

ROMANIA
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.

According to the law, the Romanian control regime for exports, imports and other transfers with conventional arms and related technology shall be accomplished in compliance with:

- a) the EU Common Position 2008/944/CFSP;
- b) the obligations deriving from the implementation of arms embargoes established by the United Nations Security Council, by the European Union, by the Organisation for Security and Co-operation in Europe, or established by EU or NATO member states;
- c) the objectives of non-proliferation of weapons of mass destruction, of vectors carrying such weapons, and of other military goods used for the purpose of destabilizing accumulations;
- d) the international conventions, treaties and agreements, the non-proliferation mechanisms Romania is a party to, and other international undertakings assumed by Romania as a participating state in the international non-proliferation and export controls regimes;
- e) the principle of co-operation with the states promoting non-proliferation policies similar to Romania's policies in this field.

The Romanian policy on conventional arms transfers is convergent with the goals envisaged in the Arms Trade Treaty, the UN Programme of Action (UN PoA), the International Instrument on Marking and Tracing, the UN Firearms protocol and regional initiatives within European Union, OSCE and Wassenaar Arrangement. This framework provides a safer background at international, regional and national level. The Romanian arms export controls system is an important component of the foreign policy that has at its very heart the international and regional peace, as well as the stability and sustainable development through a greater responsibility in transfers of SALW in order to prevent destabilizing accumulation and misuse of such weapons.

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.

1. Primary legislation

Government Ordinance no. 158/1999 regarding the control regime of exports, imports and other transfers of military goods, republished *in the Romanian Official Journal, Part I, no. 601, from 26 of September 2013.*

2. Secondary legislation

2.1. *National Military List*

Minister of Foreign Affairs Order no. 156/2018 setting up the List of military goods subject to control regime of exports, imports and other operations with military goods (*published in Romanian Official Journal, Part I, no. 86 from 30 of January 2018*). –valid until 12 June 2019

Minister of Foreign Affairs Order no. 901/2019 setting up the List of military goods subject to control regime of exports, imports and other operations with military goods (*published in Romanian Official Journal, Part I, no. 477 from 12 of June 2019*).

2.2. Procedures for implementing the military export controls legislation

2.2.1. General Procedures

Government's Decision no. 8/2013 on the organization and functioning of the Ministry of Foreign Affairs, published in the Romanian Official Journal, Part I, no. 34 from the 15 of January, 2013 (Art. 2 point 19– regarding the responsibilities on export controls of the Ministry of Foreign Affairs of Romania);

Order no. 849/2013 of the Minister of Foreign Affairs for the approval of the norms for the implementation of Government Ordinance no. 158/1999 on the control regime of exports, imports and other operations with military goods, republished (*published in the Official Journal of Romania, Part I, No. 409 from 8 of July 2013*).

Order no. 922/2014 of the Minister of Foreign Affairs for the organization and functioning of the Inter-agency Council within the national control system of exports, imports and other transfers of military goods, published in the Romanian Official Journal no. 313 from the 29th of April, 2014;

2.2.2. General Licenses

- General Licence no. LGIED-RO-01 dated 9 of March 2016 for temporary import and temporary transfer (from EU countries) into Romania of military goods for the purposes of exhibition or demonstration, approved by Minister of Foreign Affairs Order No. 365 from 29 of February 2016 (*published in the Official Journal of Romania, Part 1, no. 175 of 9 of March 2016*).
- General Licence no. LGTED-RO-01 dated 9 of March 2016 for the temporary transfer from Romania (to EU countries) of military goods for the purposes of exhibition or demonstration, approved by Minister of Foreign Affairs Order No. 364 dated 29 of February 2016 (*published in the Official Journal of Romania, Part 1, no. 175 of 9 of March 2016*).
- General License no. LGIFA-RO-01 dated 6 of January 2015 for the permanent import and transfer of military goods into Romania for armed forces end-users, approved by Order of the Minister of Foreign Affairs No. 2544 dated 21 of December (*published in the Official Journal of Romania, Part 1, No. 7 of 6 of January 2016*).
- General License no. LGEFA-RO-01 dated 11 of January 2017 for the permanent transfer from Romania of military goods for armed forces end-users, approved by Order of the Minister of Foreign Affairs No. 2352 dated 27 of December 2016 (*published in the Official Journal of Romania, Part I, no. 31 of 11 of January 2017*).
- General Licence no. LGIRE-RO-01 dated 7 of March 2017 for temporary import and transfer of military goods into Romania for maintenance and repair, approved by Order of the Minister of Foreign Affairs No. 285 dated 20 of

February 2017 (*published in the Official Journal of Romania, Part I, no. 167 of 7 of March 2017*).

