



Sachstand

Rüstungsexporte in den Rechtsordnungen ausgewählter EU-Staaten
Übersicht zu den Rechtsgrundlagen und den politischen
Exportkriterien

Rüstungsexporte in den Rechtsordnungen ausgewählter EU-Staaten

Übersicht der Rechtsgrundlagen und politischen Kriterien

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1. **Belgien**¹

1.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

Par **la loi du 5 août 1991**, la Belgique s'est dotée pour la première fois d'une législation sur les exportations, l'importation et le transit des armes.² Cette loi devait **permettre d'assurer un contrôle des exportations** avec des **critères suffisants**. À la suite de l'affaire des ventes d'armes au Népal en 2002, cette loi a été modifiée le 26 mars 2003. La majorité politique a décidé de renforcer les contrôles sur les exportations d'armes en **intégrant notamment dans la loi de 1991 le Code de conduite européen**, composé de 8 critères et d'un dispositif de concertation.³ La Belgique a été le premier pays à avoir intégré dans sa législation le code de conduite européen, qui n'était pas à cette époque juridiquement contraignant. Depuis 1991, la pratique interne des gouvernements fédéraux successifs se basait déjà sur un partage des dossiers entre deux ministres: un francophone s'occupait des demandes wallonne et bruxelloise rédigées en français, et un néerlandophone gérait les demandes flamande et bruxelloise rédigées en néerlandais. Mais tous les dossiers étaient préparés par deux services, l'un du ministère des Affaires économiques, l'autre du ministère des Affaires étrangères, ce qui permettait de maintenir une cohérence au sein du gouvernement fédéral.

Une autre loi, datée du **25 mars 2003**, modifiait également la loi de 1991 en ajoutant un chapitre sur « **la lutte contre les trafics d'armes** ». Il s'agissait de mettre en place un système de contrôle des courtiers dans le secteur de l'armement.

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- 1 Die Informationen (in französischer Sprache) stammen aus der Antwort der Rechtsabteilung des belgischen Senates auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010.
 - 2 Loi du 5 août 1991 relative à l'importation, à l'exportation, au transit et à la lutte contre le trafic d'armes, de munitions et de matériel devant servir spécialement à un usage militaire ou de maintien de l'ordre et de la technologie y afférente.
 - 3 Le Conseil de l'Union européenne a décidé, le 8 décembre 2008, de transformer ce code en une position commune, ce qui le rend dorénavant juridiquement contraignant pour tous les États membres (<http://www.consilium.europa.eu/showPage.aspx?id=1484&lang=fr>). La position commune (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:335:0099:0103:FR:PDF>), comprend plusieurs éléments nouveaux qui en approfondissent et en élargissent le champ d'application. Parmi ces éléments figurent l'extension des contrôles au courtage, aux transactions de transit et aux transferts intangibles de technologies, ainsi que la mise en œuvre de procédures renforcées visant à harmoniser les politiques des États membres en matière d'exportation.

1.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

Lors de la formation du gouvernement à l'été 2003, il a été décidé que la **compétence des exportations, des importations et du transit d'armes** serait **régionalisée**. En quelques jours, la loi spéciale du 12 août 2003 fut votée, régionalisant cette compétence.⁴ C'est désormais le ministre compétent du Gouvernement de la région concernée (Région flamande, Région wallonne et Région de Bruxelles-Capitale) qui prend désormais la décision en la matière, dans le respect de l'accord de coopération du 17 juillet 2007 conclu entre l'État fédéral, la Région flamande, la Région wallonne et la Région de Bruxelles-Capitale relatif à l'importation, l'exportation et le transit d'armes, de munitions et de matériel devant servir spécialement à un usage militaire ou de maintien de l'ordre et de la technologie y afférente, ainsi que des biens et technologies à double usage.

Cet accord prévoit notamment que le point de contact fédéral transmet aux points de contacts régionaux une fois par semestre ou à la demande spécifique d'un point de contact régional la version la plus récente des analyses par pays (les "fiches pays") établies par le SPF Affaires étrangères. Ces documents, qui seront actualisés, si nécessaire, au moins une fois par semestre, contiennent, quand cela se justifie, un chapitre spécifique sur la situation des droits de l'homme dans le pays.

En outre, de concert avec le SPF Affaires étrangères, les Régions établissent **une liste des pays** au sujet desquels des informations sont échangées de manière plus active. Toute nouvelle information relative à ces pays et pertinente pour l'exercice de la compétence régionale doit être transmise immédiatement aux points de contact régionaux par le point de contact fédéral.

S'ils l'estiment nécessaire, les Régions ou l'État fédéral peuvent introduire **une demande de consultation**, respectivement, auprès du SPF Affaires étrangères ou auprès des Régions. Ces demandes se font de ministre à ministre ou via les différents points de contact, avec envoi d'une copie aux ministres concernés. En fonction de la nature de la demande, ces consultations peuvent se faire par écrit ou, si nécessaire, par l'organisation d'une réunion d'information.

Si, pour une transaction spécifique, une licence d'exportation ou de transit est refusée conformément au Code de Conduite ou, le cas échéant, dans le cadre d'un régime de contrôle international, le ministre régional concerné communiquera, dans les dix jours ouvrables, au Ministre des Affaires étrangères et aux ministres régionaux concernés les précisions sur le dossier nécessaires à la notification du refus aux partenaires étrangers et du motif de celui-ci. Le SPF Affaires étrangères exécute cette notification sans délai par le canal approprié.

4 Depuis 2003, l'art. 6, § 1er, VI, de la loi spéciale de réformes institutionnelles du 8 août 1980 fait ainsi relever de la compétence des Régions « 4° L'importation, l'exportation et le transit d'armes, de munitions, et de matériel devant servir spécialement à un usage militaire ou de maintien de l'ordre et de la technologie y afférente ainsi que des produits et des technologies à double usage, sans préjudice de la compétence fédérale pour l'importation et l'exportation concernant l'armée et la police et dans le respect des critères définis par le Code de conduite de l'Union européenne en matière d'exportation d'armements ».

En règle générale, les entreprises transmettront directement les certificats de destination finale aux postes diplomatiques belges concernés, accompagnés de la demande d'authentification et de légalisation. Les Régions informeront les entreprises de la procédure à suivre. Le cas échéant, les Régions pourront également transmettre les certificats de destination finale aux postes diplomatiques belges concernés.

