

ACT No. 594/2004
of
implementing the European Community regime for the control of exports
of dual-use items and technology

Parliament has passed the following Act of the Czech Republic:

PART ONE
INTRODUCTORY PROVISIONS

Section 1
Subject of Regulation

(1) Further to a directly binding regulation of the European Communities¹⁾ (hereinafter referred to as ‘Council Regulation’), this Act regulates

- a) the control of exports of dual-use items, including software and technology (hereinafter referred to as ‘dual-use items’), with the observance of international regimes, agreements and treaties binding upon the Czech Republic, and the rights and obligations of exporters of dual-use items and other persons contributing to exports,
- b) the rights and obligations of persons transporting dual-use items from the territory of the Czech Republic to the territory of another Member State of the European Union.

(2) This Act shall not affect the rights and obligations of exporters of dual-use items under other separate legal regulations.²⁾

¹⁾ 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, in the wording of Council Regulation (EC) No 2432/2001 of 20 November 2001 and Council Regulation (EC) No 149/2003 of 27 January 2003.

²⁾ E.g. Act No 18/1997 Coll., on the peaceful use of nuclear energy and ionizing radiation (Atomic Act) and on an amendment to certain laws, as amended; Act No 19/1997 Coll., on certain measures connected with the prohibition of chemical weapons and on an amendment to Act No 50/1976 Coll., on area planning and the Building Code (Building Act), as amended, Act No 455/1991 Coll., on trade licensing (Trade Licensing Act), as amended, and Act No 140/1961 Coll., the Criminal Code, as amended, in the wording of Act No 249/2000 Coll. and Act No 356/2003 Coll.; Act No 281/2002 Coll., on certain measures connected with the prohibition of bacteriological (biological) and toxin weapons and on an amendment to the Trade Licensing Act; Act No 13/1993 Coll., the Customs Act, as amended; Act No 148/1998 Coll., on the protection of secret information and on an amendment to certain laws, as amended.

Section 2

(1) The Ministry of Industry and Trade (hereinafter referred to as ‘Ministry’) shall implement measures, which are Community regulations regulating the control of exports of dual-use items¹⁾ entrusted to the Member State of the European Union.

(2) The Ministry

- a) shall grant authorization for the export of dual-use items and the transportation thereof within the European Communities (hereinafter referred to as ‘Comunities’) from the territory of the Czech Republic,
- b) shall cooperate with the competent authorities of the Czech Republic,
- c) shall cooperate with the competent bodies of the Community and Member States of the European Union,³⁾
- d) shall cooperate with international institutions and the bodies of other states responsible for the control of exports of dual-use items,
- e) shall be entitled to provide information in the scope of this Act to the authorities specified in subparagraphs b) to d) and the authorities specified in Section 20,
- f) shall provide and mediate information intended for exporters of dual-use items.⁴⁾

(3) This shall not affect the competence of other public authorities in the field of the control of exports of dual-use items under separate legal regulations.²⁾

PART TWO

AUTHORIZATION

SECTION 3

(1) An authorization shall be required for the export of dual-use items if

- a) the dual-use items are listed in Annex I to the Council Regulation,⁵⁾
- b) so appointed under the Council Regulation,⁶⁾
- c) the Ministry so decides in accordance with the Council Regulation⁷⁾; the Ministry shall also appoint the form of authorization for the export concerned (Section 7(1)),
- d) the exporter has or, considering the circumstances, should have reason to suspect⁸⁾ that dual-use items other than those under paragraph (1)(a) are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons; the exporter shall inform the Ministry of any such circumstances, whereupon the Ministry

³⁾ Article 15 of Council Regulation (EC) No 1334/2000, as amended.

⁴⁾ Article 15(2) of Council Regulation (EC) No 1334/2000, as amended.

⁵⁾ Article 3(1) of Council Regulation (EC) No 1334/2000, as amended.

⁶⁾ Article 4(1) to (3) of Council Regulation (EC) No 1334/2000, as amended.

⁷⁾ Article 4(4) of Council Regulation (EC) No 1334/2000, as amended.

⁸⁾ Article 4(5) of Council Regulation (EC) No 1334/2000, as amended.

