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MISIONI I PËRHERSHËM
I REPUBLIKËS SË SHQIPËRISË
PRANË ORGANIZATAVE
NDËRKOMBËTARE
VJENË



ALBANIA 2020 SHQIPËRIA

PERMANENT MISSION OF THE
REPUBLIC OF ALBANIA TO
THE INTERNATIONAL
ORGANIZATIONS
VIENNA

Ref. 366

NOTE VERBALE

The Permanent Mission of the Republic of Albania to the International Organizations in Vienna presents its compliments to all Permanent Delegations and Missions to the OSCE and to the Conflict Prevention Centre, and with reference to the Forum for Security Co-operation Decision FSC.DEC 20/95, has the honor to submit the response to the Questionnaire on Conventional Arms Transfers.

The Permanent Mission of the Republic of Albania avails itself of this opportunity to renew to all Permanent Delegations and Missions to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration. *[Signature]*



Vienna, 29 June 2020

**To: All Permanent Delegations and Missions to the OSCE
The OSCE Conflict Prevention Centre
The OSCE Secretariat**



REPUBLIC OF ALBANIA

QUESTIONNAIRE

**ON PARTICIPATING STATES' POLICY AND/OR NATIONAL
PRACTICES AND PROCEDURES FOR THE EXPORT OF
CONVENTIONAL ARMS AND RELATED TECHNOLOGY**

(Provided in accordance with decision no. 20/95 of the Forum for Security Co-operation)

TO: *ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE)*

FORUM FOR SECURITY CO-OPERATION

09 June 2020

QUESTIONNAIRE

ON PARTICIPATING STATES' POLICY AND/OR NATIONAL PRACTICES AND PROCEDURES FOR THE EXPORT OF CONVENTIONAL ARMS AND RELATED TECHNOLOGY

OSCE participating States are requested to provide details of:

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

The Council of Ministers of the Republic of Albania has adopted the "EU Code of Conduct on Arms Export", (Government Decision N0. 604, date 28.08.2003). Therefore, basic principles, policies and national practices on the export of conventional arms and related technology are based on EU Code of Conduct.

COUNCIL COMMON POSITION 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.

Based on the law over export controls: Principles of State Export Control Policy the state export control policy is built on the following principles:

- Priority of national interest – political, economic and military, the protection of which is necessary for guaranteeing national security.*
- Protection of the political, economic and military interest of the country.*
- Obligation to observe the international commitments undertaken by the Republic of Albania about the non-proliferation of weapons of mass destruction, their means of delivery, and to ensure state control over international transfer of goods designed for military purposes, and dual-use items, as well as to prevent these goods from being used for terrorist acts and other illegal purposes.*
- Conduct of export control over the international transfers of these goods to the extent required to only achieve its purpose.*
- Harmonization of state control procedures and regulations, international transfers of these goods with international legal norms and practices.*
- Ensuring interaction with international organizations and foreign countries in the state export control area, so as to reinforce international security and stability, including non-proliferation of weapons of mass destruction and the system for their proliferation.*

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.

- *The Law No. 46/2018, “On state, international transfer control of military goods and dual-use items and technologies”.*
- *Decision of Council of Ministers No. 31 of 22.01.2020, “On the organization, functioning and status of the Albanian State Export Control Authority, defining procedures of inter-institutional coordination and procedures of issuing documents of guarantee and state control”.*
- *The Council of Ministers Decision No. 91, on 27.02.2019: “On the approval of the updated lists of military goods and related technologies with dual use, which undergo the import-export state control”.*
- *The Council of Ministers’ Decision No. 305, on 25.3.2009 “On the designating procedure, regarding the issuing of assured legal documents in the field of state control activities of import-export, military goods, and related technologies of dual use”.*
- *The Council of Ministers’ Decision No. 304, on 25.3.2009 “On the designating procedures regarding expertise’s fulfillment and the control by the State Control Authority of Exports”.*

The Council of Ministers’ Decision No. 604, on 28.8.2003 “On approval, in principle, of code of conduct of European Union on weapons exports”.

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

Import - Export State Control over military goods and those of dual use, and of other technologies is a joint international initiative which came as a result of the need to oversee the transfer of highly-sensitive goods.