Le **SPF Affaires étrangères** est chargé de la transmission de la **notification ou de la révocation d'un refus de licence** telle qu'exprimée par l'autorité régionale dans le cadre du Code de Conduite européen ou d'un régime de contrôle international. Chaque Région est responsable de la transmission dans les délais au SPF Affaires étrangères des données requises et ce dans la forme et la langue prévues par le Code de Conduite européen ou du régime de contrôle international en matière de notification ou la révocation de refus d'une licence.

D'autres dispositions sont également énoncées afin de protéger la confidentialité des informations échangées.

2. Bulgarien⁵

2.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

Controls on exports, imports and transfers of arms (military equipment) are regulated by the **Law on the export control on arms and dual-use items and technologies** and the **Regulation for its implementation**.

The law, which was adopted in 2007 (last amended in February 2010), replacing previous Arms and Dual-use goods Export control Law (adopted in 1995), serves as the **basis of the export control system** of the Republic of Bulgaria.

2.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

The current legislation reflects the relevant **EU acquis** in the sphere of export control, including the **criteria and principles stipulated in the Council Common Position 2008/944/CFSP** defining common rules governing control of exports of military technology and equipment, the **Common Position on the Control of Arms Brokering of 2003, Council Regulation 428/2009** setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items,

5 Die Informationen (in englischer Sprache) stammen aus der Antwort Bulgariens auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010; für weitere Informationen siehe laut der Antwort Bulgariens auch die Webseiten des *Interdepartmental Council* und der *Interministerial Commission*, <http://www.micmrc.government.bg> und <http://exportcontrol.bg> (letzter Zugriff jeweils: 13.11.2018).

Council Joint Action (2000/401/CFSP) concerning the control of technical assistance related to certain military end-uses and other EU documents in the field of export control.

The **national Munitions List** of the controlled military equipment is **fully compatible** with the **Common Military List of the European Union** and includes at national level additionally control on providing of technical assistance related to repairs, development, assembly, testing, maintenance, education, training, provision of consulting services or any other technical service-related items controlled by the Military List.

National export-control system retains a **two-tier licencing and control mechanism** whereby a company should hold an activity authorization to carry out foreign trade in arms prior to applying for a licence for a specific transfer.

The **activity authorization** is issued by the **Interdepartmental Council on the Defence Industry and Mobilization Preparedness with the Council of Ministers** and provides for the right to conduct foreign trade (export, import, transfer), to transport and to be a broker in transactions involving arms. It is granted to eligible entities that meet the criteria for economic stability and reliability, explicitly defined under the Export Control Law.

The activity authorization is initially granted for a probation period of one year and then, depending on performance, could be extended to three years. Under the national legislation all brokers are required to have a valid registration certificate issued by the Interministerial council. Provided that they meet the criteria for economic stability and reliability, the registration is valid for a period of three years.

The **specific transfer license** is issued on a case-by-case basis by **the Interministerial Commission for export Control and Non-Proliferation of WMD with the Minister of Economy, Energy and Tourism**. Interministerial Commission is chaired by the Minister of Economy, Energy and Tourism and consist of members – representatives of the State Agency for National Security, Ministry of Economy, Energy and Tourism, Ministry of Defence and Ministry of Foreign Affairs with the rank of deputy minister. Issued licenses are valid for one year and may be extended for another six months. The types of licences issued include export license, import licence, transfer licence (within EU), transit license. Brokers are required to apply for a brokerage license for each brokering transaction. The **Interministerial Commission** acts as National Authority for the implementation of the Convention on the Prohibition of Chemical Weapons.

As a EU member state as well as participating in **all International export control regimes (Wassenaar arrangement, Missile Technology Control Regimes, the Australia group and Nuclear Suppliers Group)**, Republic of Bulgaria maintains a national list of controlled destinations, namely a list of countries and organizations towards which Bulgaria applies embargoes and restrictions. That list is regularly updated in accordance with UN Security Council Resolutions and the relevant decisions of the EU and OSCE.

Applicants for specific transfers licence are required to submit an original of the END-User Certificate (EUC) and its authenticity is subject to verification, including through diplomatic channels. The elements of the EUCs are fully in line with the Wassenaar Arrangement (WA) Assurances List and the best practices, enumerated in the User's Guide to the EU Code of Conduct on Arms Exports (recently transformed into an EU Common Position).

Post-shipment assurances are also incorporated in the Bulgarian export control legislation and practice. Each applicant is obliged to provide a Delivery Verification Certificate (DVC) issued by the competent authorities of the country of final destination. There is a legal provision which stipulates that on-site inspections can be carried out when deemed necessary.

The Interdepartmental Council and the Interdepartmental Commission present to the Council of Ministers annual reports on the implementation of the Law on the export control on arms and dual-use items and technologies in the field of their competences for the elapsed calendar year which after adoption are presented to the National Assembly for reviewing by the relevant Commissions. The reports are published on the relevant control bodies' websites.

3. Dänemark⁶

3.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The Danish regulations regarding the controls of arms export are listed in the first 8 attachments (pp 69 - 82) to this report from the Ministry of Foreign Affairs of Denmark: Arms Export Control 2007 and 2008.⁷

This report includes export of dual-use products. This report covers 2007 and 2008 and is the latest available. It is in Danish. Some information about the legal basis is, however, available in English on the homepage of the Danish Enterprise and Construction Authority.⁸

6 Die Informationen (in englischer Sprache) stammen aus der Antwort Dänemarks auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010.

7 Siehe http://jm.schultzboghandel.dk/upload/microsites/jm/ebooks/andre_publ/20090529udforselsrapport20072008samlet.pdf (letzter Zugriff: 13.11.2018).

8 Siehe <https://danishbusinessauthority.dk/> (letzter Zugriff: 13.11.2018).

3.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

The Danish government pursues **a restrictive policy in the area of arms export**. A prohibition against export of arms is laid down in **section 6 of the Weapons and Explosives Act**, consolidated act number 704 of 22/06/2009 (Only available in Danish⁹). This prohibition is, however, not absolute. The Weapons and Explosives Act does not list the conditions to be fulfilled for an export license to be granted.

For a number of years, however, **export licences have not been granted** to countries involved in **armed conflicts** or to areas with such a **level of unrest and instability** that an outbreak of violent conflict must be reckoned with.

The **criteria of the EU Code of Conduct** are taken into account as a **minimum standard** in the assessment of license applications. Export licenses are not granted at all for countries subject to UN, EU or OSCE embargoes. It is under section 6 of the Danish Arms act the **Minister of Justice** which may decide to allow weapons export on the basis of a specific evaluation of each application which the minister receives.