- shall decide whether the export concerned shall require an authorization, and if so what form of authorization (Section 7(1)),
- e) so appointed for the reason of public safety or human rights protection by government order,⁹⁾ or
 - f) a case of technical assistance is at issue as set forth in Section 12.¹⁰⁾

(2) An authorization from the Ministry shall also be required for intra-Community transfers of dual-use items from the territory of the Czech Republic in accordance with the Council Regulation.¹¹⁾

Section 4 **General Export Authorizations**

General export authorizations are

- a) a general export authorization of the Community,¹²⁾
- b) a general export authorization of the Czech Republic.

Section 5

A general export authorization under Section 4(b) shall be required for the export of certain dual-use items to certain countries if an implementing regulation appoints so.¹³⁾

Section 6

(1) General export authorizations may be used solely in accordance with the terms and conditions laid down herein.

(2) An exporter who intends to export dual-use items from the territory of the Czech Republic based on any of the general export authorizations under Section 4 shall be obliged to register before the first use of such an authorization; in this respect the exporter shall inform in writing the Ministry of the following:

- a) the number of the general export authorization,
- b) information proving the exporter's identity; if the exporter is a natural person, the full name, business name, if incorporated by entry in the Commercial Register, date of birth, and permanent address or residential address in a Member State of the European Union, or address of the exporter's stay in the Czech Republic; if the exporter is a natural person engaged in business, the address of the place of business and registration number, if assigned, shall also be specified. A legal person shall specify its business name, registered office, and company registration number, if assigned; in the case of a foreign legal person that has set up an organizational component in the Czech Republic¹⁴⁾, the specification of this organizational component and the address of its location in the Czech Republic shall also be stipulated.

(3) For the purposes of registration, the exporter shall attach the original or an officially certified copy of the exporter's certificate of incorporation, which shall not be more than 90

⁹⁾ Article 5(1) of Council Regulation (EC) No 1334/2000, as amended.

¹⁰⁾ Council Joint Action 2000/401/CFSP.

¹¹⁾ Article 21 of Council Regulation (EC) No 1334/2000, as amended.

¹²⁾ Article 6(1) of Council Regulation (EC) No 1334/2000, as amended.

¹³⁾ Article 10(3) of Council Regulation (EC) No 1334/2000, as amended.

¹⁴⁾ The Commercial Code.

days old (applicable to natural persons only if they are incorporated by entry in the Commercial Register), and the original or an officially certified copy of a trade certificate or similar document certifying the relevant authorization to carry on business activities related to the export of dual-use items, if issued.

(4) The Ministry shall register the exporter within 30 days from the date of delivery of the announcement in writing.

(5) The exporter shall notify the Ministry of any changes in the information in the register within fifteen days.

(6) The exporter shall apply to the Ministry to cancel the exporter's registration if, for a period of one year, the exporter exports no dual-use items based on the relevant general export authorization in respect of the use of which the exporter registered.

(7) If general export authorizations are used, the exporter specifies the number of the relevant authorization in the customs bill of entry.¹⁵⁾

(8) The exporter shall submit, at any time the Ministry requests, information about exports carried out in accordance with general export authorizations.

Section 7

Individual Export Authorization and Global Export Authorization

(1) For exports of dual-use items to which general export authorizations do not apply, the Ministry shall grant an individual export authorization or a global export authorization.¹⁶⁾ Individual export authorizations or global export authorizations are issued in duplicate; for the purposes of customs procedure, part of each copy shall be a depreciation certificate.¹⁷⁾ The customs authority certifies the notation of realized consignment in a depreciation certificate, unless this Act specifies to the contrary.

(2) An individual export authorization enables an exporter to export the dual-use items specified therein to a single appointed country as a single consignment or sub-consignments based on contractual agreement between the exporter and the exporter's foreign partner.¹⁶⁾

(3) A global export authorization enables a certain exporter to export dual-use items of the same type or category to one or more specified countries.¹⁸⁾

(4) An implementing regulation appoints the application form for an individual export authorization and a global export authorization.

¹⁵⁾ Act No 13/1993 Coll., as amended.

Regulation No 199/2004 Coll., implementing certain provisions of the Customs Act.

¹⁶⁾ Article 6(2) of Council Regulation (EC) No 1334/2000, as amended.

¹⁷⁾ Annex IIIa of Council Regulation (EC) No 1334/2000, as amended.

