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STEERING COMMITTEE FOR HUMAN RIGHTS

(CDDH)

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DRAFT REPORT

ON THE IMPLEMENTATION OF RECOMMENDATION CM/REC(2021)2 ON MEASURES AGAINST THE TRADE IN GOODS USED FOR DEATH PENALTY, TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

I. Introduction

1. In 2021, the Committee of Ministers of the Council of Europe adopted Recommendation CM/Rec(2021)2 to member States on measures against the trade in goods used for the death penalty, torture and other cruel, inhuman or degrading treatment or punishment (CM/Rec(2021)2 or Recommendation).

2. The Recommendation was adopted in response to the need to establish "multilaterally agreed common international standards on the trade in inherently cruel, inhuman or degrading equipment, as well as law-enforcement equipment and weapons and other relevant goods which can be misused for the death penalty, torture and other cruel, inhuman or degrading treatment or punishment."[1]

3. The Appendix to the Recommendation sets out a number of measures to be undertaken by Council of Europe member States to: i) prohibit the trade in inherently abusive goods and equipment; ii) regulate and license the export and transit of certain pharmaceutical chemicals; and iii) establish effective national export and transit control measures regarding the trade in law enforcement goods and equipment which can be misused by officials to inflict torture and other inhuman or degrading treatment or punishment.[2] Furthermore, the Recommendation calls on member States to: iv) exchange information, promote dissemination and cooperation to facilitate effective national implementation and cross-border coordination; v) encourage non-member States to adopt similar measures; and vi) take action in other international fora to combat the trade in such goods.[3]

4. The Recommendation includes three Appendices listing: i) prohibited inherently abusive goods and equipment (Appendix 1);[4] ii) pharmaceutical chemicals used in lethal injection executions, the export and transit of which should be regulated and licensed (Appendix 2);[5] and iii) controlled goods and equipment that may have legitimate law enforcement uses in accordance with international and regional human rights standards but which may be misused to inflict torture or other inhuman or degrading treatment or punishment (Appendix 3).[6]

5. The Recommendation calls for an examination of its implementation five years after its adoption.[7] In line with its Terms of Reference for 2024-2027, the CDDH has been mandated to report on this examination.

6. To this end, the CDDH relied on multiple sources of information, including: i) replies to a CDDH questionnaire received from 25 Council of Europe member States;[8] ii) discussions and conclusions from the Workshop on Strengthening multilateral efforts to curb trade in torture and

[1] CM/Rec (2021)2, preamble.
[2] CM/Rec (2021)2, Appendix, 1.1 to 3.2.8.
[3] CM/Rec (2021)2, Appendix, 4 to 6.2.
[4] CM/Rec (2021)2, Appendix 1.
[5] CM/Rec (2021)2, Appendix 2.
[6] CM/Rec (2021)2, Appendix 3.
[7] CM/Rec (2021)2, para. 3.
[8] CDDH(2024)15REV, Compilation of replies received from member States to the Questionnaire on the examination of the implementation of Recommendation CM/Rec(2021)2 of the Committee of Ministers to member States on measures against the trade in goods used for the death penalty, torture and other cruel, inhuman or degrading treatment or punishment. See also CDDH(2024)08, Questionnaire to member States on the Examination of the implementation of Recommendation CM/Rec(2021)2 of the Committee of Ministers to member States on measures against the trade in goods used for the death penalty, torture, and other cruel, inhuman or degrading treatment or punishment.

death penalty goods, held during the 101st Plenary Meeting of the CDDH in Strasbourg;[9] and iii) information provided by European, international, and civil society organisations working in this area, including global initiatives aimed at combating the trade in torture and death penalty goods.

7. The information received was assessed with a view to identifying progress made, challenges encountered, and the overall effectiveness of the implementation of the Recommendation. The report highlights both difficulties faced and good practices observed. It also considers ways in which implementation may be further strengthened.

8. Finally, the report sets out the conclusions and recommendations of the CDDH based on the trends observed in the implementation of CM/Rec(2021)2, including reflections on possible future action in light of developments in national and international standards and practice since its adoption.

II. Examination of the implementation of CM/Rec(2021)2

1. Regular review of national legislation and practice and wide dissemination of the principles set out in the Appendix [Recommendation, paragraphs 1 and 2]

i. Review of national legislation and practice [Recommendation, paragraph 1]

9. CM/Rec(2021)2 calls on member States to regularly review their national legislation and practices related to the trade in goods that are inherently abusive or that could be misused for the death penalty, torture, or other forms of cruel, inhuman or degrading treatment or punishment, with a view to ensuring compliance with the measures set out in the Appendix to the Recommendation.[10]

10. In order to assess the implementation of the Recommendation, the CDDH circulated a questionnaire inviting Council of Europe member States to provide information on the measures taken, or planned, to implement the Recommendation at national level. The CDDH questionnaire also asked if the Recommendation served as a basis for the adoption or review of legislation and/or administrative measures at national level, and in particular regarding the trade in inherently prohibited goods and equipment.[11]

11. Council of Europe member States that are also members of the European Union (EU) reported that no additional legislative review or adoption was required at national level, given the applicability of Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (the EU Anti-Torture Regulation). This EU Regulation, which governs trade with non-EU countries concerning goods that may be used for the death penalty, torture or other cruel, inhuman or degrading treatment or punishment and rules governing the supply of brokering services, technical assistance, training, and advertising related to such goods,[12] applies directly in the legal systems of EU member States.

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[9] CDDH(2025)03, Summary of the discussions on strengthening multilateral efforts to curb trade in torture and death penalty goods.
[10] CM/Rec (2021)2, para. 1.
[11] CDDH(2024)08, question 2, b), (i).
[12] Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (EU Anti-Torture Regulation), Article 1.

12. The EU Anti-Torture Regulation shares the objectives and scope of CM/Rec(2021)2. It is the primary legal instrument in this area, providing a uniform and binding legal framework within the EU. It is worth noting that the European Commission has undertaken a review of the EU Anti-Torture Regulation, notably of its Annexes II and III (see Sections iii. a) and v. of this report below). This initiative responds to developments in the international security market, changes in the use and misuse of law enforcement equipment, and emerging challenges, such as extra-custodial torture and ill-treatment during the repression of peaceful protests. In May 2025, the European Commission proposed to update the categories of goods listed in the EU Anti-Torture Regulation, which has been transmitted to the European Parliament and the Council of the EU for their consideration.[13] If approved by the EU legislative institutions, the revised Regulation will require implementation by all EU member States.

13. Some states, including one EU member State, informed the CDDH of new legislative initiatives undertaken since the adoption of the Recommendation.[14]

14. **Montenegro** has had in place since 2018 an Act on foreign trade in goods that could be used for the death penalty, torture, or other cruel, inhuman or degrading treatment or punishment. The authorities have launched a legislative process to revise the act in order to align it with the EU Anti-Torture Regulation. Montenegro reported that the proposed legislation incorporates most of the measures recommended in CM/Rec(2021)2, and that remaining aspects will be addressed in accordance with the Recommendation and domestic legislation.[15]

15. **North Macedonia** indicated that the adoption of a law regulating foreign trade in such goods is planned, along with implementing by-laws that will define lists of prohibited goods. These by-laws will rely on tariff classifications to enable swift and accurate implementation within the electronic systems of the Customs Administration. The draft legislation will be aligned with the EU Anti-Torture Regulation.[16]

16. **Switzerland** reported that a draft law regulating goods that could be used for torture or capital punishment, dated 29 September 2023,[17] is currently under discussion in the Swiss parliament.[18]

17. Of the EU member States, **Poland** reported that, although the measures set out in CM/Rec(2021)2 had already been implemented prior to the adoption of the Recommendation through the EU Anti-Torture Regulation, legislative work was initiated in 2022 to introduce legal sanctions for violations of the relevant prohibitions, as recommended under 1.1.7 and 3.1.5 of the Recommendation (see Section iii. e) of this report below). In addition, Poland indicated that new legislation is needed to establish control over the provision of technical assistance and training, as referred to in point 3.1.3 of the Recommendation (see Section v. of this report below). A draft

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[13] See European Commission, "EU's fight against torture and other ill-treatment: working towards a "torture-free trade", 21 May 2025. See also Commission Delegated Regulation amending Regulation (EU) 2019/125 concerning trade in certain goods which could be used for capital punishment, torture or other cruel inhuman or degrading treatment or punishment, 21 May 2025 (European Commission Amended Annex)

[14] **Andorra** provided information on national legislation classifying weapons and prohibited weapons, and the conditions governing their manufacture, import, export, circulation, acquisition, marketing, transfer, repair, possession, storage, sale, use and transport, as well as rules for engaging in brokerage activities. See CDDH(2024)15REV, pp. 3-4.

