

Act on the Implementation of Council Regulation (EC) No. 1263/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

Promulgated in the State Gazette, No. 23/29.02.2008, amended, SG No. 82/16.10.2009, effective 16.10.2009

Text in Bulgarian: Закон за изпълнение на Регламент на Съвета (ЕО) № 1236/2005 относно търговията с някои стоки, които биха могли да бъдат използвани с цел прилагане на смъртно наказание, изтезания или други форми на жестоко, нечовешко или унижително отнасяне или наказание

Chapter One GENERAL PROVISIONS

Article 1. This Act regulates the trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, pursuant to the requirements of Council Regulation (EC) No. 1263/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, hereinafter referred to as "Regulation 1263/2005"

Article 2. (1) Authorisations for export and import of goods listed in Annex II, as well as authorisations for providing technical assistance relevant to such goods, and authorisations for export of goods listed in Annex III of Regulation 1263/2005, shall be issued by the Minister of Economy, Energy and Tourism or by officials who have been authorised by him.

(2) Authorisations for export and import of goods listed in Annex II, as well as for providing technical assistance relevant to such goods, shall be issued only in the cases referred to in Article 3, Paragraph 2 and Article 4, Paragraph 2 of Regulation 1263/2005.

Chapter Two AUTHORISATIONS FOR EXPORT OR IMPORT

Section I Issuing authorisations

Article 3. (1) Persons applying for authorisations, hereinafter referred to as "applicants", shall submit to the Minister of Economy, Energy and Tourism an application and the following documents:

1. three copies of a filled out form according to Annex V of Regulation 1263/2005.
2. a copy of a document certifying the technical specifications, the functional application, as well as the qualitative and quantitative characteristics of the goods;
3. an import authorisation and/or a document from the end user certifying the end use of the goods;
4. a copy of a document certifying the international trade relations between the parties to the transaction;
5. a power of attorney - in cases of authorising a representative;
6. a receipt certifying payment of the state fee.

(2) Upon submitting an authorisation application, applicants shall also submit a copy of:

1. an up-to-date certificate for entry into the Trade Register, or a copy of the decision for initial registration of the trader and the trader's Unified Identification Code or BULSTAT Code;
2. articles of association of a legal entity, where the legal entity is not a trader.

(3) All foreign-language documents shall be submitted together with a legalised Bulgarian translation.

Article 4. (1) Authorisations for export or import shall be issued within 15 days after the documents are received at the Ministry of Economy, Energy and Tourism.

(2) The authority referred to in Article 2 shall notify the applicant in writing within 5 days of issuing the authorisation.

(3) If any irregularities are found in the documents submitted, the authority referred to in Article 2 shall notify the applicant of the irregularities in writing within 5 days of receiving the documents, requesting that the irregularities be eliminated and giving guidelines as to their elimination.

(4) Within 15 days of receiving the notification, the applicant shall be obliged to eliminate the irregularities. The deadline under Paragraph 1 shall be suspended on the date of sending the notification to the applicant and shall be resumed on the date of receiving the documents certifying that the irregularities have been eliminated.

(5) The issued authorisation shall have a period of validity not exceeding 6 months of its issuance, which may be extended only once by up to 6 months.

(6) If an authorised transaction is not concluded by the deadline of the issued authorisation, the applicant may, at least 15 days prior to the deadline, request that the authorisation be extended, by a letter containing motivation and information about the part of the transaction that has not been concluded, as well as a declaration that there has not been any change to the conditions under which the authorisation was granted.

(7) The authorisation shall be issued in three copies. The first copy shall be sent to the applicant, and the other two shall be kept at the Ministry of Economy, Energy and Tourism.

(8) The authorisation may only be used by the person for whom it was issued.

(9) The authority referred to in Article 2 shall be entitled to request additional information relevant to the transaction, as well as expert opinions on questions which require specialist knowledge.

Article 5. (1) Upon submitting an authorisation application, an authorisation modification application, or an application for

extending an authorisation deadline, fees shall be charged at rates approved by the Council of Ministers.