¹⁸⁾ Article 6(2) and (5) of Council Regulation (EC) No 1334/2000, as amended.

PART THREE
AUTHORIZATION PROCEDURE

Section 8
Authorization Application

(1) The exporter submits an application for an individual export authorization or a global export authorization to the Ministry on a prescribed form and in the manner appointed by administrative rules, with the exception of an oral application.

(2) An application must be accompanied by

- a) the original or an officially certified copy of the exporter's certificate of incorporation, which shall not be more than 90 days old (applicable to natural persons only if they are incorporated by entry in the Commercial Register), and the original or an officially certified copy of a trade certificate or similar document certifying the relevant authorization to carry on business activities related to the export of dual-use items, if issued,
- b) an import certificate issued by the competent authority of the state of import or a declaration of the foreign end user that the dual-use items shall not be used for the purposes specified in Section 3(1)(d), together with information about the specific use of the dual-use items, which must correspond to the information in the application, and a declaration that such dual-use items shall not be subsequently exported without the permission of the country in which the exporter is established; these documents need not be presented in cases where an authorization of the State Nuclear Safety Office has been issued pursuant to a guarantee from the state to which the items are to be exported,
- c) authorization of the competent state authority, if required under separate legal regulations for the export of dual-use items specified in Section 3(1)(a) or (b),¹⁹⁾ any other documents or information required by the Ministry that shall permit a due assessment of the case concerned.

(3) An application for the granting of an individual export authorization must also be accompanied by a proposal for the conclusion of a contract or by a contract concluded between the exporter and the exporter's foreign partner, with a precise specification of the dual-use items, including a specification of the quantity thereof.

(4) An exporter who applies for the issue of a global export authorization must prove that he is capable of respecting the regime applicable to the control of exports, in particular that he is capable of checking the end use of individual supplies of dual-use items in the scope of the granted global export authorization.

(5) Should a global export authorization be refused because the condition under paragraph (4) is not met, the exporter shall be entitled to submit an application for an individual export authorization.

¹⁹⁾ E.g. Act No 18/1997 Coll., as amended., Act No 19/1997 Coll., as amended, Act No 281/2002 Coll.

Section 9 Decision on an Application

(1) Based on an application submitted in accordance with Section 8, the Ministry shall make a decision, in accordance with the Council Regulation²⁰⁾ on whether or not to grant an individual export authorization or a global export authorization.

(2) The Ministry shall not issue an individual export authorization or a global export authorization if

- a) the exporter does not meet the conditions and obligations under Section 8(1) to (4) and under the Council Regulation,²¹⁾
- b) the exporter breaches, in the period of five years prior to the submission of the application, the regime for the control of exports of dual-use items,
- c) this can be justified by the foreign-policy, trade, or security interests of the Czech Republic and this is evidenced to the Ministry by the competent state authorities,
- d) the end use specified in the application does not guarantee that the dual-use items will not be used in connection with weapons of mass destruction, missile systems capable of delivering such a weapon, or for military end use, or
- e) the preconditions laid down in a separate legal regulation are not met.²²⁾

Section 10

(1) The Ministry shall cancel a granted individual export authorization or global export authorization²³⁾ if

- a) the authorization has been issued on the basis of untrue or incomplete information, or
- b) the terms and conditions laid down in the granted authorization have not been respected.

(2) The Ministry shall suspend a granted individual export authorization or global export authorization²³⁾ for the period required to dispel the suspicion that there are reasons to cancel, modify, or revoke an authorization. If no reason is found to issue a decision cancelling, modifying, or revoking the relevant authorization, the suspension shall be terminated.

(3) The Ministry shall modify or revoke a granted individual export authorization or global export authorization²³⁾ if there is a change in the circumstances under which the authorization was granted. When making a decision in this respect, the reasons specified in Section 9(2)(c) and (d) shall be taken into account.

(4) A granted individual export authorization or global export authorization cannot be cancelled, modified, or revoked if dual-use items have been released in their entirety into the customs regime of export by the customs authority or if the dual-use items have been assigned customs-approved specification of re-export, or if the intangible transmission of software, technology, or technical assistance outside the territory of the Communities has already taken place.