4. Deutschland¹⁰

4.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

Grundlage für das Handeln der Bundesregierung sind die rechtlichen Vorgaben des **Kriegswaffenkontrollgesetzes**, des **Außenwirtschaftsgesetzes (AWG)** und der **Außenwirtschaftsverordnung (AWV)** sowie die "**Politischen Grundsätze der Bundesregierung für den Export von Kriegswaffen und sonstigen Rüstungsgütern vom 19. Januar 2000**" und der Vertrag über den Waffenhandel (Arms Trade Treaty).

4.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

Entscheidungen über Rüstungsexporte sind stets **Einzelfallentscheidungen**. Auf der Grundlage der genannten Vorschriften prüft die Bundesregierung Exportanträge gründlich. Bei der Prüfung spielen die **Aufrechterhaltung von Frieden, Sicherheit und Stabilität sowie die Achtung der Menschenrechte eine besonders große Rolle**. Im Rahmen der Prüfkriterien wird unter anderem

9 Siehe <https://www.retsinformation.dk/Forms/R0710.aspx?id=125806> (letzter Zugriff: 13.11.2018).

10 Die nachfolgenden Informationen entstammen der Webseite des Bundesministeriums für Wirtschaft und Energie (BMWi), <https://www.bmwi.de/Redaktion/DE/Dossier/ruestungsexportkontrolle.html> (letzter Zugriff: 13.11.2018).

differenziert nach EU-, NATO- und deren gleichgestellten Staaten (Australien, Japan, Neuseeland, Schweiz) einerseits und Drittländern andererseits. Genehmigungen können unter anderem nur dann erteilt werden, wenn **keine Gefahr besteht, dass die Rüstungsgüter bei einer friedensstörenden Handlung verwendet werden.**

Die Bundesregierung legt bei Rüstungsexporten in sogenannte Drittstaaten strenge Grundsätze an: Der **Export von Kriegswaffen** wird nicht genehmigt, es sei denn, dass im Einzelfall besondere außen- oder sicherheitspolitische Interessen für eine Genehmigung sprechen. Die Herstellung, der Handel oder die Vermittlung sowie die Ausfuhr von Kriegswaffen unterliegen den strengen **Bestimmungen des Kriegswaffenkontrollgesetzes**. In diesem Gesetz wird ausdrücklich festgestellt, dass **niemand einen Anspruch auf Erteilung einer Genehmigung** hat.

Die Ausfuhr der sogenannten „**sonstigen Rüstungsgüter**“ (= Rüstungsgüter, die keine Kriegswaffen sind) richtet sich nach den Vorschriften des AWG und der AWP. Nach dem AWG gilt der Grundsatz der **Freiheit des Außenwirtschaftsverkehrs**. Deshalb hat der Antragsteller **grundsätzlich einen Anspruch auf Erteilung der Ausfuhrgenehmigung**, es sei denn, wesentliche Sicherheits- bzw. außenpolitische Interessen der Bundesrepublik Deutschland oder andere Gründe (§ 4 AWG) sprechen dagegen. Nach § 4 AWG kann eine Genehmigung versagt werden, wenn die Sicherheitsinteressen Deutschlands gefährdet sind, das friedliche Zusammenleben der Völker gestört wird oder eine erhebliche Störung der auswärtigen Beziehungen Deutschlands zu erwarten sind.

5. Estland¹¹

5.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The import and export of strategic goods and transit through Estonia is regulated by the „**Strategic Goods Act**“ (hereinafter SGA). In Estonia, the goods considered to be strategic include **military and dual-use goods**.

Military goods include substances, materials, instruments, devices, systems, their components, software and technology used for military purposes. The list of military goods is established by a **regulation of the Government** of the Republic and, as a rule, the use of the weapons incorporated in this list for civilian purposes is prohibited.

11 Die Informationen (in englischer Sprache) stammen aus der Antwort des estnischen Parlaments (*Riigikogu*) auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010; vgl. für weitergehende Informationen auch die Webseite des estnischen Außenministeriums, <https://vm.ee/en/strategic-export-control> (letzter Zugriff: 13.11.2018).

The goods to be considered strategic include all the goods defined in **Article 2 (a) of EU Council Regulation No 1334/2000/EU**.

There is **no considerable weapon industry** in the Republic of Estonia. For this reason, dual-use goods that can be used for both civilian and military purposes (including raw materials transported through Estonia from Russia to Western European markets) constitute the most crucial items subjected to control.

5.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

The **issue, prolongation and invalidation of import, export and transit licences** required for the import and export of strategic goods, and their **transit** through Estonia to third countries is carried out by the **Strategic Goods Commission** (hereinafter the Commission) established at the Ministry of Foreign Affairs in accordance with section 8 (1) of the SGA. The Commission incorporates the representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Economic Affairs and Communications, Security Police Board, Police and Border Guard Administration and Taxation and Customs Board. The Parliament does not interfere in the issue in question.

Furthermore, the SGA establishes **restrictions** with respect to the import, export and transit of strategic goods.

The following is prohibited:

- 1) the **export and transit of military goods**, and **provision of services** to countries subject to relevant **international sanctions** binding on Estonia;
- 2) the **diversion** from their intended destination of goods subject to state supervisory control over the import and end-use of strategic goods without the written permission of the Commission and **re-export** of such goods without special authorisation;
- 3) the **export and transit of weapons of mass destruction**, any materials, hardware, software and technology used for the manufacture of weapons of mass destruction, and the export and transit of antipersonnel mines, and services related thereto regardless of their country of destination;
- 4) the **import, export and transit of goods** used to commit **human rights violations** and the **provision of services related thereto** regardless of their country of destination, unless such goods are displayed as objects of historical value in a museum;
- 5) the **export and transit of other strategic goods**, the import of other military goods, and services prohibited by **international agreements** binding on Estonia.

6. Finnland¹²

6.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

In accordance with the **EU Code of Conduct on Arms exports**, the **Wassenaar Agreement**, **UN and OSCE regulations**, **economic sanctions** etc., the arms exports of Finland are controlled by the following **national regulations**:

- **Act on the export and transit of defence materiel**
- **Act on the control of exports of dual-use goods**
- **Firearms act**
- **Decree on the export and transit of defence materiel**
- **Government Decree on general guidelines for export and transit of defence materiel.**

6.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

Act on export and transit of defence materiel, Section 2 stipulates that:

“(2) Authorization is granted on application by the Government or by the Ministry of Defence. If the materiel concerned belongs to the first or second category of the product categories referred to in section 5 or if the licence application is of significant interest in terms of foreign and security policy, authorization is subject to decision by the Government plenary session.”

