



FSC.EMI/257/18

2 July 2018


ENGLISH only

***Permanent Mission of the Republic of Serbia
to the OSCE and other International Organizations in Vienna***

No. 860-2/2018

Note Verbale

The Permanent Mission of the Republic of Serbia to the OSCE and Other International Organizations in Vienna presents its compliments to the Permanent Delegations and Missions to the OSCE and to the Conflict Prevention Centre and has the honor to transmit enclosed the reply to the Questionnaire on Participating State's Policy and/or National Practices and Procedure for the Export of Conventional Arms and Related Technology as well as to the Information Exchange of the Republic of Serbia on Conventional Arms Transfers.

The Permanent Mission of the Republic of Serbia to the OSCE and Other International Organizations in Vienna avails itself of this opportunity to renew to the all Permanent Delegations and Missions to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration. 

Vienna, 29 June 2018

All Missions/Delegations to the OSCE
The Conflict Prevention Centre
Vienna

Questionnaire on Participating State's Policy and/or National Practices and Procedure for the Export of Conventional Arms and Related Technology

1. Their basic principles, policies and/or national practices on the export of conventional arms and related technologies

Republic of Serbia continues to strengthen the export control on conventional arms and related technologies so as to fulfill and implement its international obligations. The policy of the Republic of Serbia is based on carrying out the obligatory measures of the UN Security Council, fulfilling obligations that come from international conventions and agreements that the Republic of Serbia assumed or intends to assume, bilateral agreements as well as on disabling and sanctioning of all illegal activities in this field and specially of those that could in any way support terrorism, terrorist organizations or groups. In order to realize economic interests, without making difficult dealing conditions for companies engaged in manufacture and export of conventional arms and related technologies, Republic of Serbia decided to control the export rather than to restrict it.

According to this policy the export control is specially aimed at:

- countries that pose a threat to the Republic of Serbia's peace and security,
- countries that are under the UN Security Council sanctions,
- countries included in recommendations of the Organization for Security and Cooperation in Europe (OSCE),
- countries that support terrorism,
- countries that endanger peace, safety and stability in the region,
- countries whose governments violate human rights or carry out internal repressions.

2. Their national legislation governing the export of conventional arms and related technology. If applicable, report changes and/or updates to the data provided in 1995, including any relevant subsidiary legislation

Foreign trade (export, import, transit, brokering services and technical assistance provision) in arms and military equipment, i.e. the manner and conditions under which it can be conducted, the competencies required for the issuance of export/import licences, transport, transit, and brokering in foreign trade, registration obligation for legal entities as a prerequisite for conducting foreign trade in arms and military equipment, monitoring and control, bans, penalties and powers for the adoption of by-laws are regulated by the **Law on export and import of arms and military equipment**¹.

The by-laws for implementation of the a.m. Law are as follows:

¹ „Official Gazette of RS“ No. 107/14 dated 9.10.2014.

1. The Decision on the establishment of the *National control list of arms and military equipment*² harmonized with the *EU Common List of Military Equipment*³;
2. The Rule-book on the Register of persons licensed to conduct export and import of the controlled goods, providing brokering services and technical assistance;
3. The Rule-book on the application form for the issuance of license, license form and other forms of documents accompanying export and import of arms and military equipment and
4. The Rule-book on the application form for the consent undertake actions during the security check procedure conducted by the competent security services of the Republic of Serbia, in accordance with the law governing personal data protection and the laws governing the area of security checks.

3. Any internal agreements or guidelines, other than OSCE commitments, covering the export of conventional arms to which they are a party

Republic of Serbia, as a UN member aims to become the member of EU, to join the Partnership for Peace Program and to become the member of international regimes and agreements on non-proliferation such as The Wasenaar Arrangement, Australian Group, MTCR, etc.