²⁰⁾ Article 8 of Council Regulation (EC) No 1334/2000, as amended.

²¹⁾ Article 9(1) of Council Regulation (EC) No 1334/2000, as amended.

²²⁾ Act No 18/1997 Coll., as amended.

Act No 19/1997 Coll., as amended.

Act No 281/2002 Coll.

²³⁾ Article 9(2) of Council Regulation (EC) No 1334/2000, as amended.

(5) It is not possible to lodge a remonstrance against a decision of the Ministry regarding the granting, non-granting, cancellation, suspension, modification, or revocation of an individual export authorization or global export authorization. Such a decision is excluded from the decision-making processes of a court of law.²⁴⁾

PART FOUR OTHER PROCESSES

Section 11 Obligations of the Exporter

(1) The exporter shall specify the number of the granted authorization in the bill of entry.

(2) The exporter, on completion of supplies, shall return the copy of the granted authorization to the Ministry together with the depreciation certificate confirmed by the customs authority. The exporter is obliged to do this within 15 days of the expiry thereof, unless the authorization terms and conditions specify to the contrary. If the exporter does not use a granted authorization, the exporter shall notify the Ministry forthwith of this fact, citing a specific reason, and shall return both copies of the authorization.

(3) In cases where exports are not subject to customs procedure, the exporter shall fill in the depreciation certificate.

(4) The exporter, in accordance with the Council Regulation, shall keep registers and file business documents and records on exports,²⁵⁾ which the exporter shall be obliged to submit to inspecting bodies on demand.

(5) The exporter shall also

- a) make arrangements for a declaration on the end use of dual-use items, if so required in the process of submitting an application for the issue of an authorization (Section 8(2)(b)),
- b) submit, at the Ministry's request after the export, a document verifying the supply, issued by the competent authority of the country of import certifying the receipt of dual-use items in the permitted country of destination,
- c) provide the necessary cooperation in the performance of inspections in accordance with Section 16.

Section 12 Provision of Technical Assistance

(1) An individual export authorization is required for the provision of technical assistance.

(2) For the purposes of this Act, 'technical assistance'¹⁰⁾ shall mean any technical support related to repairs, development, production, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, training, transmission of working

²⁴⁾ Act No 150/2002 Coll., the Code of Administrative Procedure, in the wording of Act No 192/2003 Coll. Act No 99/1963 Coll., the Code of Civil Procedure, as amended, Article 9(2) of Council Regulation (EC) No 1334/2000, as amended.

²⁵⁾ Article 16 of Council Regulation (EC) No 1334/2000, as amended.

knowledge or skills or consulting services. Technical assistance includes oral forms of assistance.

(3) A provider of technical assistance (hereinafter referred to as ‘provider’) may be a natural or a legal person providing technical assistance in accordance with paragraph (1). For the purposes of this Act, the provision of technical assistance shall be considered to be exports.

(4) An individual export authorization is required for the provision of technical assistance if the technical assistance is provided outside the territory of the Communities, is connected with the movement of persons, and is intended, or the provider is aware that it is intended

- a) for use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons, or
- b) for countries of destination subject to an arms embargo decided by a common position or joint action adopted by the Council or a decision of the OSCE or an arms embargo imposed by a binding resolution of the Security Council of the United Nations.

(5) An individual export authorization for the provision of technical assistance is not subject to customs procedure. The provider informs the Ministry of the termination of the export. The provider is obliged, at any time on request, to provide the Ministry or bodies of inspection hereunder with information required to assess the observance of the conditions specified in the granted individual export authorization.

(6) An individual export authorization shall not be required if technical assistance is provided

- a) in a country of destination specified in Part 3 of Annex II of the Council Regulation,
- b) in the form of publicly available information or as part of basic scientific research, as these terms are defined in international regimes, organizations, or treaties,¹⁰⁾
- c) in an oral form and does not relate to dual-use items controlled by one or more international regimes¹⁾, organizations, or treaties.