- General license no. LGTDC-RO-01 dated 15 May 2017 for permanent transfer of military goods from Romania to certified recipients, approved by Order of the Minister of Foreign Affairs No. 600 dated 21 of April 2017 (*published in the Official Journal of Romania, Part I, no. 356 of 15 of May 2017*).
- General license no. LGERE - RO - 01 for the temporary transfer from Romania and export of military goods, for maintenance and repair, approved by Order of the Minister of Foreign Affairs No. 921 dated 19 of June 2017 (*published in the Official Journal of Romania, Part I, no. 505 of 30 of June 2017*).

2.2.3. Export control application forms (licenses, permits, international import certificates, delivery verification certificates, consultancy forms)

- Minister of Foreign Affairs Order no. 848/2013 for the approval of military export control documentation forms such as registration, certification, licenses and other documents as stipulated by Government Ordinance No. 158/1999 on the control regime of exports, imports and other operations with military goods, republished (*published in the Official Journal of Romania, Part I, No. 638 and 638 bis from 16 of October 2013*).

2.2.4. Export controls statistics

- Order no. 2096/2014 of the Minister of Foreign Affairs on the reporting of foreign trade operations with military goods, subject to the Government Ordinance no. 158/1999 on the control regime of exports, imports and other transfers of military goods (*published in the Official Journal of Romania, Part I, No. 821 from 11 of November 2014*).

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

- The United Nations Charter and measures adopted by Security Council acting under Chapter VII, in particular arms embargoes
- The Arms Trade Treaty
- Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (Firearms Protocol);
- The UN Programme of Action on small arms and light weapons provides the framework for activities to counter the illicit trade in such arms (UN PoA SALW);
- International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (ITI);
- UN Register of Conventional Arms as an instrument to control international transfers of SALW;
- Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment

- Initial Elements of the Wassenaar Arrangement on Export Controls of Conventional Arms and Dual-use Goods and Technologies and the documents agreed by the WA Plenaries.

Furthermore, Romania, as European Union Member State, respects the restrictive measures and political commitments adopted at the EU level.

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?**

Ministry of Foreign Affairs/Department for Export Controls (ANCEX) is the national authority of export controls of conventional arms.

ANCEX is responsible for the export controls policies, legislation, licensing, enforcement, compliance, outreach to industry and international co-operation. ANCEX acts under the provisions of the Government Ordinance no. 158/1999 on the control regime of the exports, imports and other operations with military goods, republished.

ANCEX registers legal or natural persons to trade with military goods and issues individual or global licenses for exports, imports, brokering activities, international transit and transshipment. Since 2014, ANCEX adopted several general licences for: temporary transfer/import in Romania and temporary transfer from Romania of military goods for the demonstration or exhibition purposes, permanent import/transfer in or from Romania of military goods for armed forces end-users, temporary import/transfer for maintenance and repairs and permanent transfer from Romania to certified recipients.

All license applications are processed and assessed in accordance with the legal provisions, on a case-by-case basis.

The license applications for export, import, transfer within EU and brokering are subject of Inter-ministry Council assessment.

The Inter-ministry Council consists of representatives from Ministry of Foreign Affairs, Ministry of National Defence, Ministry of Internal Affairs, Ministry of Economy, Customs Authority and Intelligence Services.

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.

According to the law, the List of military goods subject to the control regime for exports, imports and other operations is set up by Order of the Minister of Foreign Affairs. In 2018, Minister of Foreign Affairs issued the Order no. 156/2018 setting up the List of military goods subject to control regime of export, import and other transfers of military goods –valid until 12 June 2019. It was repealed by Minister of Foreign Affairs Order no. 901/2019 setting up the List of military goods subject to control regime of exports, imports and other operations with military goods (*published in Romanian Official Journal, Part I, no. 477 from 12 of June 2019*).