Section 5 stipulates:

“(1) Further provisions on the grouping of defence materiel under product categories will be issued by Government decree. Further provisions on what will be considered defence materiel as referred to in this Act and as related technologies and know-how will be issued by Ministry of Defence decree.

(2) The Ministry of defence will decide in individual cases whether the export, transit or brokerage of a particular item requires a licence under this Act.”

12 Die Informationen (in englischer Sprache) stammen aus der Antwort des finnischen Parlaments (*Eduskunta*) auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010; vgl. für weitergehende Informationen die Webseite des finnischen Verteidigungsministeriums, https://www.defmin.fi/en/tasks_and_activities/resources_of_the_defence_administration/export_control (letzter Zugriff: 13.11.2018).

The **product categories** mentioned in Section 5 are to be found in the Decree on the Export and Transit of defence Materiel.¹³ Unfortunately, the translation is not complete and in the categories' list there are only references to the Wassenaar munitions' List.

7. Frankreich¹⁴

7.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The legal regime applicable to the export of military technology and equipment is set forth in the **French Code of Defence**. It contains the **general regime applicable to military technology and equipment** (production, trade, import, export, transfer within the European Union, acquisition, carrying, transportation, criminal provisions).

The **Loi n°2011-702 (Act) of 22 June 2011 relative “to the control of imports and exports of war materials and assimilated equipment, simplification of transfers of defence-related products in the European Union and the defence and security markets”** and the **Décret n°2012-901 (Decree) of 20 July 2012 relative “to import and export outside the territory of the European Union of war materials, arms and munitions and assimilated equipment and intra-Community transfers of defence-related products”** deal with the export and import of military technology and equipment and intra-Community transfers of defence-related products.

The **Loi n°2012-304 (Act) of 6 March 2012 on the “establishment of a modern, simplified and preventive system of arms control”** and the **Décret n°2013-700 (Decree) of 30 July 2013 implementing Act no 2012-304 of 6 March 2012”** specify the Regime of arms and munitions: classification of equipment, organization and functioning of production, trade and brokering licences (AFCI), rules applicable to acquisition, possession, carrying, transport and transfer of arms, etc.

The **Arrêté du 27 juin 2012 (Ministerial Order)**, as amended “on the list of war materials and assimilated equipment requiring prior export authorization and defence-related products requiring prior transfer authorization” provides a list of military technology and equipment requiring prior export authorization and defence-related products requiring prior transfer authorization. This decree incorporates the European Union Common Military List into existing French law, in addition to equipment controlled on the national level (such as satellites, space rockets and launchers).

13 Siehe dazu <http://www.finlex.fi/en/laki/kaannokset/1997/en19970108.pdf> (letzter Zugriff: 13.11.2018).

14 Die Informationen (in englischer Sprache) stammen aus dem Bericht „France and arms trade control 2016“ des französischen Verteidigungsministeriums, 2. Kapitel „The French arms export control system“ (S. 11-20), <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwiYgqWp1MTeA-hUEsqQKHbVSDXkQFjAAegQICBAC&url=https%3A%2F%2Fwww.defense.gouv.fr%2Fcontent%2Fdownload%2F453467%2F7156832%2F2016-FranceControlArmTrade.pdf&usg=AOvVaw0DeVj8AR-wAfEYM9FVd3mg5> (letzter Zugriff: 13.11.2018).

These provisions were **recently modified** following, in particular, the **transposition of European directive 2009/43/EC of 6 June 2009** on intra-Community transfers of defence-related products (ICT Directive). France took advantage of this transposition work to carry out a **wide-ranging review** that led to an overhaul of the entire domestic arms export control regime. This reform aims to **simplify the rules and procedures** applicable to trade in military technology and equipment, while in no way affecting the scope and rigour of the control exercised by the State over the defence sector as a whole.

The **new French law** establishes **two distinct regimes**: one relating to **exports of military technology and equipment to third countries** outside the European Union; the second to transfers of **defence-related products to other EU Member States**.

In parallel, new provisions were introduced, such as the **“single licence” principle** (covering the entire export or transfer operation, from negotiation of the contract until the goods physically leave national territory), creation of **general licences** and establishment of **an ex-post control system**.

7.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

Activities in the defence equipment sector are **strictly controlled by the French authorities** for imperatives linked to **national security** but also to ensure that France complies with **its international commitments** as concerns **arms control, disarmament and non-proliferation**. For instance, production of and trade in conventional weapons require an authorization granted by the Government. Any individual or legal entity wishing to produce, trade or engage in brokering of conventional weapons and munitions or defence-related products within the national territory must apply for authorization from the **Ministry of Defence**, which grants a **“production, trading or brokering licence” (AFCI)** for a maximum (renewable) period of five years.

France strictly applies the **sanctions and restrictive measures** imposed by the **United Nations**, the **European Union** and the **Organisation for Security and Cooperation in Europe**.

France’s export policy is grounded in the **overall rationale and framework** from the **various multilateral instruments relating to arms control, disarmament and non-proliferation** to which France is party such as: the treaty on non-proliferation of nuclear weapons, conventions banning use of chemical and biological weapons, suppliers regimes, the convention to ban anti-personnel mines, the convention to ban cluster munitions, and the Arms Trade Treaty.

France’s arms control system also takes into account the different **European legal instruments** defining common rules or regulating the arms trade, such as Common Position 2008/944/CFSP of 8 December 2008 "defining common rules governing control of exports of military technology and equipment", Common Position 2003/468/CFSP of 23 June 2003 on control of arms brokering and Directive 2009/43/EC of 6 May 2009 "simplifying conditions of intra-Community transfer of defence-related products".

8. Griechenland¹⁵

8.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The laws refer to the export control of war weapons and other military equipments are:

- 1) **National law 2168/93** regulates issues regarding arms, ammunition, explosive ordnance and devices.
- 2) **Ministerial Gazette 248630/13 July 2006/MOD** describes the specific procedures and documents that must be submitted by the importers/exporters to our department in order to get the import /export license.
- 3) **Ministerial Gazette F.600/311054/D.572/31-5-2005 (F.733)** refers to the function and control of Greek Defense Industry producing or repairing arms, ammunition or other war material, and the documents - procedures required for issuing licenses of manufacture, disposal and transport.
- 4) **Council Common Position 2008-944-CFSP** defining common rules governing control of exports of military technology and equipment.