[15] CDDH(2024)15REV, pp. 28-29.

[16] CDDH(2024)15REV, p. 31.

[17] See information concerning the law on goods used for torture: FF 2023 2408 - Message concernant la loi sur les... | Fedlex.

[18] CDDH(2024)15REV, p. 43.

law on trade with third countries in goods that could be used for death penalty, torture, or other cruel, inhuman or degrading treatment or punishment, has been prepared. The legislative process is expected to be completed by April 2026. In the meantime, the Polish authorities indicated that unauthorised foreign trade in such goods may be prosecuted as a fiscal offence under the Polish Fiscal Penal Code.[19]

ii. Wide dissemination of the principles set out in the Appendix [Recommendation, paragraph 2]

18. CM/Rec(2021)2 calls on member States to ensure the wide dissemination of the principles set out in its Appendix among competent authorities, notably entities responsible for implementing and overseeing the regulation of the trade in goods that may be used for the death penalty, torture, or other cruel, inhuman or degrading treatment or punishment. Specifically, the Recommendation refers to national human rights institutions, National Preventive Mechanisms (NPMs), Ombudsperson institutions, trade unions, civil society organisations, companies involved in the manufacture, promotion and transfer of law enforcement equipment and other relevant goods, such as pharmaceutical products, companies organising and operating trade fairs, and other relevant natural and legal persons domiciled in member States.[20]

19. The questionnaire distributed by the CDDH to Council of Europe member States included questions concerning dissemination efforts, in particular whether the Recommendation had been translated into national language(s) and whether it had been shared with relevant authorities.[21]

20. Among the 25 member States that submitted replies, 16 responded to the question on translation. Of these, nine indicated that the Recommendation had been translated into their official language(s), was in the process of being translated, or that translation was deemed unnecessary due to English or French – being the languages in which the Recommendation was adopted – also serving as official or working languages in the country. Seven member States reported that they had not translated the Recommendation despite having different official languages.

21. Concerning dissemination to relevant authorities, the majority of member States that replied indicated that the Recommendation had been forwarded to the relevant bodies.[22] These included ministries of finance, industry and trade, justice, interior, defence, labour and economic affairs, trade and industry, foreign affairs, and health. Some member States reported having shared the Recommendation with their customs authorities. A few countries forwarded the text to their national Ombudsperson institutions and NPMs. Some EU member States specified that the Recommendation had been transmitted to the national authority responsible for implementing the EU Anti-Torture Regulation.[23] A small number of States indicated that they had not yet disseminated the Recommendation but intended to do so in the near future.[24]

22. To further disseminate the Recommendation, in the framework of a Workshop of the European NPMs Forum on “Monitoring rights and material conditions of detention of persons held

[19] CDDH(2024)15REV, pp. 33-34.
[20] CM/Rec (2021)2, para. 2.
[21] CDDH(2024)08, question 1).
[22] Three member States replied that they had not distributed the Recommendation. Eight member States did not respond.
[23] EU Anti-Torture Regulation, Annex I – List of Authorities referred to in Articles 20 and 23, and address for notifications to the European Commission.
[24] See CDDH(2024)15REV.

in pre-trial detention and other subjects," the Council of Europe Coordinator for the abolition of the death penalty and the Secretariat of the CDDH made a presentation in 2024 to NPMs on the trade in goods used for the death penalty. A particular emphasis was laid on the role of the NPMs along with National Human Rights Institutions and Ombudspersons institutions.[25]

iii. On measures regarding the trade in inherently abusive goods and equipment [Recommendation, Appendix, 1.]

23. The Recommendation calls on member States to ensure that their national legal frameworks and administrative measures prohibit the import, export, and transit of equipment and goods – as well as the supply of technical assistance and training – relating to items that have no practical use other than the infliction of the death penalty, torture, or other cruel, inhuman or degrading treatment or punishment [Recommendation, Appendix, 1., 1.1.]. Member States should also prevent and prohibit the movement of such goods to, from, or through their jurisdiction. Moreover, the brokering of these items by nationals or companies, irrespective of the country of origin, should be prohibited unless for the exclusive purpose of public display in a museum owing to their historical significance [Recommendation, Appendix, 1., 1.2.].

a) List of prohibited goods and equipment

24. CM/Rec(2021)2 calls on member States to establish a list of prohibited goods and equipment, which should at a minimum include the categories set out in Appendix 1 of the Recommendation. This list should be regularly reviewed and updated to reflect developments in the production, use, and misuse of such equipment, as well as changes in international markets [Recommendation, Appendix, 1., 1.3.].

25. The categories of goods and equipment deemed inherently abusive are listed in Appendix 1 of the Recommendation and include, at a minimum:

i. gallows, guillotines, blades for guillotines, gas chambers, electric chairs and automatic lethal injection systems designed for capital punishment;

ii. thumb-cuffs, finger-cuffs, thumbscrews, bar fetters; cuffs for restraining human beings, designed to be anchored to a wall, floor or ceiling; weighted leg restraints; gang chains comprising bar fetters or weighted leg restraints, restraint chairs and shackle boards/beds with metal restraints; cage beds and net beds;

iii. spiked batons or truncheons and shields with metal spikes, whips comprising multiple lashes or thongs or having one or more lashes or thongs fitted with barbs, hooks, spikes, metal wire or similar objects enhancing the impact of the lash or thong;

iv. body-worn electric shock devices such as belts, sleeves and cuffs designed for restraining human beings by the administration of electric shocks.

26. The replies to the CDDH questionnaire indicate that Council of Europe member States that are also EU member States consider the list in Appendix 1 of the Recommendation to be similar to Annex II of the EU Anti-Torture Regulation.[26] The CDDH notes that no member State

[25] See Presentation on the CoE's work on the abolition of the death penalty to National Preventive Mechanisms, 4 June 2024.

[26] See CDDH(2024)15REV, p. 14, Croatia stating that "national authorities closely monitor exports of goods listed in Annexes II, III and IV of Regulation (EU) 2019/125 which essentially encompasses the goods listed in Appendix 1, 2 and 3 of Recommendation CM/Rec (2021)2 and much more"; p. 15, Cyprus replying that "Annex II of the Regulation includes the list of prohibited inherently abusive goods and equipment referred to in Appendix 1 of the Recommendation." See also CDDH(2025)03, Key points made by Dr Johannes Rickler.

reported having independently updated its national list of prohibited goods since the adoption of the Recommendation.