(2) The Minister of Economy, Energy and Tourism shall administer the revenue generated from the fees and charges under this Act.

Section II

Refusal to Grant Authorisation

Article 6. (1) By an order containing motivation, the authority under Article 2 shall refuse to grant authorisation where:

1. a document under Article 3 has not been produced, or one or more of the produced documents does not meet the requirements;
2. the activity is incompatible with the criteria for granting authorisation, as set out in Regulation 1263/2005;
3. in the course of examining the documents, discrepancies have been found between the facts as stated in the application and the actual facts.

(2) Within 5 days of issuing the order under Paragraph 1, the authority referred to in Article 2 shall send it to the applicant.

(3) The documents shall be kept at the Ministry of Economy, Energy and Tourism.

(4) The order under Paragraph 1 may be appealed against according to the rules of the Administrative Procedure Code.

Section III

Revoking, suspending and modifying authorisations

Article 7. (1) By an order containing motivation, the authority referred to in Article 2 shall revoke or suspend an authorisation already granted where:

1. there has been a change to the conditions under which the authorisation was granted, and the change has not been declared by the deadline specified in Article 8, Paragraph 2;
2. the applicant has given false information.

(2) Within 5 days of issuing the order under Paragraph 1, the authority referred to in Article 2 shall send the order to the applicant.

(3) The applicant shall be entitled to apply for authorisation for the same transaction, provided that the conditions which necessitated suspending the existing authorisation no longer obtain.

(4) Where an authorisation has been revoked under Paragraph 1, Item 2, the person shall not be entitled to apply for an identical authorisation for a one-year period, starting from the date of revoking the authorisation.

(5) The documents shall be kept at the Ministry of Economy, Energy and Tourism.

(6) The order under Paragraph 1 may be appealed against according to the rules of the Administrative Procedure Code.

Article 8. (1) At the request of the applicant made in writing, an authorisation which has been granted may be modified by the authority referred to in Article 2.

(2) The modification application shall be submitted within 7 days of the occurrence of a change in the conditions under which the authorisation was granted.

(3) Documentary evidence certifying that a change in conditions has occurred shall be enclosed with the application under Paragraph 1.

(4) A modified authorisation shall be issued according to the procedure laid down in Article 4.

(5) By an order containing motivation, the authority referred to in Article 2 shall refuse to grant a modified authorisation where the conditions specified in Article 6, Paragraph 1 obtain, or where the documents specified in Paragraph 3 do not certify that a change in conditions has occurred.

(6) The order referred to in Paragraph 5 may be appealed against according to the rules of the Administrative Procedure Code.

Chapter Three

OBLIGATIONS OF THE PERSONS

Article 9. Persons who carry out activities as referred to in Regulation 1263/2005 shall be obliged:

1. to return to the Ministry of Economy, Energy and Tourism the original authorisation within 3 days of receiving a notification that the authorisation has been revoked, and within 15 days of concluding the transaction or of the expiry of the authorisation's validity;

2. after products have been exported, to submit to the Ministry of Economy, Energy and Tourism a delivery certificate or equivalent documentary evidence issued by a competent authority of the end-user's country within 3 months of delivering the products to the end-user's country;

3. where the national legislation of the end-user's country does not stipulate the issuance of the documents referred to in Item 2, persons shall be obliged to submit to the Ministry of Economy, Energy and Tourism a written declaration by the importer, together with a legalised Bulgarian translation thereof, as well as a transport or customs document certifying that the products have been delivered to the end-user's country;

5. to keep for a minimum of 5 years the trade and transport documentation and the information related to carrying out the relevant activities, including information about:

a) the type of goods and their relevant identification;

b) the quantity of the goods;

c) the name and address of the exporter and of the consignee;

d) the end user and the end use of the products;

5. to provide assistance when checks are carried out by the enforcement authorities referred to in Article 10, Paragraph 1, and to provide the said authorities with the information and documents required under this Act before the relevant deadlines;

6. to notify in writing the authority referred to in Article 2 of any change in the conditions under which authorisation was

granted, within 7 days of the occurrence of any such change.