8.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

The **criteria** for the authorization for the exports of military weapons and technologies are the above of **§1(4) Council Common Position 2008-944-CFSP**.

9. Großbritannien¹⁶

9.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The arms control system draws upon a number of elements:

15 Die Informationen (in englischer Sprache) stammen aus der Antwort des hellenischen Parlaments auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010.

16 Die Informationen stammen aus dem Briefing Paper Nr. 8312 der *House of Commons Library*, „An introduction to UK arms exports“, 16.5.2018, Louisa Brooke-Holland, S. 4, 11, <http://researchbriefings.files.parliament.uk/documents/CBP-8312/CBP-8312.pdf> (letzter Zugriff: 13.11.2018).

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- The Consolidated List – this is the list of ‘controlled’ items which require a license before export. This list combines the various ‘lists’ of items from UK and EU measures and is informed by the work of various international forum, like the Wassenaar Arrangement.
 - The Consolidated Criteria – this sets out the criteria against which license applications are judged. The eight criteria require the Government to, among other things, respect international obligations and commitments and consider the risk of an item being used for internal repression.
 - The 2008 EU Common Position on arms exports – the only legally binding EU-wide arrangement on conventional arms exports. It sets out common rules governing the control of exports and sets out eight criteria against which export licensing applications can be approved or refused by EU Member States. The wording used in the Common Position is very similar to that used in the Consolidated Criteria. The EU publishes an annual Common Military List of items which are covered by the Common Position. In the UK, the EU’s Common Military List is incorporated into the Consolidated List.
 - Export Control Act 2002 & Export Control Order 2008 – the latter is considered the main piece of domestic export control legislation.
 - EU measures – regulations and directives covering areas such as dual-use items, weapons and technology.
 - A number of multilateral forums on arms controls, both formal and informal, to which the UK belongs.

9.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

The export control system is made up of several elements. International bodies, to which the UK belongs, provide **specialist advice** in identifying items that need to be controlled. These items are added to the applicable UK or EU secondary legislation (statutory instruments or regulations) and collated in the **UK Strategic Export Control List**, more commonly known as the **Consolidated List**.

Applications to export items on the list are assessed against **eight criteria**, found in the **2008 EU Common Position** and the **UK national criteria**. In the UK, these criteria are referred to as the **Consolidated Criteria**. The eight criteria require the Government to, among other things, respect international obligations and commitments and consider the risk of an item being used for internal repression.

10. Kroatien¹⁷

10.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The Republic of Croatia exercises export control over weapons and dual-use goods for the purposes of national and international safety, and to fulfil its international commitments as a contracting party and an active member of all major international agreements and conventions as well as a **signatory of the documents relating to non-proliferation of weapons of mass destruction and conventional weapons**. Some of the relevant conventions and agreements are:

- The Nuclear Non-Proliferation Treaty (NPT)
- The Chemical Weapons Convention (CWC)
- The Biological and Toxin Weapons Convention (BTWC)

Furthermore, the Republic of Croatia participates in the following international arrangements and regimes:

- The Wassenaar Arrangement
- The Nuclear Suppliers Group
- The Zangger Committee
- The Australia Group

In the European Union controls of export of dual-use items is regulated by Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items. In order to allow direct application of Council Regulation (EC) 428/2009 in the Republic of Croatia, **Act on the Control of Dual-Use Items ("Official Gazette", no. 80/2011¹⁸ and 68/2013) was adopted by the Croatian Parliament.**

17 Die Informationen (in englischer Sprache) stammen von der Webseite des kroatischen Ministeriums für auswärtige Angelegenheiten und Europäische Integration, <http://gd.mvep.hr/hr/kontrola-izvoza/export-control/introduction/> und <http://gd.mvep.hr/hr/kontrola-izvoza/export-control/dual-use-items/> (letzter Zugriff: 13.11.2018).

18 Vgl. die (nichtamtliche) Übersetzung, http://gd.mvep.hr/files/file/gd/obrasci/Dual%20Use%20Export%20Act_ENGf.docx (letzter Aufruf: 13.11.2018).

10.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

The Republic of Croatia is still **not a participant** of the **Missile Technology Control Regime (MTCR)** whose objective is to limit the proliferation of projectiles and technologies used in the production of projectiles, and to maintain the control list of military goods and dual-use goods.

Consequently, the advantages of establishing a system for export control of dual use items are found in **strategic reasons and public safety**, as well as in the **potential economic benefits**. The system of export control of dual use items is economically beneficial because it expands the possibilities of global trade, enables import of goods and technologies whose export is controlled by the exporter country which makes foreign investment easier, encourages opening new job opportunities as a result of foreign investment and imported technologies, and may increase export by encouraging the production that satisfies international standards.

With the **Council Regulation (EC) 428/2009** in force, Croatian companies are free to transfer almost all dual-use items within the customs territory of the European Union, and without licensing procedure. **Licence** is required for dual-use items listed in Annex IV of the Council Regulation (EC) 428/2009 with regard to the goods of strategic oversight of the Union. Also, companies can use the **EU General Export Authorisation** for the export of certain goods to certain destinations without issuing individual licence.

Export of dual-use items, brokering services and technical assistance are subject to a licence issued by the **Ministry of Foreign and European Affairs**.

Council Regulation (EC) No 428/2009 prescribes the so called "catch-all" control system, which is not based on the national control list but rather on the end use or end-user of goods. This means an **export licence** is required for the export of items which are not included in the List, whereas the Ministry of Foreign and European Affairs has informed the exporter that the items may be used for production and proliferation of chemical, biological or nuclear weapons. Furthermore, an export licence will be required in cases where the **items are destined to a prohibited end-user**, i.e. a country that is subject to the **UN Security Council sanctions**, or to actions imposed by the decisions of the **Organisation for Security and Cooperation in Europe or the European Union**. In such cases, the Ministry of Foreign and European Affairs informs the exporter that an export licence must be obtained. Alternatively, if an exporter is aware that dual-use items which he or she proposes to export are intended for the use or end-user referred to above, he or she must notify the Ministry of Foreign and European Affairs, which will decide whether an export licence is necessary for such export.