27. Recent developments at both the United Nations (UN) and EU levels warrant consideration.

28. In a 2023 report addressing global trends in torture and ill-treatment, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (UN Special Rapporteur on torture) presented a non-exhaustive list of 20 types of equipment – labelled as "Category A Goods" – that are considered to be inherently cruel, inhuman or degrading by design or effect.[27] The list includes:

i) Various restraints that pose a high risk of serious injury, pain or (such as restraint chairs with metallic restraints, thumb cuffs, leg irons, fixed restraints, and cage beds);

ii) Striking and kinetic impact weapons (such as spiked batons, weighted gloves, and lathis) due to their ability to cause excessive or unnecessary pain and injury;

iii) Ammunition and launchers with multiple projectiles deemed unsafe due to their indiscriminate and inaccurate nature, often resulting in serious injuries including to the head and eyes;

iv) Electric shock weapons (such as body-worn electric shock devices and direct contact electric shock batons, shields and guns) delivering repeated, intensely painful shocks. The Committee against Torture (CAT) has recommended prohibiting their use in "drive-stun" mode,[28] while their use have been strongly criticised by both the European Court of Human Rights and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);[29]

v) Body-worn and remote-controlled stun belts, vest and cuffs for inflicting severe pain, which use has been condemned by the CPT;[30]

vi) Millimetre wave weapons intended for crowd control due to their potential to cause panic, intolerable pain, and unknown short-term and long-term health effects.

29. The UN Special Rapporteur on torture noted that these items are manufactured and/or promoted by over 335 companies across 54 countries, including companies based in Europe.[31] In her report, states are urged to revise and amend national legislation and procedures to prohibit the production, trade and use of these items, and to establish clear timetables for the destruction or decommissioning of existing stocks.[32]

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[27] A/78/324 – Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 24 August 2023, paras. 44-56. See also Annex 1 of the Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment tor punishment, Category A Goods: Prohibited Equipment that is Inherently Cruel, Inhuman or Degrading, listing the following items: 1. Restraints: 1.1 Restraint chairs with metallic restraints; 1.2 Thumbcuffs; 1.3 Bar fetters; 1.4 Rigid bar combination cuffs; 1.5 Gang chains; 1.6 Weighted hand or leg restraints; 1.7 Fixed restraints; 1.8 Cage or net beds; 1.9 Hoods and blindfolds; 1.10 Spit hoods/guards; 2. Striking and kinetic impact weapons: 2.1 Spiked batons; 2.2 Spiked shields and body armour; 2.3 Weighted batons and gloves; 2.4 Whips and sjamboks; 2.5 Lathis; 2.6 Ammunition containing multiple non-metallic kinetic impact projectiles; 2.7 Automatic/multi-barrel launchers firing kinetic impact projectiles; 3. Electric shock weapons: 3.1 Body worn electric shock devices; 3.2 Direct contact electric shock weapons; 4. Millimetre wave weapons: 4.1 Millimetre wave weapons.

[28] CAT/C/NLD/CO/7 – Committee against Torture, Concluding observations on the seventh periodic report of the Netherlands, 18 December 2018, para. 42. See also CAT/C/GBR/CO/6 – Committee against Torture, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland, 7 June 2019, para. 29.

[29] See *Anzhelo Georgiev and Others v. Bulgaria*, app. no. 51284/09, 30 September 2014, para. 76; CPT/Inf(2010)28-Part, Electrical discharge weapons, "Extract from the 20th General Report of the CPT", para. 78.

[30] CPT/Inf(2010)28-Part, para. 74.

[31] 76 out of 335 companies identified by the UN Special Rapporteur on torture are based in Europe. See A/78/324 – Interim report of the Special Rapporteur on torture, para. 38; See also CDDH(2025)03, Key points made by Dr Alice Jill Edwards.

[32] A/78/324 – Interim report of the Special Rapporteur on torture, para. 84(a) and (b).

30. The European Commission has acknowledged the relevance of the UN Special Rapporteur on torture's findings in its revision of the EU Anti-Torture Regulation.[33] As noted earlier (see above in paragraph 12), the European Commission is proposing to amend the EU Anti-Torture Regulation on the basis of its 2020 report on the review of the EU Anti-Torture Regulation,[34] the work of the Informal Group of Experts established by the European Commission,[35] and recommendations made by the UN Special Rapporteur on torture.[36] The European Commission proposes, inter alia, to move certain goods from Annex III (list of "goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment") to Annex II (list of "goods which have no practical use other than for the purposes of capital punishment, torture and other cruel, inhuman or degrading treatment or punishment"), and to include additional items not currently listed in any annexes.[37] These amendments are intended to address changes in the international security market, including technological developments, increased misuse of law enforcement equipment, and new concerns such as extra-custodial torture and ill-treatment during the repression of peaceful protest. A draft legislative act reflecting these changes was approved by the European Commission in May 2025.[38] If adopted, EU member States will be required to implement the revised lists.

31. Civil society organisations have welcomed the UN Special Rapporteur on torture's 2023 report and the European Commission's proposed amendments, noting that major gaps remain today. Both the Omega Research Foundation and Amnesty International consider the UN Special Rapporteur's lists to be the most accurate reflection of existing technologies, patterns of use, and associated risks, and recommend them as a basis for updates to regional frameworks.[39] In particular, neither the Recommendation nor the EU Anti-Torture Regulation currently bans certain items considered inherently cruel, such as direct-contact electric shock weapons or ammunition containing multiple kinetic impact projectiles. Such omissions weaken the instruments' effectiveness.[40] They also observed that items listed as Category A Goods have been promoted at international trade fairs held on the territory of certain Council of Europe member States, further reinforcing the need to update the list of prohibited items.[41]

32. In this context, it may be noted that Appendix 1 of the Recommendation has not been revised since its adoption in 2021.

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[33] See COM(2024) 530 final – Report from the Commission to the European Parliament on the activities and consultations of the Anti-Torture Coordination Group referred to in Article 31 of the Regulation (EU) 2019/125 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, 19 November 2024, para. 3.4.

[34] See COM(2020) 343 final – Report from the Commission to the European Parliament and the Council on the review of Regulation (EU) 2019/125 of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, 30 July 2020.

[35] *Ibid*., p. 19. The group of experts include suitably qualified experts from relevant non-governmental organisations, international organisations, including the Council of Europe, academia and industry. The group provides in a regular manner support to the Commission in exploring avenues to strengthen compliance and make the EU Anti-Torture Regulation and its implementation more effective. It would provide broad expertise that is complementary to the role of the Anti-Torture Coordination Group (ATCG), provide substantive input on policies and implementation and enable all stakeholders involved to engage in continuous dialogue.

[36] See COM(2024) 530 final – Report from the Commission to the European Parliament on the activities and consultations of the Anti-Torture Coordination Group, para. 3.5.

[37] *Ibid*., para. 3.3.

[38] See European Commission, "EU's fight against torture and other ill-treatment: working towards a "torture-free trade", 21 May 2025. See also European Commission Amended Annexes.

[39] CDDH(2025)03, Key points made by Dr Michael Crowley; Key points made by Patrick Wilcken. See also Amnesty International, Omega Research Foundation and International Human Rights Clinic Harvard Law School, "Essential Elements of a Torture-Free Trade Treaty," Annex I: Prohibited Goods, 23 September 2022.

[40] CDDH(2025)03, Key points made by Fanny Gallois; Discussion.

[41] CDDH(2025)03, Key points made by Fanny Gallois.