§ 13

Intra-Community Transfers of Dual-Use Items

(1) An implementing regulation may stipulate dual-use items other than those listed in Annex IV of the Council Regulation whereby the transfer thereof from the territory of the Czech Republic to the territory of another Member State shall require an authorization of the Ministry in cases where, at the time of transfer,

- a) a transferring person knows that the final destination of the items concerned is outside the Community,
- b) export of those items to that final destination is subject to an authorization requirement pursuant to Section 3, and such export directly from the territory of the Czech Republic is not authorized by a general authorization or a global authorization, or
- c) no processing or working as defined in Article 24 of the Community Customs Code is to be performed on the items in the Member State to which they are to be transferred.²⁶⁾

²⁶⁾ Article 21(2)(a) and Article 21(6) of Council Regulation (EC) 1334/2000, as amended.

(2) Section 8, and for the procedure of the Ministry Sections 9 and 10 accordingly, shall apply to the submission of an application for authorization for the intra-Community transfer of dual-use items in accordance with the Council Regulation²⁷⁾ and the authorization under paragraph (1).

(3) Authorizations granted in accordance with paragraph (2) are not intended for customs procedures.

(4) On completion of deliveries, the person transferring dual-use items within the Community returns the relevant copy of the authorization to the Ministry together with a depreciation certificate citing the volume of deliveries made; he confirms this information with his signature. The person transferring dual-use items shall do this within 15 days of the expiry of the authorization, unless specified to the contrary in the terms and conditions of the authorization. If the authorization is not used, this fact shall be reported to the Ministry without undue delay with a specification of the reasons therefor, and both copies of the authorization shall be returned.

(5) In the case of the intra-Community transfer of dual-use items which are specified in Category 5, Chapter 2 in Annex I to the Council Regulation and which are not specified in Annex IV to the Council Regulation from the territory of the Czech Republic to another Member State, at the request of the Ministry or another state authority the operator transferring the items shall provide supplementary information about these items.

International Import Certificate

Section 14

(1) The Ministry, in the scope of international cooperation in the field of export controls, shall issue, unless this act specifies to the contrary, prior to the import of dual-use items into the Czech Republic, an international import certificate (hereinafter referred to as 'import certificate') if required by a foreign supplier.

(2) An import certificate shall be issued in duplicate; for the purposes of customs procedure, a depreciation certificate shall constitute part of a copy; this copy is proof of the delivery verification, if required by the foreign supplier.

(3) The importer shall submit an application for an import certificate to the Ministry on the prescribed form and in the manner stipulated by administrative rules, with the exception of an oral application.

(4) An application shall contain the following information in particular:

- a) a specification of the dual-use items,
- b) the quantity and value of dual-use items,
- c) information proving the identity of the importer and the end user (Section 6(2)(b)),
- d) the name and address of the foreign supplier,
- e) the end use of the dual-use items.

(5) An application must be accompanied by

²⁷⁾ Article 21(1) of Council Regulation (EC) 1334/2000, as amended.

- a) the original or an officially certified copy of a certificate of incorporation, which shall not be more than 90 days old (applicable to natural persons only if they are incorporated by entry in the Commercial Register), and the original or an officially certified copy of a trade certificate,
- b) an authorization of the competent state authority, if required for the import of dual-use items by separate legal regulations,
- c) any other documents or information required by the Ministry that shall permit a due assessment of the case concerned,
- d) a proposal for the conclusion of a contract, or a contract concluded between the importer and the importer's foreign supplier, with a precise specification of the dual-use items, including a specification of the quantity thereof.

(6) The Ministry shall not issue an international import certificate if

- a) the importer does not meet the conditions and obligations under paragraph (4) and (5) necessary for submission of the application,
- b) the importer breaches, in period of five years prior to the submission of the application legal regulations in the control of exports of dual-use items,
- c) this can be justified by the security interests of the Czech Republic,
- d) the end use specified in the application does not guarantee that the dual-use items will not be used in connection with weapons of mass destruction missile systems capable of delivery such a weapon, or for military end use, or
- e) the preconditions laid down in a separate legal regulation are not met²²⁾

(7) If the importer does not use an import certificate, the importer shall notify the Ministry forthwith of this fact, citing a specific reason.

(8) An importer who is issued with an import certificate shall keep detailed registers, and shall file commercial documents and records of imports to the Czech Republic made in accordance with the import certificate. These registers, commercial documents, or records shall be kept for a period of at least three years as of the end of the calendar year in which the import took place in the scope of information permitting subsequent verification of the import of dual-use items and the actual use thereof. Registers, commercial documents, or records shall be produced to the Ministry or inspecting bodies hereunder at any time on request.