- *Key international norms in this field:*
- *Arms Trade Treaty*
- *The UN Security Council Resolution 1540 specifies obligations of UN member states concerning the control over the transfer of goods, by establishing effective systems of state control.*
- *The European Union Regulation 428/2009, and a series of joint positions and actions, which have resulted in a intertwined system control of transfer of military goods and of dual use.*

- *Code of Conduct on arm exports applied by the European Union, approved by the Republic of Albania, with the Council of Ministers Decision 604, on 28.08.2003 “On the approval in principle of the EU Code of Conduct on arms export.”*
- *COUNCIL COMMON POSITION 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.*
- *The norms which derive from international treaties such as the Treaty of Wassenaar, the Non-Proliferation Treaty of Missiles, the Group of Australia, the Chemical Weapons Convention, the Zangger Comitee etj.*
- *The state supervision of these goods is part of the MSA agreement, required to be fulfilled by Albania.*

Albania is fully complying with UN Security Council, OSCE, EU arms embargo and provisions of EU code of conduct on arms transfer and international obligations of member states.

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

- **Who is the issuing authority?**

The state agency for export-import control over military goods, and dual-use goods and technologies is called the State Export Control Authority that is under Minister of Defence and has the authority on issuing, licences, authorizations and certificates (end-user certificates / international import certificates)

Also Albanian State Export Control Authority by law is national contact point in every international agreement on export control.

- **What other authorities are involved and what is their function?**

Besides the State Export Control Authority, on procedures for processing an application is involved Ministry of Defense, Ministry of Foreign Affairs, Ministry of Economy, Customs, and Intelligence Services.

They have informative function.

- **Who deals with compliance?**

The State Export Control Authority

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.

Based on the Council of Ministers Decision No. 91, on 27.02.2019, "On the approval of the updated lists of military goods and list of technology goods with dual use, which undergoes state control of import-exports.

The list used for this purpose is the Joint Military List of European Union (approved by the Council on March 2017)

6. Principles and national regulations on the destination or end-user of the equipment. Is there a complete *ergo 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)?

Albania is fully complying with UN Security Council List of Embargoed Countries, OSCE and EU arms embargo and provisions of EU code of conduct on arms transfer.

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 any verification of the end-user certificate and/or non-re-exportation clauses before and after delivery.

- *Law No. 46/2018, "On state, international transfer control of military goods and dual-use items and technologies".*
 - *An entity involved in international transfers of controlled goods provides the State Export Control Authority with comprehensive and accurate information about the end user of controlled goods that are the object of international transfer, as well as the original certificate for the use of goods solely in line with the purpose of use declared by the end user.*
 - *Entities involved in international transfers of goods take measures to check on the arrival of goods at the destination and the end user, and, following this verification, they provide the State Export Control Authority with the information required for purposes of carrying out the necessary verification.*
 - *In conformity with the procedures set forth in this article, the State Export Control Authority and the other authorized state bodies have the right to check and inspect the facilities, documents of arrival of goods at the destination and use of goods in all stages of the international transfer, even following arrival at the local end user.*

- *State control over local end users' adherence to pledges regarding the use of imported goods in line with the purpose stated in the license is conducted based on analysis of reports submitted by the entity which is the end user, on the actual use of goods, and based on controls over goods conducted selectively by the end user.*
- *Such controls are conducted by officials authorized by the State Export Control Authority.*
- *Representatives of foreign exporters or state bodies of the exporting country, after notifying THE STATE EXPORT CONTROL AUTHORITY, may also participate in checking on the Albanian end user's use of goods previously imported under state guarantee regarding their use in line with the stated purposes, only if it is set forth in the economic agreements or contracts, or if this right derives from obligations contained in international agreements, which the exporting country and the Republic of Albania are parties to.*
- *The State Export Control Authority may check via documents or via diplomatic service, when possible, on the foreign end users' use of goods exported from Albania to the territory of the countries of these users under the state guarantee regarding their use in line with the stated purposes.*
- ***According to The Council of Ministers' Decision No. 304, on 25.3.2009 "On the designating procedures regarding expertise's fulfillment and the control by the State Control Authority of Exports", State Export Control Authority conducts controls and expertise in the following phases:***
 - a) *Before registering commercial entities, which conduct international transfers of military goods and brokering activities in these transfers;*
 - b) *After registration of business entities that conduct international transfers of military goods,*
 - c) *Before licensing / authorization of trading entities;*
 - d) *After licensing / authorization of commercial entities.*

Mainly State Export Control Authority, expertise and performs checks to:

- a) *Accurately identify the goods or technology,*
- b) *Determining the amount of goods to be exported/ imported or transit pass in the territory of Albania;*
- c) *Determining the origin of goods;*
- d) *Verification whether recent use is declared fit logically with the activities of the end user;*

- e) Verification, if the end use declared of these goods / technologies is technically acceptable with the end use declared;
- f) Accurately confirm of the existence of the end users and accurately identify the activities of the end user;
- h) Verification, if in the past the end user was involved in activities related to proliferation of weapons of mass destruction, or having direct links with countries that support the proliferation of weapons of mass destruction.