33. While broadly consistent with the EU and UN approaches, the Recommendation's Appendix 1 does not yet reflect many of the proposed new additions. Items identified in the draft amended Annex II of the EU Anti-Torture Regulation and the UN Special Rapporteur on torture's list – but not currently listed in Appendix 1 – include:

i) Hoods and blindfolds solely designed for law enforcement purposes to block the visions and/or enclose the fact of a person, including those linked by a chain to ordinary handcuffs or other restraints;[42]
ii) Spit hoods/guards;[43]
iii) Rigid bar combination cuffs (hand and leg restraints joined by a bar);[44]
iv) Weighted hand or leg restraints;[45]
v) Leg irons;[46]
vi) Lathis;[47]
vii) Weighted batons or batons encased in thick leather or rubber with additional weighting designed to increase kinetic impact to the target and weighted gloves or other similar devices;[48]
viii) Body armour with spikes or serrations made of metal or other hard material;[49]
ix) Fixed equipment for the dissemination of incapacitating or irritating chemical substances in enclosed spaces, which can be attached to a wall or to a ceiling inside a building, comprises a canister of irritating or incapacitating chemical agents and is activated using a remote-control system;[50]
x) Equipment and explosive projectiles for dispensing injurious quantities of riot control agents from aerial platforms;[51]
xi) Ammunition containing multiple non-metallic kinetic impact projectiles;[52]
xii) Automatic/multi-barrel launchers firing kinetic impact projectiles;[53]
xiii) Direct contact electric shock weapons;[54] and
xiv) Millimetre wave weapons (form of directed energy weapon DEW).[55]

34. These differences highlight the need to bring Appendix 1 of the Recommendation into line with international and regional standards and practices. Participants in the CDDH Workshop expressed strong support for updating the list of prohibited goods and equipment to reflect the findings of the UN Special Rapporteur on torture.[56]

35. It should be noted that, while there is broad convergence in the overall objectives of the revised Annex II of the EU Anti-Torture Regulation and the UN Special Rapporteur on torture's Category A list, the two instruments are not identical. Variations in item categorisation and

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[42] See European Commission Amended Annex II, 2.11; See UN Special Rapporteur on torture's Annex 1, 1.9.
[43] See UN Special Rapporteur on torture's Annex 1, 1.10.
[44] See European Commission Amended Annex II, 2.3; See UN Special Rapporteur on torture's Annex 1, 1.4. 1.6, noting that Appendix 1 of the Recommendation mentions weighted "leg" restraints only and does not explicitly cover weighted "hand" restraints.
[45] See UN Special Rapporteur on torture's Annex 1, 1.6.
[46] See European Commission Amended Annex II, 2.5.
[47] See European Commission Amended Annex II, 3.3; See UN Special Rapporteur on torture's Annex 1, 2.5.
[48] See European Commission Amended Annex II, 3.2; See UN Special Rapporteur on torture's Annex 1, 2.3.
[49] See European Commission Amended Annex II, 3.5; See UN Special Rapporteur on torture's Annex 1, 2.2.
[50] See European Commission Amended Annex II, 5.1.
[51] See European Commission Amended Annex II, 5.2.
[52] See UN Special Rapporteur on torture's Annex 1, 2.6.
[53] See UN Special Rapporteur on torture's Annex 1, 2.7.
[54] See UN Special Rapporteur on torture's Annex 1, 3.2.
[55] See UN Special Rapporteur on torture's Annex 1, 4.1.
[56] CDDH(2025)03, Key points made by Dr Michael Crowley; Key points made by Patrick Wilcken; Key points made by Dr Alice Jill Edwards; Discussion.

terminology used reflect the distinct mandates and institutional as well as consultation processes of the EU and UN mechanisms. During the CDDH Workshop, several experts emphasised that the UN Special Rapporteur's list constituted at that point in time the most comprehensive and up-to-date compilation of inherently abusive goods, based on extensive global consultation and current practice, and recommended it as a basis for updates to regional frameworks.[57] Following the Workshop, the European Commission published a draft updated list which is equally important to take into account, particularly given that all EU member States are also members of the Council of Europe and will be bound by the revised EU Regulation once adopted. In light of these considerations, and to ensure comprehensive alignment with international standards and practice, Appendix 1 of the Recommendation could be amended to incorporate all items listed in both instruments, bearing in mind that whilst the EU Anti-Torture Regulation is binding on EU member States, the Recommendation is a non-binding instrument.

36. In addition, practical implementation challenges of the list of prohibited items have also emerged. **Lithuania** reported difficulties in distinguishing between lawful and prohibited items due to vague product descriptions in the annexes – for example, distinguishing torture-related lashes from whips used for agricultural purposes. The Lithuanian authorities stressed the need for specialised training to enhance customs officers' expertise.[58] **France** similarly flagged that the lack of detailed technical specifications in the Recommendation's appendices hampers effective implementation. The broad categorisation of certain items, such as "water cannons," complicates identification and enforcement efforts, particularly where customs nomenclature remains general.[59]

37. In light of these challenges, participants at the CDDH Workshop stressed the importance of using precise and technically accurate language when defining prohibited items. Such clarity is essential to ensure that companies, licensing authorities, and customs officials can identify and regulate banned equipment effectively and consistently.[60] Targeted training is also needed for both officials and companies to increase their awareness about applicable regulations (see Sections iii. d) and v. of this report below).[61]

b) Destruction of stock of prohibited goods and equipment

38. CM/Rec(2021)2 provides that member States should ensure the destruction of any stock of goods and equipment listed in Appendix 1 that remains within their jurisdiction, unless such items are preserved exclusively for public display in a museum due to their historical significance [Recommendation, Appendix, 1., 1.4.].

39. The Explanatory Memorandum of the 2021 Recommendation clarifies that this recommendation is principally concerned with regulating trade in law enforcement equipment and other relevant goods and does not regulate manufacture of such goods. However, it obliges member States to destroy any existing stocks of inherently abusive equipment and goods that has previously been manufactured or transferred into and remains within their jurisdiction.[62]

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[57] CDDH(2025)03, Key points made by Patrick Wilcken, stating that Amnesty International and Omega Research Foundation consider the UN Special Rapporteur's lists the most accurate reflection of existing technologies, patterns of use, and associated risks, and recommend them as a basis for a future international treaty and for updates to regional frameworks. See also Key points made by Dr Michael Crowley; Key points made by Dr Alice Jill Edwards; Discussion.
[58] CDDH(2024)15REV, p. 26.
[59] CDDH(2024)15REV, p. 22.
[60] CDDH(2025)03, Discussion, First panel discussions.
[61] CDDH(2025)03, Discussion, First panel discussions.
[62] CM(2021)22-add3final – Steering Committee for Human Rights (CDDH) – c. Recommendation CM(2021)2 of the Committee of Ministers to member States on measures against the trade in goods used for the death penalty, torture and other cruel, inhuman or degrading treatment or punishment, Explanatory Memorandum, para. 55.

40. The destruction or decommission of prohibited items was also addressed in the 2023 report of the UN Special Rapporteur on torture, which called on states to adopt domestic regulations and practices aimed at removing such items from use through decommissioning or destruction.[63]

41. The EU Anti-Torture Regulation does not explicitly provide for this measure. EU member States have indicated in their replies to the CDDH questionnaire that they in effect implement the Recommendation as a result of implementing the EU Anti-Torture Regulation.

c) Prohibition of advertising of prohibited goods and equipment

42. The Recommendation calls on member States to prohibit the advertising of goods and equipment listed in Appendix 1. This prohibition should apply across all media, including information and communication technologies, the internet, the television, the radio, print media, and at trade fairs [Recommendation, Appendix, 1., 1.5.].

43. This issue has received increasing attention due to the widespread hosting of arms and security trade fairs, in Europe and beyond. Between 2018 and 2023, over 160 such trade fairs were organised globally, including 66 in Europe.[64] These events display and promote security and law enforcement equipment, and are attended by law enforcement, armed forces, and security industry stakeholders.