4. The procedures for processing an application to export conventional arms and related technology:

- **Who is the issuing authority?**
- **What other authorities are involved and what is their function?**
- **Who deals with compliance?**

The Ministry of Trade, Tourism and Telecommunications (hereinafter the competent Ministry) is the competent authority for issuing licenses for the export of conventional arms and related technology on the grounds of the written consent of the Ministry of Foreign Affairs, Ministry of Defense, Ministry of Internal Affairs and Security Information Agency. The competent Ministry⁴ issues individual licenses for every single activity.

Export of conventional arms and military equipment can be performed by a legal entity or entrepreneur. Person must be registered for such an activity at the competent Ministry. The decision on the entry into the Register is valid for five years.

According to the above mentioned Law, export of conventional arms and related technology is conducted on the basis of a written document - license issued by the competent Ministry whereby the person is allowed to perform a single export operation, which involves the specified amount, quantity and type of controlled goods. A license shall be issued for a period of up to 1 year. Exceptionally, should the execution of the

² „Official Gazette of RS“ No. 42/18 dated 01.06.2018.

³ Equipment covered by Council Common Position 2008/944/CFSP defining common rules governing the control of export of military technology and equipment, Official Journal of the EU C 107/1-39 of 9 April 2014.

⁴ According to the Law on Ministries „Official Gazette of RS“ No.44/2014

transaction in question last for over a year, a license may be issued for the time limit expected for the transaction to be completed as defined under the contract.

In addition to the competent Ministry, the following institutions participate in the process of licensing in line with their competences: the Ministry of Foreign Affairs, Ministry of Defense, Ministry of Internal Affairs and Security Information Agency. The mentioned bodies consider applications, check out data stated therein and give their approval on granting a license. The Ministry of Trade, Tourism and Telecommunications issues a license upon receiving the approval from all the ministries and the agency. In case that any of the authorities specified above does not give its approval, the Government shall adopt the final decision on the issuance of a license.

The Ministry of Internal Affairs and the Civil Aviation Directorate issue permits for transit and transport of arms and military equipment. Land and water transport permits are issued by the Ministry of Internal Affairs of the Republic of Serbia and air transport permits are provided by the Civil Aviation Directorate, all on the basis of the previously issued export/import license by the Ministry of Trade, Tourism and Telecommunications and the approvals obtained from the Ministry of Defense and the Ministry of Foreign Affairs. Transit of arms and military equipment is subject to the same procedure (approvals from the Ministry of Defense and the Ministry of Foreign Affairs are required for issuing transit permits)

According to the above mentioned Law the applicant is obliged to submit an application form prescribed by the Rule-book along with the required documentation and the End User Certificate, which is attached to the application. End User Certificate should be issued by the official authority in the end user country and it should contain the following data: name and address of the exporter, name and address of the end user, country of final destination, type and quantity of the goods, a declaration that the goods will not be used for other than specifically declared purposes, a statement that they will not be re-exported or put back into circulation or transfer in any other way without a written approval of the exporting country, signature, name and title of the authorized persons and the number and date of issuance.

The Customs Administration performs the customs control.

5. Lists of conventional weaponry under national export controls and the basis for their control. If applicable, report changes and/or updates to the data provided in 1995.

All conventional arms are subject to export control. They are listed in the National Control List of Arms and Military Equipment and this List is an integral part of The Decision on the establishment of the *National control list of arms and military equipment* ("Official Gazette of RS" No. 42/18). National Control list is regularly harmonized (every year) with the *EU Common List of Military Equipment*. Currently, the valid National Control List is being updated in accordance with the latest changes of EU Military List from March 2018.

The List can be found on the official site of the competent Ministry: www.mtt.gov.rs

6. Principles and national regulations on the destination or end-user of the equipment. Is there a complete *erga omnes* system or a published list of?

- destinations of concern?
- embargoed countries?
- Differentiation between destinations (e.g., is there any preferential treatment of (groups of) countries)?