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

“Transit’ is: land, maritime, air, and/or combined transport of controlled goods within the meaning of the Albanian Customs code, entering and passing through the territory of the Republic of Albania with a destination outside Albania and without changing the ownership of the goods, including items:

- a) *Which are in temporary storage and are directly re-exported from a temporary storage facility;*
- b) *Which were brought into the territory of Albania on the same vessel or aircraft that will take them out of that territory without unloading and from the same customs point;*
- c) *Which are transshipped internally.*

“Transshipment “is the transfer/trans-boarding of cargo from one means of transport to another for further transit to complete the voyage and to carry the cargo to its final destination without changing the ownership of the goods.

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?

An entity involved in foreign economic activities has to follow these steps:

- *Registration (has to be registered as a company which is involved in transfers or brokering activities with military goods)*
- *Authorization (State Export Control Authority issue a authorization to enter into contract negotiations or to sign contracts with foreign customers)*
- *License (After the first two steps are complete the State Export Control Authority, issues an export license as requested)*

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

- **Law No. 46/2018, “On state, international transfer control of military goods and dual-use items and technologies**

Apart from imposition of fines as a result of the violation of the law, the duly authorized state export control body may cancel or revoke licenses or international import certificate respectively that it is granted to an entity of foreign economic activity, or cancel registration of a business entity in this body as an entity involved in international transfers of goods.

1. The State Export Control Authority suspends the issued license, authorization, certificate if:

- a) the United Nations Security Council or another international organization to which the Republic of Albania is a member introduces restrictive measures against the country for which the license was issued, or if there are changes to other circumstances which may affect the position of the foreign policy or defense interests of the country;*
- b) it determines that one or more conditions based on which the license was issued no longer exist;*
- c) in the event of an emergency involving national security needs and interest, or in order to ensure fulfillment of the international obligations of the Republic of Albania.*

2. The State Export Control Authority adopts a decision for the revocation of the issued license, authorization, certificate if:

- a) it determines that after the issuance one or [all] the criteria established in article 12 are met;*
- b) an exporter, importer, person responsible for the transit, broker or technical assistance provider does not act in accordance with the license;*
- c) it determines that the license was issued on the grounds of inaccurate or incomplete information;*
- ç) the said entity is removed from the register of entities that deal with international transfer of military goods;*
- d) if the entity involved in the international transfer of goods goes bankrupt and the relevant bankruptcy legal procedures are commenced against it.*
- dh) it is established that after the issuance the criteria under letter “b” and “c” of article 13 are met.*

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.

- **Law No. 46/2018, “On state, international transfer control of military goods and dual-use items and technologies**

In the event that they do not fit into criminal offences under the Criminal Code, the following violations constitute administrative contraventions:

For different violations made by entity involved in international arms transfer the law impose different fines up to double the price of goods transferred. Apart from that, the duly authorized state export control body may cancel or revoke a license or international import certificate respectively that it is granted to such entity of foreign economic activity, or cancel registration of such business entity in this body as an entity involved in international transfer of goods.

The State Export Control Authority imposes the following fines to trade entities involved in international transfers of goods:

- 1. The State Export Control Authority imposes mainly fines to commercial entities involved in the international transfers of goods, as in the following:*
 - a) for violations provided for in article 41, letters “a”, “b”, “c”, “ç” and “d” of this law, [they are fined] USD 5000 – 50 000;*
 - b) for violations provided for in Article 41, letters “dh”, “e”, “ë”, and “f” of this Law, [they are fined] USD 2000 -20 000;*
 - c) for violations provided for in Article 41, letters “g” and “gj” of this Law, [they are fined] USD 1000 -10 000;*
 - ç) for violations provided for in Article 41, letters “h” and “i” l of this Law, [they are fined] USD 500 - 5000;*
 - d) for violations provided for in Article 41, letters “j” and “k” of this Law, [they are fined] USD 100 - 200.”.*

In addition to being fined, for offences provided for in paragraph 1, letters “a” and “b” of this article, a legal entity may be issued an additional measure prohibiting conduct of international transfer of controlled goods. The additional measure established is imposed for a period of up to 3 years from the date of the final decision

- In Article 278, of the Criminal Code of the Republic of Albania, the Illegal Production and Possession of military weapons and ammunitions (supplemented by paragraphs I and II from law no. 8279, of 15.1.1998, Article 2, amended paragraph I, II and III and supplemented by paragraph IV of the law no. 8733, of 24.1.2001, Article 60), provides for:*

In article 278/a of the Criminal Code of the Republic of Albania, The trafficking of weapons and ammunition, (supplemented by law no. 8733, of 24.1.2001, article 61), provides for:

“Seven to fifteen years in prison for importing, exporting, transiting and trading illegally military weapons and ammunition with the aim of making material or any other type of profit.”