44. The Recommendation stresses that host states should ensure that goods and equipment listed in Appendix 1 are neither marketed nor displayed at such events. Despite this, the UN Special Rapporteur on torture noted in her 2023 report that foreign companies have promoted inherently abusive goods at European trade fairs.[65] These included spiked metal batons, metal interrogations chairs, thumbcuffs and hoods connected to handcuffs marketed for use on arrested individuals.[66]

45. This observation was confirmed by civil society organisations, notably the Omega Research Foundation and Amnesty International, on the basis of their independent monitoring activities.[67]

46. Information shared during the CDDH Workshop highlighted earlier concerns about advertising of prohibited goods at Milipol Paris. Although the fair's internal regulations mirror the EU Anti-Torture Regulation – requiring exhibitors to comply with security policies and France's legal obligations – several cases of non-compliance were documented in past editions. For instance, during the 2017 edition, five non-EU companies promoted prohibited goods including spiked batons, spiked riot control forks, and electric shock vests. These items were displayed openly or listed in catalogues. Non-governmental organisations (NGOs) reported this to the fair's

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[63] A/78/324 – Interim report of the Special Rapporteur on torture, para. 84(b); See also CDDH(2025)03, Key points made by Dr Alice Jill Edwards.
[64] A/78/324 – Interim report of the Special Rapporteur on torture, para. 41; See also CDDH(2025)03, Key points made by Dr Michael Crowley; Key points made by Fanny Gallois.
[65] See Annex 3 of the Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment tor punishment, Tables depicting the number of companies and states trading or promoting equipment that is either (a) inherently cruel, inhuman or degrading, or (b) could be misused for torture or other cruel, inhuman or degrading treatment or punishment, 3.5. Trade fairs.
[66] A/78/324 – Interim report of the Special Rapporteur on torture, paras. 36-37, 41; CDDH(2025)03, Key points made by Dr Alice Jill Edwards.
[67] CDDH(2025)03, Key points made by Fanny Gallois; Key points made by Dr Michael Crowley; Discussion.

organisers. Following intervention by organisers and national authorities, catalogues were redacted, and company stands were shut down. However, the prohibited goods were not seized by French customs, although a complaint was filed against the company which exposed the prohibited equipment, which was then banned from future editions; other companies received formal warnings.[68]

47. Following these incidents, Milipol Paris organisers enhanced oversight during subsequent editions. In 2019, measures included mandatory compliance declarations from exhibitors, targeted communications with high-risk suppliers, including with translations, updated internal regulations, spot checks, and doubled control staff. Nevertheless, infringements persisted: spiked shields and other banned goods appeared in catalogues and at stands from non-EU companies. The equipment was removed before public access and catalogues redacted by organisers. In 2023, additional prohibited items such as thumbcuffs, spiked batons, and leg shackles were again identified in promotional materials.[69]

48. These findings underscore the need for more robust oversight by national authorities to ensure full compliance with the advertising ban.

49. In its reply to the CDDH questionnaire, **France** has reported that the equipment and promotional materials displayed at Milipol Paris and Eurosatory are monitored in accordance with the EU Anti-Torture Regulation.[70] However, France also raised concerns about the practical challenges of implementing 1.5. of the Recommendation, noting that enforcement at trade fairs requires complex physical inspections, unlike border monitoring where customs oversight is more clearly established.[71]

50. At the CDDH Workshop, participants called for stricter regulation of trade fairs to prevent the promotion of inherently abusive goods. Recommendations included the immediate confiscation of such items, bans on offending companies, and stronger national oversight mechanisms.[72] The cooperation between Milipol Paris and civil society organisations engaged in independent monitoring was presented as an example of good practice, demonstrating how dialogue and joint vigilance can help enforce compliance with human rights-based trade controls.[73]

51. Participants also discussed practical challenges in the implementation of the Recommendation during trade fairs, including the necessity to ensure that prohibited items are systematically seized by the competent authorities.[74] National legal frameworks and procedures should foresee the possibility for seizure and confiscation of prohibited items. In this regard, the **Slovak Republic** noted that its national legislation provides for sanctions and fines if goods intended for exhibition are transferred from its territory to a third country, or vice versa, without proper authorisations. Sanctions also include the confiscation of goods, demonstrating concrete national measures that can support effective implementation of the Recommendation.[75]

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[68] CDDH(2025)03, Key points made by Fanny Gallois.
[69] CDDH(2025)03, Key points made by Fanny Gallois.
[70] CDDH(2024)15REV, p. 21.
[71] CDDH(2024)15REV, p. 22.
[72] CDDH(2025)03, Key points made by Dr Michael Crowley; Key points made by Fanny Gallois; Discussion.
[73] CDDH(2025)03, Key points made by Dr Michael Crowley; Key points made by Fanny Gallois; Discussion.
[74] CDDH(2025)03, Key points made by Fanny Gallois.
[75] CDDH(2024)15REV, p. 39.

52. The UN Special Rapporteur on torture invited the Council of Europe to consider developing best practice guidance for state officials and companies involved in the organisation of law enforcement equipment trade fairs to ensure effective monitoring and oversight, and to prevent and address the promotion of prohibited equipment.[76]

53. In addition to concerns at trade fairs, the European Commission's 2020 review of the EU Anti-Torture Regulation reported instances of prohibited goods being advertised online by European suppliers.[77] The report underlined the need for clearer guidance on aspects such as definitions of listed goods, the regulation of trade fairs and exhibitions, risks assessments, and reporting obligations. It also called for closer monitoring of potential infringements and the end-use of exported goods.[78]

d) Prohibition of provision of technical assistance and training related to prohibited goods and equipment

54. CM/Rec(2021)2 calls on member States to prohibit the provision of technical assistance related to any goods and equipment listed in Appendix 1. This includes technical services relating to the repair, development, manufacture, testing, maintenance, or assembly of such items, as well as any other form of technical support. Exceptions are made only for activities related to the conservation or preservation of such goods in museums. The Recommendation specifies that technical assistance may take the form of instruction, advice, training activities, or the transmission of knowledge or skills. Additionally, training in the use of any prohibited goods and equipment should be explicitly forbidden [Recommendation, Appendix, 1., 1.6.].

55. In its 2020 review of the EU Anti-Torture Regulation, the European Commission recognised concerns about EU nationals and EU-based companies providing training abroad in the use of prohibited law enforcement equipment or the use of controlled law enforcement equipment in ways that may be inconsistent with international human rights standards. The report suggested that non-legislative measures could be explored to deter such conduct, including initiatives to improve transparency, raise awareness, and promote adherence to the UN Guiding Principles on Business and Human Rights.[79] In this context, the CDDH recalls Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business, including its Appendix, of which in particular paragraphs 5 ("member States should set out clearly the expectation that all business enterprises which are domiciled or operate within their jurisdiction should likewise implement [the UN Guiding Principles] throughout their operations") and 13 ("Member States should: […] apply such measures as may be necessary to require, as appropriate, business enterprises domiciled in their jurisdiction to respect human rights throughout their operations abroad [and] encourage and support these business enterprises by other means so that they respect human rights throughout their operations").[80]

56. During the CDDH Workshop, participants emphasised the need to explicitly prohibit training in the use of inherently abusive equipment – such as direct-contact electric shock gloves or body-worn electric shock devices attached to a person's limbs. They also stressed that training in inherently abusive techniques or methods, particularly when endorsed or authorised by senior

[76] See CDDH(2025)03, Key points made by Dr Alice Jill Edwards.
[77] COM(2020) 343 final – Report from the Commission to the European Parliament and the Council on the review of Regulation (EU) 2019/125, p. 8.
[78] *Ibid*., p. 19.
[79] *Ibid*., pp. 19-20. See also United Nations Guiding Principles on Business and Human Rights, 2011.
[80] See Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business, adopted on 2 March 2016.

officials, risks normalising such practices and embedding a culture of abuse. As such, both forms of training must be banned.[81]

e) Effective, proportionate and dissuasive sanctions

57. CM/Rec(2021)2 recommends that member States ensure that effective, proportionate and dissuasive sanctions are in place for any activities in breach of the prohibitions listed in paragraphs 1.2, 1.5 and 1.6, namely for the import, export or transit from, to or through their jurisdiction, of prohibited goods and equipment, for the brokering of such items, for the advertising of such goods and equipment and for the technical assistance related to any of these items [Recommendation, Appendix, 1., 1.7.].