(9) An implementing regulation shall appoint the application form for an import certificate.

Section 15

(1) On completion of an import to the Czech Republic, the customs authority shall confirm the importer's copy intended for customs procedure, if a delivery verification certificate is required by the foreign supplier.

(2) Should the customs authority discover any inconsistencies related to the imported dual-use items, it shall inform the Ministry.

PART FIVE
INSPECTIONS AND SANCTIONS

Section 16
Inspections

(1) Inspections of observance of the Council Regulation and this Act shall be conducted by customs authorities and, in accordance with separate legal regulations, other state authorities in the scope specified therein.¹⁹⁾

(2) The inspecting bodies under paragraph (1) shall also conduct preliminary inspections, at the instigation of the Ministry, to verify the information specified in an application for an authorization (Section 8, 12, 13) or import certificate (Section 14).

(3) Customs authorities shall be entitled to enter commercial rooms and premises intended for business, in which dual-use items are or should be located, peruse the commercial files of exporters, importers, and other persons contributing to exports, imports, or intra-Community transfers of dual-use items, and draw up documentation related to them.

(4) Customs authorities shall be entitled, under the terms and conditions laid down under a separate legal regulation,²⁸⁾ to inspect the transfer of dual-use software and technology by electronic means, by fax, or by telephone to a point of destination outside the Community.

(5) In order to ensure the performance of inspections, the Directorate General of Customs shall keep records on exports of dual-use items subject to customs procedure. The customs authorities shall keep these records in the scope of their territorial competence. The Directorate General of Customs shall provide the Ministry with the necessary information on exports of dual-use items which have been made.

(6) The customs authority shall interrupt customs procedure, or if necessary shall ensure the prevention by other means of the export of dual-use items, if

- a) there are reasonable grounds to suspect that when the authorization was granted significant information was not taken into consideration,
- b) there have been material changes in circumstances since the authorization was granted, which could influence on granting of the authorization, or
- c) the Ministry asks the customs authority to do so on making a serious discovery.

In these cases, the customs authority shall inform the Ministry forthwith, and the Ministry shall make a decision on how to proceed in accordance with Section 10. If an authorization has been issued by an authority of another Member State, the Ministry shall proceed in accordance with the Council Regulation.²⁹⁾

Administrative Delicts

Section 17

(1) A legal person shall commit an administrative delict by

²⁸⁾ E.g. Act No 13/1993 Coll., as amended, Act No 148/1998 Coll., as amended.

²⁹⁾ Article 12(4) of Council Regulation (EC) No 1334/2000, as amended.

- a) exporting dual-use items from the territory of the Community without a valid authorization, even though an authorization is required under the Council Regulation³⁰⁾ or this Act (Section 3), or by using a false, counterfeit, or fraudulently altered authorization for exports,
- b) transferring dual-use items from the Czech Republic to the territory of another Member State of the European Union without a valid authorization, even though an authorization is required under the Council Regulation²⁷⁾ or this Act (Section 3(2), Section 13), or by using a false, counterfeit, or fraudulently altered authorization for transfers,
- c) providing technical assistance without a valid authorization, even though an authorization is required under this Act (Section 3(1)(f), Section 12), or by providing technical assistance with a false, counterfeit, or fraudulently altered authorization,
- d) providing untrue, incorrect, or incomplete information or by concealing information important for a due assessment of an application for the granting of an authorization or import certificate, or by submitting false, counterfeit, fraudulently altered or invalid documents in order to obtain an authorization or import certificate,
- e) breaching any of the obligations specified under the Council Regulation³¹⁾ or this Act (Section 6(2) and (3), Section 6(5) to (8), Section 11 and Section 13(5)),
- f) breaching any of the conditions laid down in an authorization under the Council Regulation³²⁾ or this Act (Section 6(1), Section 12, Section 13),
- g) exporting dual-use items from the territory of the Community without valid registration, even though registration is required under this Act (Section 6),
- h) not keeping registers, or not keeping commercial documents and records on the transfer of dual-use items specified in Annex I of the Council Regulation within the Community in accordance with the Council Regulation,³³⁾
- i) clearly failing to specify, during the intra-Community transfer of dual-use items specified in Annex I of the Council Regulation, in the relevant commercial documents, that goods are involved which, on export from the Community, are subject to controls under the Council Regulation,³⁴⁾
- j) not keeping registers or not keeping documents and records in accordance with Section 14(8) hereof.