Every application for issuance of export license is considered individually. In terms of analysis of final destination during the decision making procedure, special attention is paid to the sanctions of the UN Security Council and recommendations of the Organization for Security and Cooperation in Europe (OSCE), assumed international obligations and foreign political interests of the Republic of Serbia, level of respect of human rights and freedoms in the country of final destination, following the criteria specified in the EU Council Common Position 2008/944/CFSP.

Application for license issuing shall be denied if the proposed export is not in accordance with foreign policy, security and economic interests of the Republic of Serbia and a.m. criteria, if the company is not registered in the Register of legal persons allowed to perform foreign trade in controlled goods, if the company does not submit the valid END USER CERTIFICATE and the information provided in the application is incomplete or incorrect.

As far as the export of conventional arms and related technologies is concerned, the Republic of Serbia makes no difference regarding country of import and no country is under preferential treatment.

7. Requirements for the provision of an end-user certificate in an export license application, or of non-re-exportation clauses, or of any other type of certification before and after delivery for conventional arms export contracts. If applicable, please specify and verification of the end-user certificate and/or non-re-exportation clauses before and after delivery.

Along with the application for license issuing the company is required to submit the original certificate of the end user (END USER CERTIFICATE) obtained by the official authority of the end user country. The certificate should contain following data: name and address of the exporter, name and address of the end user, country of final destination, type and quantity of the goods, a declaration that the goods will not be used for other than specifically declared purposes, a statement that they will not be re-exported or put back into circulation or transfer in any other way without a written approval of the exporting country, signature, name and title of the authorized persons and the number and date of issuance.

On the request of the competent Ministry the exporter shall submit the certificate confirming the receipt of the conventional arms after the delivery (DELIVERY VERIFICATION CERTIFICATE), issued by the competent authority of the final destination country.

8. National definition of transit and transshipment (including free zones) of conventional arms, together with associated national legislation and compliance procedures.

A.m. Law governs transit and transshipment (including free zones). The definitions are: **Transport** is road, water, air and combined transport of AME to and from the territory of the Republic of Serbia; **Transit** is road, water, air and combined transport of AME entering the territory of the Republic of Serbia, being transported through it (with or without transshipment) and leaving the territory of the Republic of Serbia. **Transshipment** implies unloading, re-loading or change in the means of transport of AME in the territory of the Republic of Serbia;

Permits for transport and transit are issued by the Ministry of Internal Affairs and the Directorate for Civil Aviation (depending on the means of transport), on the grounds of license for concrete export previously issued by the competent Ministry. Goods in the free zones are not subject to customs and tax fees for movement in the zone area, but the license is required for goods entering or leaving the zone.

9. The procedures governing companies wishing to export arms. Are companies obliged to seek official governmental authority to enter into contract negotiations or to sign contracts with foreign customers?

Before starting negotiations for export of technologies related to arms and military equipment, the exporter shall first obtain the consent of the competent Ministry.

The company is not required to obtain special permission for negotiation or for signing a contract with foreign company for trade and export of arms. Export of arms can be performed only by a legal entity or entrepreneur registered for such an activity with the competent Ministry, based on the export license issued by the same Ministry.

10. Policy on the revocation of export licenses once they have been approved; please list any published regulations.

The revoking of an issued license is regulated by the said Law. The issued license can be revoked if:

- the competent Ministry finds that the license was issued on the basis of incorrect or incomplete information;
- the entity in question is deleted from the Registry and
- an exporter, importer, broker and technical assistance provider does not act in accordance with the license.

The competent Ministry may adopt a decision on temporary revoking of license if, based on its own information or information received from other state authorities, it discovers that it is necessary to run additional verification of license data.

In accordance with the a.m. Laws, the competent Ministry can also adopt a decision on the termination of license validity if:

- the United Nations Security Council or another international organization to which the Republic of Serbia is a member, introduces restrictive measures against the country for which the license was issued or if there are changes related to other circumstances which may affect the position of the foreign policy or defense interests of the country and
- the competent Ministry establishes that one or more conditions on the basis of

which the license was issued no longer exist.