11. Lettland¹⁹

11.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

Circulation of goods of a strategic nature is outlined in **national legislation** and **international documents**, such as the **EU Common position on Arms Exports²⁰**, the **Common Military List of the European Union (equipment covered by the European Union Code of Conduct on Arms Exports) 2008/C 98/01**, **Council Regulation (EC) No 428/2009** setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items, and lists of measures of international export control such those of the **Australia Group**, the **Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies**, the **Missile Technology Control Regime (MTCR)**, and the **Nuclear Suppliers Group (NSG)**.

Latvia does not issue export licences to countries subject to an **embargo from the EU, OSCE or UN**.²¹

11.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

The uncontrolled spread of military technology, biological and chemical weapons and firearms, as well as other goods of strategic significance, may give rise to a serious threat of terrorism and military conflict. In order to prevent the potential spread of weapons of mass destruction and their means of delivery, an effective control of export, import and transit of strategically significant goods is important. The **successful co-operation between EU, OSCE and UN** in a regime of international export control measures is also of great importance.

Strategically significant goods include military goods, including arms and explosives, and dual-use goods (civil and military), such as equipment, materials, chemical substances, programmes, technologies and services. Trade of dual-use goods is controlled because of the potential for their use in the uncontrolled manufacture of military technology or weapons.

19 Die Informationen (in englischer Sprache) stammen aus der Antwort des lettischen Parlaments (*Saeima*) auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010 und von der Webseite des lettischen Außenministeriums, <https://www.mfa.gov.lv/en/policy/security-policy/directions-of-security-policy/export-control-of-strategically-significant-goods> (letzter Zugriff: 13.11.2018).

20 Siehe <https://www.mfa.gov.lv/data/file/1/NATO/common-position.pdf> (letzter Zugriff: 13.11.2018).

21 Vgl. dazu näher die weiterführenden Informationen zu den Rechtsgrundlagen auf der Webseite des lettischen Außenministeriums, <https://www.mfa.gov.lv/en/policy/security-policy/directions-of-security-policy/export-control-of-strategically-significant-goods?id=41150> (letzter Zugriff: 13.11.2018)

In Latvia, the circulation of strategically significant goods is controlled by the **Ministry of Foreign Affairs of the Republic of Latvia** in co-operation with the **Ministries of Defence** and of the **Interior**, the **central Customs administration of the National Revenue Service**, **regional Customs institutions** and the **Security Police**. In any instance of import, export or transit of strategically significant goods, a licence is required, for which application must be made to the Ministry of Foreign Affairs.

12. Litauen²²

12.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The **basic Lithuanian legal acts** regarding the control of arms exports are:

- **Law on the Control of Strategic Goods of 29 April 2004²³**;
- **Governmental Resolution No 932 “On the Approval of the Licensing Rules for Export, Import, Transit and Brokering of Strategic Goods and the Rules of Implementation of the Control of Strategic Goods” of 22 July 2004.**

The lists of controlled strategic goods consist of two lists:

The **list of dual-use goods and technologies**, which is set out in **Annex I of EU Council Regulation (EC) No 1334/2000 of 22 June 2000** setting up a Community regime for the control of exports of dual-use items and technology. This list implements internationally agreed dual use controls including the **Wassenaar Arrangement**, the **Missile Technology Control Regime**, the **Nuclear Suppliers’ Group**, the **Australia Group** and the **Chemical Weapons Convention**;

The **list of military equipment**, which is the **EU Common Military List** covered by the European Union Code of Conduct on Arms Exports, **supplemented with extra national position**.

22 Die Informationen (in englischer Sprache) stammen aus der Antwort des litauischen Parlaments (*Seimas*) auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010; vgl. auch die weiterführenden Informationen auf der Webseite des litauischen Außenministeriums, <https://www.urm.lt/default/en/foreign-policy/lithuania-in-the-region-and-the-world/lithuanias-security-policy/arms-control-and-nonproliferation> (letzter Zugriff: 13.11.2018).

23 Siehe für die englische Übersetzung <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=-1c2dtea1sn&documentId=TAIS.238747&category=TAD> (letzter Zugriff: 13.11.2018).

12.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

A licence must be obtained for export of goods included into the lists of strategic goods. There are **several types of licences** approved: Individual Export Licence, Transit License, Individual Licence for Temporary Export/Import and Global Export License.

The licence must be obtained for goods that are not on the Lists of Strategic Goods, provided that:

- the competent authority (Ministry of Economy) has informed the exporter that the goods are or may be intended for use **in connection with the weapon of mass destruction; or**
- the purchasing country or the country of destination is subject to **arms embargo** adopted by a decision of the **EU or the UN Security Council**, and the goods are or may be intended for use in production of goods listed in the military equipment list;
- the exporter has grounds to suspect that goods are intended to use for military purposes as referred to in the abovementioned paragraphs.

To decide whether or not to grant an export licence, the competent authority has to take into account:

- **obligations and commitments under relevant international treaties;**
- **national foreign policy and national security interests;**
- **requirements of the 1998 European Union Code of Conduct on Arms Exports;**
- **requirements of the international non-proliferation regimes and export control arrangements;**
- considerations of the **intended end-use** and the **risk of diversion**.

In general, a recommendation on whether to approve a licence for dual-use and military exports or reject it is based on **assessment of human rights situation, stated end-use, and risks of diversion**. In many cases, when a recipient state is other than the state of the EU, NATO or Allies, it is required that the **end-user certificates contain assurances** that exported goods would not be used in actions **violating human rights, aggravating internal tensions** or in **internal and regional repressions**.

13. Niederlande²⁴

13.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The **regulation concerning arms exports** (military goods) in the Netherlands is in accordance with the **EU Code of Conduct on Arms Exports**, the **Wassenaar Arrangement**, the **Chemical Weapons Convention**, the **Biological and Toxin Weapons Convention** and the **Non Proliferation**

The **legal basis for the control of military and dual use goods** consists of several **acts, decrees, decisions and regulations**²⁵:

- General Customs Act (Staatsblad 2008, 111)
- Strategic Goods Order 2012 (Stcr. 2011, 19960)
- Strategic Services Act (Stb. 2011, 445)
- Chemical Weapons Convention Implementing Act (CWC Implementing Act) (Stb. 1995, 338)
- Chemical Weapons Convention Implementing Order (CWC Implementing Order) (Stb. 1997, 15) Regulation (EC) 428/2009 of the Council of the European Union of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ.2009 L134)
- Economic Offences Act (Stb. 1950, 258)
- Arms and Munitions Act (Stb. 1995, 292)

24 Die Informationen (in englischer Sprache) stammen aus der Antwort der Zweiten Kammer des niederländischen Parlaments auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010 und von der Webseite der Regierung, Control policy for strategic goods and services, <https://www.government.nl/topics/export-controls-of-strategic-goods/export-control-policy-for-strategic-goods>; für weitere Informationen siehe auch den „User Guide on strategic goods and services“ des niederländischen Außenministeriums, 9.4.2013, <https://www.government.nl/topics/export-controls-of-strategic-goods/documents/directives/2012/04/12/user-guide-on-strategic-goods-and-services> (letzter Zugriff jeweils: 13.11.2018).