(2) The administrative delicts under paragraph (1) shall be subject to the following penalties:

- a) up to CZK 20,000,000, or up to five times the price of the dual-use items, if the upper limit of the penalty rate is found to be higher, or the confiscation of the dual-use items in the case of administrative delicts under paragraph (1)(a) to (d);
- b) up to CZK 5,000,000 in the case of administrative delicts under of (1)(e) to (j).

(3) The confiscation of dual-use items may be imposed separately or together with a fine, if the dual-use items belong to the legal person who committed the administrative delict and the items are

1. used or intended to commit an administrative delict, or
2. acquired by means of an administrative delict or obtained in return for goods acquired by means of an administrative delict.

³⁰⁾ Article 3(1), Article 4(1) to (5), Article 5(1), Article 6(2) of Council Regulation (EC) No 1334/2000, as amended.

³¹⁾ Article 6(2), Article 12(1), Article 16 of Council Regulation (EC) No 1334/2000, as amended.

³²⁾ Article 6(1) and (2), Article 21 of Council Regulation (EC) No 1334/2000, as amended.

³³⁾ Article 21(5) of Council Regulation (EC) No 1334/2000, as amended.

³⁴⁾ Article 21(7) of Council Regulation (EC) No 1334/2000, as amended.

Section 18 Misdemeanours

- (1) A natural person commits a misdemeanour by
- a) providing technical assistance without a valid authorization, even though an authorization is required under this Act (Section 3(1)(f), Section 12), or by providing technical assistance with a false, counterfeit, or fraudulently altered authorization,
 - b) providing untrue, incorrect, or incomplete information or by concealing information important for a due assessment of an application for the granting of an authorization or import certificate, or by submitting false, counterfeit, fraudulently altered or invalid documents in order to obtain an authorization or import certificate,
 - c) breaching any of the obligations specified under the Council Regulation³¹⁾ or this Act (Section 6(2) and (3), Section 6(5) to (8), Section 11 and Section 13 (5)),
 - d) breaching any of the conditions laid down in an authorization under the Council Regulation³²⁾ or this Act (Section 6(1), Section 12, Section 13),
 - e) exporting dual-use items from the territory of the Community without valid registration, even though registration is required under this Act (Section 6).

(2) For the misdemeanours under paragraph (1)(a) and (b), it is possible to impose a penalty of up to CZK 20,000,000, and for the misdemeanours under of (1)(c) to (e) it is possible to impose a penalty of up to CZK 5,000,000.

Section 19 Joint Provisions

(1) A legal person shall not be held liable for an administrative delict if this legal person can prove that it has taken all reasonable efforts to prevent a breach of a legal obligation.

(2) The assessment of the penalty imposed on a legal person shall be determined with regard to the extent, significance, and period of threat to the foreign-policy, trade, or security interests of the State, or with regard to the damage caused.

(3) The liability of a legal person for an administrative delict shall cease to exist if the administrative authority fails to commence proceedings in respect of such a delict within 2 years of learning thereof, but no later than 10 years as of the date the administrative delict was committed.

(4) The administrative delicts of legal persons and misdemeanours under this Act shall be handled in the first instance by the customs authority in whose district the administrative delict of the legal person or the misdemeanour was discovered. The customs authority with the competence to handle the administrative delict of a legal person or misdemeanour of a natural person may transfer the case to the customs authority in whose district the legal person committing the administrative delict is domiciled or in whose district the natural person who has committed a misdemeanour lives or works for further discussion.

(5) The provisions of the law on the liability and punishment of a legal person shall apply to liability for conduct which occurs during or in direct connection with the business of a natural person³⁵⁾.

³¹⁾ Article 6(2), Article 12(1), Article 16 of Council Regulation (EC) No 1334/2000, as amended.

³⁵⁾ Section 2(2) of the Commercial Code.

(6) Penalties shall be collected and recovered by the authority which imposed them. Income from penalties is the income of the national budget.