The Romanian List of military goods transpose the EU Common Military List of the European Union in force and includes the amendments agreed by the 2016 WA Plenary.

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)?

Romania fully respects the international obligations, including the international embargoes established by the United Nations Security Council. ANCEX has a rapid mechanism for the implementation of UN Security Council, EU or OSCE arms embargo immediately after their adoption.

Every export license application is assessed by the national authorities involved in the decision-making process on a case-by-case basis, taking into account criteria mentioned in the Arms Trade Treaty and in the European Union Council Common Position 2008/944/CFSP.

Romania has a national strategy for raising the awareness of civil society, defence industry and media on issues related with non-proliferation and export controls. ANCEX has robust outreach programs, and *inter alia*, informs all registered companies about the arms embargoes and restrictive measures imposed at international or regional level.

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.

ANCEX's main law requires as support documentation of an export licence application an original End-User Certificate, Import Certificate or End-User Statement (EUC's, IIC's, and EUS's) as essential elements of the licensing assessment process.

The EUC's, IIC's, and EUS's are very important tools of the end-use/user assurances (end-user documentation) as they provide importer's state guarantees for the exporting state.

The EUC's, IIC's, and EUS's have different values in connection with the specificity of the military goods transferred (systems of conventional arms, equipment, spare parts and components) and the end-user (governmental entities, industry, commercial market).

Generally, for exports of conventional arms systems, including the SALW, ANCEX requires EUCs with the re-export clause that implies the prior written approval of ANCEX.

In some circumstances, the EUCs, IICs and EUSs received as support documentation for an export licence application are verified through diplomatic channels.

According to the primary legislation, the exporter should present an original Delivery Verification Certificate (DVC) to ANCEX in maximum four months after the shipment/delivery of the military goods. Under certain circumstances, ANCEX verifies through diplomatic channels the DVCs. Moreover, ANCEX could conduct *on-site* verification at the end-user of the military items (including SALW and their ammunition).

There are cases when ANCEX could require the Romanian exporter to accompany the export up to the end-user, as a preventive measure against the diversion of the exported goods.

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

The control provisions of the transit and transshipment with military goods are stipulated in the primary legislation on arms export controls. The primary legislation provides the following meanings for:

- *transit* – the transport through Romanian territory of military goods originating from and intended to other countries;
- *transshipment* – the operation of changing the means of transport during transit operations or during the entrance or exit operations in or from the territory of Romania.

Export control legislation covers the all-Romanian territory, including free zones.

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?

Romanian export control regime does not provide a prior consent for the negotiations conducted. Moreover, a contract signed between the parties does not lead automatically to an export license approval.

The registered companies are not obliged to seek official governmental authority “clearance” to enter into contract negotiations or to sign contracts with foreign customers, but usually companies request prior consultation with the authority in sensitive cases, such as exceptions provisions of the arms embargoes.

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

According to the primary and secondary legislation on export controls if the terms and conditions of an export licence are essentially modified (e.g. the final destination, the foreign partner and the goods) or if there are significant changes in governmental, military or economic elements in the end-user state, ANCEX can suspend or revoke the export licence. The licenses can be suspended in case of any new relevant information that require additional risk assessment procedure.

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 Government Ordinance no. 158/1999 on the control regime of exports, imports and other transfers of military goods, republished, establishes that any violation of the provisions of the ordinance regarding transfers of military goods, as well as those on the truthfulness of declarations, represents crimes under the law, are punished according to the Criminal Code.

Violation of the provisions of the law, unless the actions are crimes, under the Criminal Code, that constitutes an offence are sanctioned by fine from 5.000 RON to 30.000 RON.

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

Are exempt from the provision of the control regime the legal operations performed in connection with the participation of:

- armed forces, law enforcement and national security structures of Romania in military missions, operations, exercises, training activities and ceremonies outside of the Romanian territory;
- foreign armed forces or law enforcement structures from abroad having the approval of the Romanian authorities for entry, stationing, conduct operations or transit through Romania.