25 The texts of the instruments are available at www.wetten.nl (in Dutch). The European Dual-use regulation can be found on the website <http://eur-lex.europa.eu> in the Official Journal 2009 L134.

13.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

License applications will be tested to the Netherlands Arms Export Policy with a special attention for the **European Union Code of Conduct on Arms Exports**. The **Strategic Goods Import and Export Order** has several annexes concerning military and dual goods for which export licences are required. Annex I contains a list of military goods **which completely corresponds** with the Common Military List of the European Union. The selection of Dual Use goods that are prohibited to export without a license is published in Annex II of the Strategic Goods Import and Export Order.

Dutch export control policy for strategic goods is based on the following principles:

- The Netherlands does not contribute to the development and proliferation of weapons of mass destruction or delivery systems for such weapons.
- The Netherlands does not issue licences for the export of military or dual-use goods if they will contribute to human rights violations, internal repression, international aggression or instability.
- In deciding whether to issue a licence, security interests take precedence over economic interests.
- The Netherlands does not want to impose an unnecessary administrative burden on companies. And the Netherlands is committed to ensuring an international level playing field for Dutch companies.
- Export controls take place prior to export.

14. Österreich²⁶

14.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

Die Rechtsgrundlage stellen in Österreich das **Außenwirtschaftsgesetz 2011** (AußWG) BGBl I 26 idgF) und – als lex specialis für Kriegsmaterial – das **Kriegsmaterialgesetz** (KMG BGBl. Nr. 540/1977 idgF)) dar. Bewilligungspflichtige Rüstungsgüter werden einerseits durch die Außenhandelsverordnung mit ihrer Anlage, welche der „Wassenaar Munitionsliste“ bzw. der EU-Militärgüterliste entspricht, andererseits durch die Kriegsmaterialverordnung bestimmt.

26 Die Informationen stammen aus der Antwort des österreichischen Bundesministeriums für Inneres auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010 und von der Webseite des österreichischen Bundesministeriums für Europa, Integration und Äußeres, <https://www.bmeia.gv.at/europa-aussenpolitik/abruestung/exportkontrolle/> (letzter Zugriff: 13.11.2018).

14.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

Nach den einschlägigen **Bestimmungen des Kriegsmaterialgesetzes** wird die Ausfuhr von Kriegsmaterial vom **Bundesminister für Inneres** im Einvernehmen mit dem **Bundesminister für auswärtige Angelegenheiten** nach Anhörung des **Bundesministers für Landesverteidigung** im Rahmen **freien Ermessens** erteilt, soweit **keine anderen gesetzlichen oder völkerrechtlichen Verpflichtungen entgegenstehen**.

Im Rahmen des Entscheidungsfindungsprozesses nach diesem Gesetz erfolgt – unter Bedachtnahme auf den **„Verhaltenskodex der Europäischen Union für Waffenausfuhren“ vom 8.6.1998** und daran **anknüpfende Folgeregelungen**, die von der OSZE am 25.11.1993 verabschiedeten **„Prinzipien zur Regelung des Transfers konventioneller Waffen“** sowie den **„Gemeinsamen Standpunkt 2008/944/GASP des Rates vom 8.12.2008** betreffend gemeinsame Regeln für die Kontrolle der Ausfuhr von Militärtechnologie und Militärgütern“ – eine **profunde völkerrechtliche, außenpolitische, menschenrechtliche und sicherheitspolitische Prüfung**.

15. Polen²⁷

15.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The legal framework of Poland's export control regime is provided for by the following legal provisions:

- Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items, amended by Regulation (EU) No 1232/2011 of the European Parliament and of the Council of 16 November 2011 and by Regulation (EU) No 388/2012 of the European Parliament and of the Council of 19 April 2012.
- Act of 29 November 2000 on Foreign Trade in Goods, Technologies and Services of Strategic Significance for State Security and for Maintaining International Peace and Security, amended by the Act of 25 May 2012. Consolidated text of this Act is Attachment 1 to this report.

27 Die Informationen (in englischer Sprache) stammen aus der Antwort des polnischen Parlaments (*Sejm*) auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010 und aus dem Bericht „Exports of arms and military equipment from Poland 2016“ des polnischen Außenministeriums, <https://mfa.gov.pl/resource/03311c99-5d96-4074-84e9-37c535d8d3bb:JCR>; vgl. für weitere Informationen die Webseite des polnischen Außenministeriums, https://mfa.gov.pl/en/foreign_policy/security_policy/export_control/ (letzter Zugriff jeweils: 13.11.2018).

- Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment.
- a set of domestic executive acts and resolutions, regulations and decisions of international organisations imposing specific bans and restrictions on arms exports to specified countries.

15.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

The trade control authority refuses to grant authorization if this is required by the **defence or security interests of Poland** or by the **commitments arising from international agreements binding on Poland**, or when he/she is not satisfied that the individual or corporate person applying for authorization would carry out the trade in **conformity with legal provisions**. It also refuses to grant authorization when there is a threat that the relevant goods can be used in the implementation, production, proliferation etc. of the **arms of mass destruction** illegally or contrary to the interests of Poland (Art. 15 of the Act).

16. Rumänien²⁸

16.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The legal basis for the Romanian arms control system evolved throughout the 1990s into a **comprehensive arrangement** that incorporates most of the elements required for effective control of weapons imports, exports, re-exports, transits, and transshipments. In **1992**, a **government decree** authorised the control of sensitive military items. Since then, a number of revisions, amendments and additions (in 1994 and 1996) eventually led to a **Government's Ordinance no. 158/1999** on the control regime of exports, imports and other operations with military goods, approved with amendments by **Law no. 595/2004**, modified by **Law no.7/2010**.