58. The EU Anti-Torture Regulation similarly requires EU member States to establish penalties applicable to infringements of the provisions of the Regulation and to ensure their enforcement. Such penalties should also be effective, proportionate and dissuasive,[82] while leaving the form and scope of penalties to the discretion of individual member States.

59. In line with this requirement, Council of Europe member States that are also EU member States have adopted national legislation defining the applicable penalties. The 2020 review report on the EU Anti-Torture Regulation notes that these include both administrative and criminal sanctions, ranging from pecuniary fines to imprisonment, and may also include the confiscation of goods.[83]

60. Several Council of Europe member States reported specific measures in place. **Poland** informed the CDDH that a legislative process was initiated in 2022 to introduce legal sanctions for violations of the relevant prohibitions. In the interim, unauthorised foreign trade in such goods may be prosecuted as a fiscal offence under the Polish Fiscal Penal Code.[84] The **Slovak Republic** indicated that its national legislation foresees fines and sanctions, which may include the confiscation of goods.[85]

61. In **Germany**, violations of the EU Anti-Torture Regulation are classified as criminal offences. These offences are punishable by fines or imprisonment of up to five years.[86] The **United Kingdom** reported that the Export Control Order of 2008, as amended, regulates the licensing, enforcement, and penalties provisions for trade in such goods.[87]

62. The importance of criminal sanctions in deterring non-compliance was discussed during the CDDH Workshop. Questions were raised concerning the potential impact of such penalties on actors' behaviour. **Switzerland** noted that the issue of criminal sanctions is currently under consideration in its national legislative process.[88]

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[81] CDDH(2025)03, Key points made by Dr Michael Crowley.
[82] EU Anti-Torture Regulation, Article 33(1). See also CDDH(2025)03, Key points made by Laura Auger-Perez.
[83] COM(2020) 343 final – Report from the Commission to the European Parliament and the Council on the review of Regulation (EU) 2019/125, p. 9.
[84] CDDH(2024)15REV, pp. 33-34.
[85] CDDH(2024)15REV, p. 39.
[86] CDDH(2025)03, Key points made by Dr Johannes Rickler; Discussion, First panel discussions.
[87] CDDH(2024)15REV, p. 44.
[88] CDDH(2025)03, Discussion, First panel discussions.

63. Beyond Europe, the 2023 report of the UN Special Rapporteur on torture also recommends that states establish penalties for non-compliance with national measures prohibiting the trade in goods used for torture.[89]

iv. On measures regarding the export and transit of certain pharmaceutical chemicals [Recommendation, Appendix, 2]

64. CM/Rec(2021)2 calls on member States to regulate and license the export and transit of certain pharmaceutical chemicals in order to ensure that they are not transferred for use in lethal injection executions in states that retain the death penalty. At the same time, such measures should not impede the trade of these substances for legitimate medical, veterinary, or other lawful purposes [Recommendation, Appendix, 2., 2.1.]. Member States should also ensure that effective, proportionate and dissuasive sanctions apply in cases of non-compliance [Recommendation, Appendix, 2., 2.3.] (see also Section iii. e) of this report).

65. The list of pharmaceutical chemicals that may be used in lethal injection executions is set out in Appendix 2 of the Recommendation. The list includes substances with legitimate medical uses that pose a risk of misuse when exported without adequate safeguards. The Recommendation stipulates that the list should be regularly reviewed and, if appropriate, updated to reflect changes in production, trade in, and use of such chemicals [Recommendation, Appendix, 2., 2.2.].

66. The list of pharmaceutical chemicals employed in lethal injection execution listed in Appendix 2 includes, but is not limited to:

i. Amobarbital (CAS RN 57-43-2);
ii. Amobarbital sodium salt (CAS RN 64-43-7);
iii. Pentobarbital (CAS RN 76-74-4);
iv. Pentobarbital sodium salt (CAS 57-33-0);
v. Secobarbital (CAS RN 76-73-3);
vi. Secobarbital sodium salt (CAS RN 309-43-3);
vii. Thiopental (CAS RN 76-75-5);
viii. Thiopental sodium salt (CAS RN 71-73-8), also known as thiopentone sodium;
ix. Products containing one of the anaesthetic agents listed under short and intermediate acting barbiturate anaesthetic agents.

67. The substances listed in Appendix 2 were originally developed and authorised to save and improve lives. They are rigorously tested and approved for specific medical indications. Their use in executions is unapproved, experimental, and contrary to the intentions of their manufacturers.[90]

68. Since the adoption of the Recommendation, Appendix 2 has not been revised or updated.

69. During the CDDH Workshop, it was noted that executions had increased in the United States of America (US).[91] Most executions in the US continue to be carried out by lethal injection.[92]

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[89] A/78/324 - Interim report of the Special Rapporteur, para. 84(d).
[90] CDDH(2025)03, Key points made by Dan Dolan.
[91] CDDH(2025)03, Key points made by Robin Maher, mentioning that nine US states had scheduled to execute a total of 25 individuals by the end of 2024 and that the state of Alabama leads the country with the most executions in 2024, with six in total, three of which were carried out by suffocating prisoners using nitrogen gas.
[92] CDDH(2025)03, Key points made by Robin Maher, mentioning that in 2024, lethal injection was used in 22 executions in nine States.

However, the CDDH was informed of the recent introduction of a controversial alternative method of execution in the US: nitrogen hypoxia.[93] This development reflects a shift in execution practices in response to increasing restrictions on the trade and availability of pharmaceuticals used in lethal injections. The Attorney General of Alabama publicly invited other states to adopt this method, and several US states have since adopted legislation to authorise it.[94] Currently, nine US States allow for executions by lethal gas, and five (Alabama, Arkansas, Louisiana, Mississippi and Oklahoma) specifically authorise executions by nitrogen hypoxia. Experts highlighted that the tight regulations and transparency requirements governing pharmaceutical products used in lethal injections have made them increasingly difficult for US states to procure. This has promoted a search for alternative substances or the recourse to alternative methods of execution, such as firing squad or nitrogen gas, the latter method implying having access to nitrogen gas. Although nitrogen gas is not currently subject to specific trade restrictions related to its potential use in executions, some manufacturers have voluntarily refused to supply it to US prisons for this purpose. While experts stressed that efforts to restrict trade in pharmaceutical products should remain a priority, they also cautioned that developments concerning nitrogen gas warrant close monitoring, as they may necessitate regulatory responses in the future to prevent its misuse in the context of the death penalty.[95]

70. The US Supreme Court has regulated methods of execution but has never ruled a method of execution unconstitutional. It has rejected recent requests by death row prisoners to intervene, even when untested or dangerous methods, including nitrogen gas, were to be used.[96]

71. Despite this development, experts informed the CDDH that lethal injection remains the default method of execution in all but one active death penalty US state, as well as at the US federal level.[97] Some states use a single-drug protocol – most commonly pentobarbital – while others employ two- or three-drug protocols.[98] Experts also considered that, while there is a significant information gap concerning the use of nitrogen gas, the focus of regulatory efforts should remain on lethal injections and the pharmaceutical trade.

