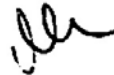


СТАЛНА МИСИЈА РЕПУБЛИКЕ СРБИЈЕ ПРИ УЈЕДИЊЕНИМ НАЦИЈАМА
PERMANENT MISSION OF THE REPUBLIC OF SERBIA TO THE UNITED NATIONS
854 FIFTH AVENUE, NEW YORK, NY 10065 TEL: (212) 879-8700 FAX: (212) 879-8705

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The Permanent Mission of the Republic of Serbia to the United Nations presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to its Note NP/FA of 18 March 2020 regarding the General Assembly resolution 73/304 (Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards), has the honour to submit the information in response to the questions outlined in the attached questionnaire therein.

The Permanent Mission of the Republic of Serbia to the United Nations avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



New York, 10 April 2020

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS
GENEVA

Decree on export and import of certain goods which could be used for capital punishments, torture and other cruel, inhuman or degrading treatment or punishment adopted by the Serbian government.

1. Legal basis:

International Law:

- UN Universal declaration of human rights (Art. 5-No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment), 1976
- Charter of fundamental Rights of EU-lays down Community rules governing from 2000, practically entered into force after the Lisbon Treaty
- EU Council Regulation 1236/2005
- 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 punishment

National legislation:

- Constitution of the Republic of Serbia from 2006 (Chapter II-Human Rights and Freedoms, Art. 18-82);
 - Law on foreign trade transactions ("Official Gazette RoS", no 36/2009, 36/2011 – other law and 88/2011);
 - Decree on export and import of certain goods which could be used for capital punishments, torture and other cruel, inhuman or degrading treatment or punishment-adopted by the Serbian government („Official Gazette RoS“, no 93/18).
 - Establishing export control system in goods that could be used for the purpose of capital punishment or for the purpose of torture and other cruel, degrading or inhuman treatment or punishment and in related technical assistance. **Main aim** is to promote respect of human rights. **Supervision** on the implementation of this Decree is on the competent of the Ministry of Trade, Tourism and Telecommunications. The **control** of the transactions is performed by the Ministry of Finance - Customs Administration. If it finds that there is breach of the provision of this Decree in place, it will immediately inform the Ministry.
3. The Republic of Serbia agrees with the proposed categorisation of goods used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment;
 4. We believe that there should be an exhaustive list of goods under each category and there should be a mechanism for its regular updating.

5. The proposed common international standards prohibit trade in goods that which have no practical use other than for the purpose of capital punishment or torture or other cruel, inhuman or degrading treatment or punishment.
6. The proposed common international standards provide for strict control of trade in goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment and goods that could be used for the purpose of capital punishment.
7. Common international standards should regulate activities of export, import, transit, promotion, brokering, technical assistance and services (that involve instruction, training, transfer of know-how, and skills or professional and advisory services, including assistance provided by electronic means and in verbal form), manufacturing, production and commercial marketing.
8. The risk assessment mechanism and criteria that should be considered for the import, export and transfer of those goods should be based on legally binding procedure for issuing licenses, meaning knowing which goods is prohibited, which is subject to licence, which criteria are used for issuing license in the prescribed procedure.

Any export or import of goods which have no practical use other than for the purpose of capital punishment **shall be prohibited**, irrespective of the origin of such equipment. The brokering services and supply of technical assistance related to that goods **shall be prohibited**. The only exclusion should be if such goods will be used **for the exclusive purpose of public display in a museum in view of their historic significance**.

For any export or import of goods that could be used for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, brokering services and supply of technical assistance related to that goods, **license shall be required**, irrespective of the origin of such goods. Licensing authority of the Republic of Serbia is **Ministry of Trade, Tourism and Telecommunications**. Application is submitted at the prescribed form to the Ministry, and license is issued based on the approval of ministries competent for internal affairs, foreign affairs, justice, Customs administration and the public administration authority competent for national security affairs (Security Information Agency). In the issuing license procedure ministries take into account:

- available international court judgements,
- findings of the competent bodies of the UN, the Council of Europe and the EU;
- Other relevant information, including available national court judgements, reports or other information prepared by civil society organisations and information on restrictions on exports of goods listed in Annexes I and II applied by the country of destination.

9. Most suitable type of international instrument to establish common international standards for regulating trade with this goods, should be international Treaty at the UN level.