The added value of this law are:

- codification of arms transfer principles;
- first national regulation for brokering activities in accordance with EU Council Common Position no. 468/2003/PESC;
- extend the validity terms of licenses up to one year;

28 Die Informationen (in englischer Sprache) stammen aus der Antwort der Abgeordnetenkommer des rumänischen Parlaments auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010.

- up-dating of sanctions regime;
- distinct regulation of technical assistance in accordance with the EU Council Common Action no. 401/2000/PESC;
- up-dating “catch-all” clause in accordance with EU Council Regulation no.1334;
- denying a license application requiring a transfer to a country under unilateral embargo imposed by NATO states, is a reflection of Romania statute as a full-pledged member of Alliance.

In 2004 was adopted also the **Law nr. 9/2004** for the adherence to the **UN Firearms Protocol**.

16.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

Ministry of Foreign Affairs through **General Directorate for Export Controls ANCEX** is the Romanian authority responsible for the control of dual use exports, the control of military exports, imports, transits and transshipments . The head of General Directorate ANCEX is hold by the state secretary for export controls and he is appointed by Decision of the Prime Minister.

Ministry of Foreign Affairs through General Directorate ANCEX also enforces the obligations that Romania committed to abide by international treaties, arrangements, and regimes regarding export controls according to its national legislation and EU Regulations.

On request, General Directorate ANCEX can provide specialized consultancy to all legal and natural persons interested in military and dual use goods transfers, subject to the export control regime.

Ministry of Foreign Affairs through General Directorate ANCEX grants or reject license applications for export, import, transit, transshipment, brokering and technical assistance related to military equipment and dual use goods exports, including transfers carried out without the physical touch of the Romanian territory.

Romania adhered to the **EU Code of Conduct in July 1998** and has implementing **all eight criteria** when processing and approving its arms export license applications.

17. Schweden²⁹

17.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The Swedish regulatory framework regarding arms exports consists of the **Military Equipment Act**, the **Military Equipment Ordinance**, the Swedish **Government's guidelines on exports of military equipment**, which have been approved by the Riksdag (Swedish Parliament), and the **EU common position** defining common rules governing control of exports of military technology and equipment.

17.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

There are **Swedish guidelines** for exports of military equipment and other co-operation with foreign partners. The **EU Common Position** on arms exports is **applied in parallel** with the **Swedish guidelines**.

Under the **Swedish Military Equipment Act**, export licenses may only be granted if **security and defence policy reasons** support this, and provided there is **no conflict with Sweden's foreign policy**. The detailed principles of the authorization procedure have been established by Government practice and have been expressed in the Government's guidelines for military equipment exports, which the Riksdag has also approved. **Swedish Radiation Safety Authority (SSM)** and the **ISP** are responsible government agencies.

The **guidelines specify the factors** that should be considered when examining a particular case. A basic requirement is that **all circumstances that are relevant** to the case must be taken into account. When the **various guidelines** for the control of military equipment exports are **weighed against each other**, the **interests of the country** must take **priority**.³⁰

29 Die Informationen (in englischer Sprache) stammen aus der Antwort des schwedischen Parlaments (*Riksdag*) auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010.

30 Vgl. für weitere Informationen die Webseite der schwedischen Regierung, <https://www.government.se/> (letzter Zugriff: 13.11.2018).

18. Slowakei³¹

18.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The control of the export of weapons in the Slovak Republic is provided in two lines – the politic and legislative one.

Slovakia is a party of all important **international treaties** concerning the regulation and control of the export and transfer of weapons and materials of dual assignment, e.g. **Principles Governing Conventional Arms Transfers (OSCE), EU Code of Conduct, Australian Group, Wassenaar Arrangement and Nuclear Supplier Group.**

The basic act that defines the conditions for the business with weapons is the **Act Nb. 179/1998 Coll. on trading with military material.** Issueing of licenses and control upon the keeping of the act is provided by the **Ministry of defence** of the SR that cooperates with other ministeries (the **Ministry of the Economy** of the SR, The **Ministry of Foreign affairs**), police, customs, security and intelligence agencies.

18.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

Granting of the licenses for the trading with military material as well as the permits for its export is the matter of the Ministry of Defence of the SR. Before its issuing the Ministry of Defence ask the Ministry of Foreign Affairs, The Ministry of Internal Affairs, Slovak Information Service and the National Security Institute for its position. These positions have the **character of the recommendations.** The only exception is the Ministry of Foreign Affairs which has the **right of veto.**

Except of the political liabilities the above mentioned act is being applied in the Slovak Republic. The security questions joined with an exporter as well as an importer are being judged very consistently.

31 Die Informationen (in englischer Sprache) stammen aus der Antwort des Parlamentarischen Institutes des Nationalrates der Slowakei auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010.

19. Spanien³²

19.1. Rechtsgrundlagen (Gesetze, Richtlinien etc.) für Rüstungsexporte

The regulation of the control of arms export is the **Act 53/2008**, about control export of defence material and its dual-use.

Section 1 establishes the following:

- 1) “This Act is intended to contribute to a better regulation of foreign trade defence equipment, other materials and products and dual-use technologies, to prevent their diversion to illicit market, and combat their proliferation, while giving effect to international commitments by Spain in this respect and guarantee the national defence’s general interests and foreign policy of the State.
- 2) To this end, it governs the procedure for control transfers of defense equipment, other material and products and dual-use technologies, including those carried out in free trade zones and affiliation to the customs warehousing procedure and such as brokerage, licensed production agreements and technical assistance.”

19.2. Politische Kriterien für Rüstungsexporte sowie sonstige maßgebliche Kriterien

Article 8 enshrines the **circumstances**, under which the **authorisation is dismissed**:

First, when such export authorisation can be used in actions disturbing the peace, stability or security of a region or country and may exacerbate latent conflicts or violate human rights and infringe international obligations made by Spain,

Second, in case of breach of national defense’s general interests and foreign policy of the State,

Third, in case of violations of the European Union agreed guidelines, in particular the criteria Code of Conduct, June 8, 1998, on arms exports, and the criteria adopted by OSCE Document on Small Arms and Light Weapons of November 24, 2000, and other relevant international provisions signed by Spain,

Fourth, violations of other provisions of international law. Concurrently, the licenses can be revoked if they fail to comply with the conditions, according to which the authorisation was granted.

32 Die Informationen (in englischer Sprache) stammen aus der Antwort des spanischen Kongresses auf eine entsprechende Anfrage der Wissenschaftlichen Dienste aus dem Jahr 2010.