If this criminal act is committed in accomplice, is a repeat offence or has grave consequences, the punishment varies from ten to twenty years in prison.

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

- ***Law No.46/2018, “On state, international transfer control of military goods and dual-use items and technologies”***

This Law is not applicable to:

- a) *the transfer of controlled goods in connection with the activities of Armed Forces, or other state security structures of the Republic of Albania outside of its territory, carried out as part of international agreements ensuring the mechanism of state control over the movement of these goods;*
- b) *the international transfer of controlled goods in connection with the activities of foreign military forces in the territory of the Republic of Albania, carried out in the framework of international agreements ensuring the mechanism of state control over the movement of these goods;*
- c) *the international transfers of anesthetics (medical anesthetic gases), sports and hunting arms excluded from the military list, gas transport vessels, and exportation and importation of personal armament of military servicemen, and state law enforcement and internal security bodies, which carry arms in accordance with the law;*
- d) *the international transfer of controlled goods, which aim at ensuring provision of state military assistance in accordance with the terms contained in international agreements and treaties to which the Republic of Albania is a party, and the movement of goods outside of the country with a view to offering emergency assistance to foreign countries, when this is established by law.*

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

Single-use license and authorisations may be issued to trade entities involved in transshipment of goods, and temporary importation/exportation of goods for exhibitions, fairs, advertising, testing, and other similar purposes, if this does not call for transfer of ownership.

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

An entity involved in the international transfers of goods shall submit documents and information necessary for its activity in the field of export control on request of the authorized state export control body, including documents or guarantees, technical certificates and other documents related with signing and performance of foreign economic agreements (contracts) on international transfers of goods, as well as to insure keeping of documents related with implementation and execution of such agreements (contracts) with respect to which permits, conclusions or international import certificates were received during five years from the moment of completion of relevant international transfer of goods.

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

Individual license is – the license granted from THE STATE EXPORT CONTROL AUTHORITY, to a legal or natural person to conduct one or some international transfers of controlled goods for one end user or consignee and covers one or more controlled goods.

Global license is – the license issued by THE STATE EXPORT CONTROL AUTHORITY, to one specific exporter regarding a commodity or specific category of controlled goods, which is valid for exports to one or more specified end users and/or in one or more specified foreign countries.

General license is – the license granted by THE STATE EXPORT CONTROL AUTHORITY to conduct an international transfer of controlled goods to or from certain countries, for use by all legal or natural persons who respect the conditions and requirements for use as listed in the general license.

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

For a decision on issue of license or international import certificate, an entity involved in international transfers of goods or a foreign business or other entity shall turn to the authorized state export control body with a relevant written request and submit documents necessary for expert examination and decision-making on the request. Those documents shall contain exact data of the goods, procedures of their international transfers and acknowledgement of such transfer original versions of guarantees are submitted along with the request.

Review of requests on granting of permits, conclusions or international import certificates will be conducted by duly authorized state export control bodies with participation, if necessary, or other state bodies, as well as enterprises, institutions and organizations irrespective of the form of ownership if issues are reviewed that fall into their sphere of competence.

A request for issue of a license or international import certificate shall not be considered if:

- *Request is submitted (signed) by a person that has no relevant powers,*
- *Any documents were missing or executed in violation of requirements of the law,*
- *If a request for issue of license or international import certificate remains not considered, or if a decision is taken that this request is declined, the duly authorized state export control body informs the applicant and the state body, to whom belongs the sphere of competence of the applicant within three days after relevant decision is taken, accompanied with explanation of reasons.*

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

- ***The export licenses issued are approximately 30 licenses per year.***
- ***The staff engaged in the export licensing procedure is up to 16 officers.***

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

Albanian State Export Control Authority reports periodically over annual crucial developments on import export control of arms, dual use goods and related technologies to the Minister of Defense witch reports annually to the Council of Ministries.

Albanian State Export Control Authority, contribute on reports, which are an obligation of Albania as a state member of UN, (UN register on conventional arms, UN program on preventing combating and stopping illegal trade of SALW), as undersigning party of OSCE document on SALW.

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

YES

State Export Control Authority has provided a website www.akshe.gov.al, where entities involved on conventional arms transfers may find the necessary information regarding international transfers on conventional arms.