Chapter Four

CONTROL ON ENFORCING THIS ACT

Article 10. (1) Control on enforcing this Act shall be exercised by the Minister of Economy, Energy and Tourism and by the director of the Customs Agency, or by officials authorised by them.

(2) Such control shall include checks before and after granting authorisations under this Act.

(3) In exercising such control, the authorities referred to in Paragraph 1 may:

1. require that the persons whose activities are regulated by this Act provide information and data necessary for enforcing this Act;
2. request the opinions of other state authorities, where necessary;
3. visit border control areas and premises for storing goods under customs control on the territory of the Republic of Bulgaria;
4. have access to the premises of persons participating in activities regulated by this Act;
5. request from the competent authorities of other countries information necessary for enforcing this Act;
6. provide enforcement-related information at the request of other countries and international organisations, in compliance with the international commitments of the Republic of Bulgaria.

(4) Enforcement officials shall refrain from divulging professional and trade secrets which have become known to them in the course of conducting checks, except where this is necessary because of international commitments of the Republic of Bulgaria.

Chapter Five

ADMINISTRATIVE PENAL PROVISIONS

Article 11. Persons who export and import goods listed in Annex II and Annex III of Regulation 1263/2005, or provide technical assistance in connection with such goods, without the relevant authorisation:

1. shall be fined between BGN 500 and BGN 1,000 - for natural persons, including trade company officials, where this does not constitute a criminal offence;
2. shall have property sanctions imposed, to an amount between BGN 1,000 and BGN 5,000 - for legal entities and sole traders;
3. shall be fined, or shall have property sanctions imposed, to an amount between BGN 2,000 and BGN 10,000 - where it is found that the offence has been repeated.

Article 12. Persons who carry out activities violating the scope and conditions of their authorisation or who have not submitted relevant documents, data, information and references, or who prevent the course of justice and/or refuse an official access in the course of enforcing this Act:

- 1. shall be fined between BGN 500 and BGN 1,000 - for natural persons, including trade company officials, where this does not constitute a criminal offence;
- 2. shall have property sanctions imposed, to an amount between BGN 1,000 and BGN 5,000 - for legal entities and sole traders;
- 3. shall be fined, or shall have property sanctions imposed, to an amount between BGN 2,000 and BGN 10,000 - where it is found that the offence has been repeated.

Article 13. Persons who do not comply with their obligations referred to in Article 9:

- 1. shall be fined between BGN 200 and BGN 1,000 - for natural persons, including trade company officials, where this does not constitute a criminal offence;
- 2. shall have property sanctions imposed, to an amount between BGN 500 and BGN 2,000 - for legal entities and sole traders;
- 3. shall be fined, or shall have property sanctions imposed, to an amount between BGN 1,000 and BGN 10,000 - where it is found that the offence has been repeated.

Article 14. (1) Statements establishing any violations shall be drawn up by officials appointed by the relevant enforcement authority referred to in Article 10, Paragraph 1.

(2) Penal rulings shall be issued by the relevant enforcement authorities referred to in Article 10, Paragraph 1, or by officials who have been authorised by them.

(3) Violations shall be established and penal rulings shall be issued, appealed against and enforced according to the procedure laid down in the Administrative Violations and Sanctions Act.

(4) Revenue from fines and property sanctions imposed under this Act shall be administered by the enforcement authority referred to in Article 10, Paragraph 1 which issued the relevant penal ruling.

This Act was adopted by the 40th National Assembly on 15 February 2008 and was sealed with the official seal of the National Assembly.

TRANSITIONAL AND FINAL PROVISIONS
to the Act amending and supplementing the Tourism Act
(SG No. 82/2009, effective 16.10.2009)

.....

§ 32. In the Act on the Implementation of Council Regulation (EC) No. 1263/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (Promulgated, SG No. 23/2008) everywhere the words "the Minister of Economy and Energy", "Minister of Economy and Energy" and "Ministry of Economy and Energy" shall be replaced respectively by "the Minister of Economy, Energy and Tourism", "Minister of Economy, Energy and Tourism" and "Ministry of Economy, Energy and Tourism"

.....