72. Experts also stated that, thanks to the proactive actions taken by pharmaceutical manufacturers, the sale of these medicines to prisons has been blocked, and there is currently no identified need to update Appendix 2.[99] Likewise, in its recent review of the annexes to the EU Anti-Torture Regulation, the European Commission did not propose any changes to Annex IV, which contains an identical list of pharmaceutical chemicals to Appendix 2.

73. Nonetheless, it was underlined during the Workshop that the list should be subject to continuous review, including through an emergency procedure, where necessary, to allow for the timely inclusion of new substances. Such a mechanism would help maintain safeguards without unnecessarily disrupting legitimate trade. It could also serve as a constructive incentive for companies to strengthen their internal compliance systems and supply chain controls.[100]

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[93] CDDH(2025)03, Key points made by Gala Veldhoen. See also Key points made by Robin Maher, explaining that prisoners are fitted with a respirator mask that is placed over their nose and mouth, and then force to breath pure nitrogen gas.
[94] CDDH(2025)03, Key points made by Robin Maher, mentioning that in 2024, nitrogen gas was used in three executions in one State (Alabama).
[95] CDDH(2025)03, Discussion, Third panel discussions.
[96] CDDH(2025)03, Key points made by Robin Maher.
[97] CDDH(2025)03, Key points made by Robin Maher.
[98] CDDH(2025)03, Key points made by Robin Maher, explaining that the most common three-drug protocol includes an anaesthetic or sedative, followed by a paralytic agent, and then a drug to stop the prisoner's heart.
[99] CDDH(2025)03, Key points made by Dan Dolan; Discussion, Third panel discussions.
[100] CDDH(2025)03, Key points made by Dan Dolan.

74. In this context, it was also emphasised that regulators should assess whether companies exporting high-risk drugs have adequate oversight and supply chain verification mechanisms in place. If exporters cannot demonstrate such controls, and if diversion risks are identified, authorities may need to consider updating the Appendix.[101] While the risks of misuse are generally not associated with trade fairs or direct advertising, the potential for diversion through unregulated supply chains remains a concern.

75. The EU Anti-Torture Regulation includes binding export control measures for dual-use anaesthetic drugs, such as sodium thiopental and pentobarbital, listed in Annex IV of the EU Regulation. The Recommendation does not include a requirement equivalent to Article 17 of the EU Anti-Torture Regulation, under which exporters must disclose supply chain controls to obtain authorisation. This procedure is designed to mitigate diversion risks and uphold the integrity of the medicine supply chain. Experts recommended to detail the criteria for granting export authorisation in the Recommendation (and linked to paragraph 2.1 regarding regulating and licensing the export of certain pharmaceutical chemicals) so that companies would have to disclose details of their supply chain controls to the member State to receive authorisation.

76. The CDDH questionnaire asked Council of Europe member States whether the Recommendation had served as a basis for legislative or administrative measures at the national level, particularly regarding the export and transit of pharmaceutical chemicals.[102] Council of Europe member States that are EU member States affirmed that these recommendations are being implemented through the EU Anti-Torture Regulation, which they consider to be broadly aligned with the Recommendation.[103]

77. Some additional national practices were reported. **Austria** noted that pentobarbital – listed in Appendix 2 – is legally used in veterinary medicine, and that no export licences have been denied on the grounds of potential misuse.[104] **Romania** indicated that thiopental, also listed in Appendix 2, is legally marketed for authorised medical use in Romania. Access is restricted to licensed entities, and wholesale distributors are required to verify their customers in line with national regulations.[105]

78. For Council of Europe member States not bound by the EU Anti-Torture Regulation, it remains essential to adopt national legislation to implement the Recommendation. Such legislation should set out clear authorisation criteria and require companies to disclose supply chain controls in order to prevent diversion and safeguard distribution chains.[106]

79. The role of industry self-regulation in this area was consistently highlighted during the CDDH Workshop and is widely recognised as a key factor in preventing pharmaceutical misuse.[107] Within the EU, partnerships with pharmaceutical manufacturers and adherence to voluntary compliance protocols have proven instrumental in preventing the use of European-origin pharmaceuticals in executions.[108]

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[101] CDDH(2025)03, Key points made by Dan Dolan.
[102] CDDH(2024)08, question 2, b), (ii).
[103] See also CDDH(2025)03, Key points made by Dr Johannes Rickler.
[104] CDDH(2024)15REV, p. 12.
[105] CDDH(2024)15REV, p. 38.
[106] CDDH(2025)03, Key points made by Dan Dolan.
[107] See also COM(2024) 530 final – Report from the Commission to the European Parliament on the activities and consultations of the Anti-Torture Coordination Group, para. 3.3, stating that "[a]s regards the control on pharmaceuticals that can be used for lethal injections, key to the effectiveness of theses controls has been the partnership with industry and its self-regulation protocols which have proven instrumental in preventing the use of EU pharmaceuticals in executions."
[108] *Idem*.

80. In parallel, the situation in the US presents distinct challenges. All US states that retain the death penalty have enacted execution secrecy provisions, making information unavailable on the source or nature of the drugs used. This lack of transparency has been recognised as a serious obstacle to effective control. Manufacturers have themselves opposed such laws, noting that secrecy obstructs their ability to monitor whether their products are being diverted, in line with their legal and ethical obligations under US Federal regulations. In this context, companies and the governments of the jurisdictions in which those companies are domiciled may be encouraged to engage, legally or diplomatically where appropriate, where secrecy provisions undermine efforts to maintain robust supply chain oversight.[109]

81. As underlined during the CDDH Workshop, the misuse of life-saving medicines for executions contradicts the healthcare industry's fundamental mission and exposes companies to legal, financial, and reputational risks. Several manufacturers have already blocked the sale of relevant products to prisons.[110]

82. Moreover, many companies have issued public statements declaring their opposition to the use of their medicines in executions and have regularly communicated with states that retain the death penalty to make their positions clear.[111] This proactive stance has helped prevent misuse and serves as an example of effective private sector engagement.

83. As a result of these collective efforts, manufacturers are now able to demonstrate compliance with EU supply chain requirements, helping prevent disruptions to the global medicine supply chain. Non-EU countries, such as **Switzerland**, have also introduced national trade controls consistent with this approach.

v. On measures regarding the trade in law enforcement goods and equipment [Recommendation, Appendix, 3]

84. CM/Rec(2021)2 calls on member States to establish effective national export and transit control measures with respect to law enforcement goods and equipment that may have a legitimate function when used in accordance with international and regional human rights standards and other relevant standards on the use of force, but which may also be misused by law enforcement and other officials to inflict torture or other cruel, inhuman, or degrading treatment or punishment [Recommendation, Appendix, 3. 3.1.].

85. The Recommendation suggests that such measures may include: controlling export and transit through a licensing system [Recommendation, Appendix, 3. 3.1, 3.1.1.]; establishing a list of controlled goods and equipment that should at a minimum include the categories specified in Appendix 3, and regularly reviewing this list to reflect changes in technology and market use [Recommendation, Appendix, 3. 3.1., 3.1.2.]; controlling the provision of technical assistance and training [Recommendation, Appendix, 3. 3.1., 3.1.3.]; regulating brokering services [Recommendation, Appendix, 3. 3.1., 3.1.4.]; and ensuring effective, proportionate and dissuasive sanctions for activities in breach of these measures [Recommendation, Appendix, 3. 3.1., 3.1.5.] (see also Section iii. e) of this report).