(7) The provisions of a separate legal regulation shall apply to the collection and recovery of any penalties imposed.³⁶⁾

PART SIX

JOINT, TRANSITORY, REPEALING, AND FINAL PROVISIONS

CHAPTER I JOINT PROVISIONS

Section 20

(1) In order to ensure the thorough implementation of the provisions of this Act, the Ministry shall be entitled to demand opinions from state authorities related to individual cases of the export of dual-use items or intra-Community transfer thereof from the aspect of foreign-policy and security interests of the State, and information about exporters seeking the granting of an authorization, and about their business activities if these are related to dual-use items. These authorities shall issue opinions, unless they are prevented from doing so by separate legal regulations,³⁷⁾ within 20 days of receipt of the request, or in a reasonably extended time limit by agreement with the Ministry.

(2) The Ministry and the Directorate General of Customs shall provide each other with information relating to authorization and customs procedure in the scope of the information specified in a granted authorization. They shall inform each other forthwith of any circumstances significant for authorization procedure, control of the observance of the Council Regulation and this Act, and the imposition of sanctions and other measures in accordance with this Act. The customs authorities shall provide the Ministry with information significant for authorization procedure ascertained during inspections.

(3) The Ministry and the State Nuclear Safety Office shall provide each other with information in the field of nuclear, chemical, and biological items related to authorization procedure and authorization procedure under separate legal regulations.²²⁾ They shall inform each other forthwith of any circumstances significant for authorization procedure, and for control of the observance of the Council Regulation and this Act. The State Nuclear Safety Office shall provide the Ministry with information significant for authorization procedure ascertained during inspections.

(4) The Ministry, the Ministry of the Interior, and the Office for Foreign Relations and Information shall provide one another with information related to authorization procedure in the scope appointed by a mutual cooperation agreement.

Section 21

Authorizations, once granted, cannot be transferred. A party who has been granted an individual export authorization or a global export authorization, must present this

³⁶⁾ Act No 337/1992 Coll., on the administration of taxes and charges, as amended.

³⁷⁾ E.g. Act No 153/1994 Coll., on the intelligence services of the Czech Republic, Act No 154/1994 Coll., on the Security Information Service, as amended.

authorization to the customs authority as the declaring party, either itself or by means of a direct representative.³⁸⁾

Section 22

In procedure in matters governed by this Act, administrative rules shall apply, unless this Act specifies to the contrary.

Section 23

The State shall not be held liable for damage incurred due to the issue of a decision for reasons laid down in the Council Regulation and this Act; the liability of the State under a separate legal regulation is not hereby affected.³⁹⁾

Section 24

Delegating Provision

The government shall issue an order to implement Section 3(1)(e), Section 5, Section 7(4) and Section 14(9) hereof.

CHAPTER II TRANSITORY PROVISIONS

Section 25

(1) Licences issued for the export of controlled items to third countries, issued in accordance with hitherto legislation, shall be deemed authorizations issued in accordance with this Act.

(2) Procedure commenced prior to the date this Act enters into effect shall be completed in accordance with this Act.

(3) General export authorizations under Section 4 may be used solely pursuant to registration carried out in accordance with this Act.

CHAPTER III REPEALING AND FINAL PROVISIONS

Section 26

The following are repealed:

1. Act No 21/1997 Coll., on control of exports and imports of goods and technologies subject to international control regimes.
2. Act No 204/2002 Coll., amending Act No 21/1997 Coll., on control of exports and imports of goods and technologies subject to international control regimes.

³⁸⁾ Act No 13/1993 Coll., as amended.

³⁹⁾ Act No 82/1998 Coll., on liability for damage caused in the execution of public authority by a decision or incorrect official procedure and on an amendment to Act of the Czech National Council No 358/1992 Coll., on notaries and on the activities thereof (Notarial Code), as amended.

3. Regulation No 397/2003 Coll., to implement Act No 21/1997 Coll., on the control of exports and imports of items and technology subject to international control regimes, in the wording of Act No 204/2002 Coll.
4. Regulation No 398/2003 Coll., appointing a general import authorization, based on which it is possible to import controlled items into the Czech Republic (Regulation on General Import Licence).

Section 27

Effect

This Act enters into effect on the date of promulgation hereof.

Prime Minister

Minister of Industry and Trade