11. The penal and administrative implications for any exporter failing to comply with national controls. If applicable, report changes and/or updates to the data provided in 1995.

The said Law stipulates pecuniary penalties for export/import control violations. In addition to fines amounting to twenty times the value of the goods, protective measure involving banning of export and import of arms, military equipment and related technologies may be imposed. The ban may last up to three years starting from the day of the final judicial decision. Illicit arms trafficking and the violation of international restrictive measures are sanctioned by the Criminal Code of the Republic of Serbia.

12. Any circumstances in which the export of arms does not require an export license

According to the valid Law there is no case in which the export license for export of arms is not necessary.

13. Licenses for temporary export (e.g., demonstrations or testing), the period allowed and any special conditions attached to license, including verification of return procedures

License for foreign trade of arms, military equipment and related technologies is required without exception and is also required for temporary export / import activities. The licensee is obliged to return temporary exported goods to the Republic of Serbia or temporary imported goods to the country of their export within the approved period and in accordance with the procedure prescribed by the Customs law.

Also, the company is obliged to inform the competent Ministry of the actually performed activities (license realization) within 15 days from the execution of the transaction, or if no activity has been performed, to return the obtained license within 15 days from the day of its expiration.

14. License documents and any standard conditions attached to it (copies to be provided)

Application form for the issuance of license, license form and other forms of documents accompanying export and import of arms and military equipment are published in the "*Official Gazette of RS*" No 28/15 and they can be found on the official site of the competent Ministry: www.mtt.gov.rs.

15. Different types (e.g. individual, general, restricted, full, permanent, etc.) of licenses and what they are used for

In the Republic of Serbia only individual licenses are issued. A license is a written document that allows person to perform a single foreign trade activity in arms and military equipment (hereinafter "the AME") of known quantity and type, under conditions stipulated in the contract.

A license for export or import of AME is issued to a specific exporter or importer for the performance of individual transaction under terms determined by a contract, for one end-user or consignee in another country or in the Republic of Serbia and may cover one or several products from the AME list.

A license for brokering services or technical assistance provision is issued to one specific broker or provider of technical assistance for one end-user or consignee in another country and may cover one or more types of AME or on or more types of services.

License and other documents issued in accordance with said Law may not be transferred to another person.

16. Advice given to exporters as to licensability, such as the likelihood approval for a possible transaction

Exporters and importers are entitled to an oral or a written consultation of any kind with the competent Ministry prior to submitting application for license issuing. Exporter shall determine whether the license is necessary and submit the application for license issuing before starting the foreign trade activity, as well as perform the export within the period of license validity.

17. The average number of export licenses issued annually and the staff engaged in the export licensing procedure

The competent Ministry published the “Annual reports on performed activities of export and import of arms, military equipment and dual-use goods, arms brokering and technical assistance” (for 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 2014, 2015 and 2016), which have been adopted by the Government of the Republic of Serbia. The National Assembly of the Republic of Serbia is informed on the mentioned reports on the regularly basis. The reports can be found on the Ministry’s official web site, too.

Following these reports, the number of issued AME export licenses in the period of 2005-2014 is:

- 2005: 274
- 2006: 300
- 2007: 372
- 2008: 343
- 2009: 360
- 2010: 348
- 2011: 324
- 2012: 366
- 2013: 377
- 2014: 380
- 2015----461
- 2016----378 and
- 2017----367

In the competent Ministry there are 5 persons engaged in registration of companies and issuing license activities.

18. Any other relevant information pertaining to the export of conventional arms and related technology, e.g., additional laws, reports to the Parliament, special procedures for certain goods

The export of conventional AME and related technologies is performed according to said law and a.m. relevant subsidiary legislation.

19. Are all guidelines governing conventional arms transfers nationally published?

All regulations related to conventional arms trade are published in the national gazette. They can be found on the official site of the Ministry of Trade, Tourism and Telecommunications, as well: www.mtt.gov.rs

Belgrade, 30.06.2018.