

Torture free trade questionnaire

Replies by the Czech Republic

- 1. What are the regional and/or national instruments or policies guiding your country for the regulation of trade in goods used for a) capital punishment b) torture or other cruel, inhuman or degrading treatment or punishment? Please provide examples. Which government department/agency is responsible for monitoring the implementation of such regulations/policies, if any?**

The trade in goods used for capital punishment and torture is regulated by the [Regulation \(EU\) 2019/125 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. It is legally binding and directly applicable in all EU Member States. The Regulation is a fully functional legal instrument ensuring the prohibition of trade in goods of no practical use other than for the purpose of capital punishment or torture and defining goods whose export is subject to control by Member States.

Certain provisions of the Regulation are further stipulated by the national legislation Czech Law Coll. 38/2008 on Import and Export of Goods Which Could Be Used for Capital Punishment and Torture. The law stipulates the obligations of entities, in particular the requirements for filing applications for permits, as well as penalties for breaching the provisions of the Council Regulation.

The Ministry for Industry and Trade – the Licencing Administration and the Ministry for Foreign Affairs are responsible for the implementation of the above mentioned EU legislation and the Czech law. The competent authority for issuing permits is the Licensing Administration of the Ministry of Industry and Trade. The Ministry of Foreign Affairs must issue its binding opinion on each application. Compliance with the provisions of the Council Regulation is checked by the customs authorities of the Czech Republic.

- 2. Have there been any investigations, prosecutions and/ or convictions for breaches of national regulations on the trade in goods indicated in paragraph 8 of the introduction to this questionnaire? If so, please provide details.**

No.

- 3. Do you agree with the proposed categorization of goods used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment indicated in paragraph 8 of the introduction to this questionnaire (see above)? If not, which categories would you propose?**

To keep the categorization as simple as possible, we prefer to merge the goods used for torture and capital punishment and keep only two categories – goods with no practical use then for the

purpose of torture and capital punishment and goods that could be used for torture and capital punishment.

- 4. Please indicate whether you believe there should be an exhaustive list of goods under each category. If yes, should there be a mechanism for regular updating of the lists under each category?**

The list of goods should be as exhaustive as possible. In order to respond adequately when new goods are developed, it is appropriate to develop a mechanism to add in a timely manner new goods.

- 5. Should the proposed common international standards prohibit trade in goods which have no practical use other than for the purpose of capital punishment or torture or other cruel, inhuman or degrading treatment or punishment? If not, please provide further explanations.**

Yes. It should prohibit exports and imports of goods, which have no practical use other than for the purpose of capital punishment or for the purpose of torture.

- 6. Should 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? If not, please provide justification.**

Yes. It should impose controls on exports goods, which could be used also for legitimate purposes. Those controls are instrumental in limiting the misuse of these goods.

- 7. What types of activities linked to "import, export and transfer" should the proposed common international standards regulate? Please consider activities such as transit, promotion, technical assistance and training, brokering, sharing technology, manufacturing, production and commercial marketing, among others. Please also provide an explanation for why these activities should be regulated or not.**

The proposed international regulatory framework should focus on ban of trade of goods used only for capital punishment and torture and on strict control of trade of goods that could be used for capital punishment and torture. It could as well include brokering services, technical assistance, training in the use of the regulated goods, promotion in trade fairs or exhibitions, and advertising.

- 8. Please indicate which risk assessment mechanisms and criteria should be considered for the import, export and transfer of a) goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment and b) goods that could be used for the purpose of capital punishment. Please consider, inter alia, the criteria for preventing diversion to third countries.**

Regarding goods, which have no practical use other than for the purpose of, capital punishment or, trade should be prohibited without any exception.

Regarding goods, which could be used for capital punishment or torture, exports should be regulated, i.e. subject to an export authorisation requirement. Authorisation should not be granted when there are reasonable grounds to believe that goods might be used for torture or capital punishment, by a law enforcement authority or any natural or legal person in the country to which they are exported.

The competent authority shall consider the end-use and the risk of diversion. When assessing the risk of diversion, it shall consider the contractual arrangements that apply and the end-use statement. The transit of goods should be prohibited if the person executing the transit knows that any part of a shipment of goods is intended to be used for capital punishment or torture in a third country.

- 9. Please indicate what you consider to be the most suitable type of international instrument to establish common international standards for regulating goods used for capital punishment or torture or other cruel, inhuman or degrading treatment or punishment. Please provide further explanation.**

The most suitable type would be a legally binding instrument establishing measures to control and restrict trade. It should draw inspiration from the EU Regulation 2019/125.