiny period of two months once the Commission has adopted this Delegated Regulation. Publication of the Regulation will take place when neither of them expresses an objection.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Member States' experts in the Anti-Torture Coordination Group have been consulted prior to the adoption of this Act.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This act amends the list of countries in the Union General Export Authorisation, notably to reflect that some third countries have not only abolished capital punishment but also ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights. It also amends the list of competent authorities on the basis of information supplied by several Member States.

¹ OJ L 40, 13.2.2018, p. 1.

COMMISSION DELEGATED REGULATION (EU) .../...

of 18.2.2020

amending Annexes I and V to Regulation (EU) 2019/125 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 punishment², and in particular the first paragraph of Article 24 thereof,

Whereas:

- (1) The competent authorities of the Member States are listed in Annex I to Regulation (EU) 2019/125. Belgium, Ireland, France, Croatia, Italy, Hungary, the Netherlands, Austria, Poland, Romania, Slovakia and the United Kingdom have informed the Commission that the entries concerning their competent authorities should be amended. The address for notifications to the Commission also needs to be amended.
- (2) Pursuant to Articles 16 and 19 of Regulation (EU) 2019/125 an authorisation is required for exporting certain goods that could be used for the purpose of capital punishment and for brokering services or technical assistance related to such goods, which are listed in Annex IV to that Regulation.
- (3) A Union General Export Authorisation, set out in Annex V to Regulation (EU) 2019/125, applies to exports to countries that have abolished capital punishment for all crimes and confirmed that abolition through an international commitment³, if they meet the conditions and requirements for using that authorisation. Part 2 of Annex V lists the relevant countries.
- (4) As regards countries that are not members of the Council of Europe, the list in Part 2 of Annex V to Regulation (EU) 2019/125 comprises those countries that have not only abolished capital punishment for all crimes but also ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights⁴ without making a reservation.
- (5) Following their ratifications of that Protocol without making a reservation, Gambia and Madagascar meet the conditions for inclusion in the list laid down in Annex V to Regulation (EU) 2019/125.
- (6) As regards the entry “Former Yugoslav Republic of Macedonia”, on 15 February 2019 the European Union was formally notified about the entry into force of the Prespa

² OJ L 30, 31.1.2019, p. 1.

³ See Article 20(1) and recital 33 of Regulation (EU) 2019/125.

⁴ Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Text adopted by Resolution 44/1281 of 15 December 1989 of the General Assembly of the United Nations.

Agreement⁵, which establishes “Republic of North Macedonia” as the full name and “North Macedonia” as the short name of the country (Article 1.3.a.). It is appropriate to reflect this change of name and move the relevant entry to the appropriate place in the list.

- (7) Annexes I and V to Regulation (EU) 2019/125 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and V to Regulation (EU) 2019/125 are amended in accordance with the Annex to this Regulation

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18.2.2020

For the Commission
The President
Ursula VON DER LEYEN

⁵ Final Agreement for the settlement of the differences as described in the United Nations Security Council Resolutions 817 (1993) and 845 (1993), the termination of the Interim Accord of 1995, and the establishment of a strategic partnership between the Parties.