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

Individual licences for temporary exports of conventional arms are assessed on multi-criteria basis and they fulfil identical procedures (EUC, IIC, EUS or Return Material Approval) like the licences issued for permanent exports. The clauses included in the export control documentation must provide the return terms of the conventional arms. Usually, the individual licences for temporary exports are valid one year, if the clauses of return do not specify less.

In 2016 ANCEX approved the General Licence for temporary transfers from Romania of specific military goods for the purposes of exhibition and demonstration on the territory of EU Member States. In 2017 ANCEX approved the General license No. LGERE - RO - 01 for the temporary transfer from Romania and export of military goods, for maintenance and repair. According to the terms and conditions of the General Licence the military goods shall be returned to Romania in their entirety and without modifications within two years from the date of their transfer from Romania. Proper records of all operations and related documents must be kept by the companies, as beneficiaries of the general licences. The companies submit to ANCEX their annual reports.

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

Romanian export control documentation, was amended in 2013 by the Order no. 848/2013 of the Minister of Foreign Affairs for the approval of military export control documentation forms such as registration, certification, licenses and other documents as stipulated by Government Ordinance No. 158/1999 on the control regime of exports, imports and others transfers of military goods, republished (published in the Official Journal of Romania, Part I, No. 638 and 638 bis from 16 October 2013). – Since 2014 no forms were amended. The forms provided in 2014 are available.

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

There are three types of export licenses granted by ANCEX, as follows:

- Individual license – granted to a registered Romanian legal person, in order to carry out an operation involving one or several military goods, to or from a single foreign partner.
- Global license – granted to a registered Romanian legal person, in order to carry out repetitive operations involving one or several military goods, to or from several foreign partners.
- General license - is granted to a registered Romanian legal person in order to carry out repetitive operation involving one or several military goods to or from several importers, exporters or suppliers.

To apply for an individual export license, legal persons have to fulfil a specific form which contains information related to the exporter/supplier, importer/consignee, broker/agent, end-user, end-use, description of goods, categories within National Control List, quantity, value and currency, contact details of the exporter/supplier, country of origin, exporting country, country of final destination, payment terms, delivery terms, contract/agreement, customs regime and the customs code within the Harmonized System or Combined Nomenclature (HSCN).

To apply for a global export license, legal persons have to fulfil a specific form which contains information related to the exporter/ supplier, foreign partner, broker/ agent, end-use, description of goods, categories within National Control List, contact details of the exporter/ supplier, customs regime, payment terms, value and currency.

Additionally, when applying for an individual or global export license, legal persons shall present the following documents: end-use/r assurances (such as IIC, EUC, NTUC, EUS), a copy of the contract/agreement/order, a copy of the invoice, contact details of all partners involved in the transaction and any other relevant information requested by ANCEX.

For conventional arms systems ANCEX issues individual licences only.

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

ANCEX organizes regular meetings with the managers of the Romanian exporters. Additionally, by request, ANCEX provides export control policy support.

In any case, ANCEX does not provide assurances or guarantees regarding the licensability (likelihood of license approval for a transfer or export).

As a preventive dimension, ANCEX advise the registered companies to introduce a clause in their contracts stipulating, *“Contract will entry into force in X days after the export license was issued by the Romania Authority for Export Controls”*.

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

The average number of the permanent and temporary export licences issued in **2019 is 400**.

The stuff engaged in the licensing procedure consists of 10 members.

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.

All export license applications of SALW (including their ammunition) are assessed by ANCEX and receive the assent from the Inter-ministry Council on multi-criteria basis. Some exports of SALW (including their ammunition) are subject to the monitoring process, depending of the destination and the partners. It is mandatory for the exporters to notify to ANCEX, 5 days before the export will take place, all elements of transfers, including the serial number of SALW, transporter and the route of transportation. In this monitoring process are involved the licensing authority, enforcement authorities and intelligence services.

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

Romanian legislation and procedures of conventional arms are published in the Official Journal of Romania, Part I. The official website of the Romanian Authority for Export Controls (www.ancex.ro) makes available, in English and Romanian, the export control legislation, procedures and guidelines for all interested parties and useful links to organizations and documents related.