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[109] CDDH(2025)03, Discussion, Third panel discussions, during which references were made to a 2024 South Carolina Supreme Court case in which five pharmaceutical companies argued that execution secrecy laws obstructed their ability to monitor the distribution and use of their products in line with U.S. Federal regulations.
[110] CDDH(2025)03, Key points made by Dan Dolan.
[111] CDDH(2025)03, Key points made by Dan Dolan.

86. The list of law enforcement goods and equipment to be controlled is contained in Appendix 3 of the Recommendation and includes, but is not limited to:

i. Shackles, gang chains, spit hoods, individual cuffs or rings fitted with a locking mechanism, having an inside circumference exceeding 165 mm when the ratchet is engaged at the last notch entering the locking mechanism;

ii. Portable electric discharge weapons that can target only one individual each time an electric shock is administered, including but not limited to electric shock batons, electric shock shields, stun guns and electric shock dart guns, and kits containing the essential components for assembly of such portable discharge weapons;

iii. Fixed or mountable electric discharge weapons that cover a wide area and can target multiple individuals with electric shocks;

iv. Riot control agents (RCAs) employed for law-enforcement purposes, such as:

a. 2-Chlorobenzylidenemalonitrile (CS) (CAS 2698- 41-1);
b. 2-Chloroacetophenone (CN) (CAS 532-27-4);
c. Dibenz-(b,f)-1,4-oxazephine, (CR) (CAS 257-07-8);
d. N-Nonanoylmorpholine, (MPA) (CAS 5299-64-9);
e. Oleoresin capsicum (OC) (CAS RN 8023-77-6);
f. Pelargonic acid vanillylamide (PAVA) (CAS RN 2444-46-4);

v. RCA dispersal equipment targeting one individual or disseminating a limited dose over a small area;

vi. Fixed RCA dispersal equipment intended for disseminating a limited dose of RCA over a small area inside a building;

vii. RCA dispersal equipment intended for disseminating RCAs over a wide area, including water cannons.

87. Replies to the CDDH questionnaire indicate that Council of Europe member States that are also EU member States consider the list in Appendix 3 to correspond closely with Annex III of the EU Anti-Torture Regulation.[112] **Poland** highlighted differences in the list of riot control agents. The CDDH notes that no member State reported having independently updated its national list of controlled law enforcement goods since the adoption of the Recommendation.

88. As outlined in paragraphs 27-30 of this report, recent developments at both UN and EU levels warrant renewed consideration of Appendix 3, which has not been revised or updated since its adoption in 2021.

89. In her 2023 report, the UN Special Rapporteur on torture provided a non-exhaustive list of law enforcement items – referred to as “Category B Goods” – that can have a legitimate public function when used in strict accordance with international human rights standards, but can be readily misused for torture and ill-treatment.[113] The list includes:

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[112] See also CDDH(2025)03, Key points made by Dr Johannes Rickler.

[113] A/78/324 – Interim report of the Special Rapporteur on torture, para. 84(a). See Annex 2 of the Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment tor punishment listing the following items: 1. Restraints: 1.1 Restraint chairs with non-metallic restraints; 1.2 Restraint boards with non-metallic restraints; 1.3 Handcuffs; 1.4 Leg cuffs; 1.5 Combination cuffs; 1.6 Belly chains/restraint belts; 2. Striking and kinetic impact weapons: 2.1 Batons; 2.2 Crowd control shields; 2.3 Ammunition containing single non-metallic projectiles; 3. Electric shock weapons: 3.1 Single projectile electric shock weapons; 4. Chemical irritants and delivery mechanisms: 4.1 Chemical irritants; 4.2 Malodorants; 4.3 Chemical irritant portable sprayers; 4.4 Chemical irritant projectiles and grenades; 4.5 Fixed sprayers; 4.6 Large calibre chemical irritant munitions (greater than 56mm); 4.7 Single/limited shot launchers; 5. Other weapons and devices: 5.1 Water cannon; 5.2 Acoustic weapons and devices; 5.3 Dazzling lights and lasers; 5.4 Unmanned aerial vehicles (drones) armed with less-lethal weapons; 5.5 Stun grenades.

i) Restraints that are often abused through excessive tightening, prolonged use, stress positions, or in combination with other means of force;[114]
ii) Striking and kinetic impact weapons, which are tools commonly used in crowd control but regularly misused, as documented both inside and outside custodial settings;[115]
iii) Single projectile electric shock weapons (e.g. tasers) which are considered permissible in "extreme and limited situations",[116] but are widespread misused globally;[117]
iv) Chemical irritants and their delivery mechanisms, due to documented cases of misuse in prisons and public assemblies, including the excessive use of such agents in confined spaces, leading in some cases to serious injury or death from toxic exposure or asphyxiation;[118]
v) A wide range of other types of equipment due to their likelihood of being misused, such as water canons, acoustic weapons and devices, dazzling lights and lasers, drones armed with less-lethal weapons and stun grenades.[119]

90. The UN Special Rapporteur on torture's report calls for strict regulation of the use, development, production, financing, promotion, and trade of such equipment.[120]

91. The European Commission took into account the UN Special Rapporteur on torture's findings in the context of its revision of the EU Anti-Torture Regulation.[121] It proposes to update Annex III, the EU list of "goods which have no practical use other than for the purposes of capital punishment, torture and other cruel, inhuman or degrading treatment or punishment." These changes aim to reflect technological developments, increased misuse of law enforcement equipment, and new concerns, including extra-custodial torture and ill-treatment during the repression of peaceful protest. A draft legislative act reflecting these changes was recently approved by the European Commission and transmitted to the European Parliament and the Council of the EU for their consideration.[122] If adopted, EU member States will be required to implement the revised list.

92. As stated in paragraph 31 of this report, civil society organisations have welcomed the UN Special Rapporteur on torture's lists. Both the Omega Research Foundation and Amnesty International consider the UN Special Rapporteur's lists the most accurate reflection of existing technologies, patterns of use, and associated risks, and recommend them for updates to regional frameworks.[123]

93. During the CDDH Workshop, experts called for strengthening the Recommendation, particularly by updating and expanding the list of controlled goods to address evolving

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[114] A/78/324 – Interim report of the Special Rapporteur on torture, para. 58, referring to CPT/Inf (2021) 27 – CPT Report to the Spanish Government on the visit to Spain, 14 to 19 September 2020.
[115] A/78/324 – Interim report of the Special Rapporteur on torture, para. 59. See Amnesty International, "Blunt Force: Investigating the misuse of police batons and related equipment," 2021.
[116] CAT/C/USA/CO/3-5 – Committee against Torture, Concluding observations on the combined third to fifth periodic reports of the United States of America, 19 December 2014, para. 27.
[117] A/78/324 – Interim report of the Special Rapporteur on torture, para. 60.
[118] A/78/324 – Interim report of the Special Rapporteur on torture, paras. 61-62.
[119] A/78/324 – Interim report of the Special Rapporteur on torture, para. 63.
[120] A/78/324 – Interim report of the Special Rapporteur on torture, para. 84(a). See also CDDH(2025)03, Key points made by Dr Alice Jill Edwards.
[121] See COM(2024) 530 final – Report from the Commission to the European Parliament on the activities and consultations of the Anti-Torture Coordination Group, para. 3.4.
[122] See European Commission, "EU's fight against torture and other ill-treatment: working towards a "torture-free trade", 21 May 2025. See also European Commission Amended Annexes.
[123] CDDH(2025)03, Key points made by Patrick Wilcken; Key points made by Dr Michael Crowley.

technologies and market practices and to better reflect risks of torture and ill-treatment.[124] Specific risks were highlighted, for example regarding tasers, which – though considered controlled goods – are increasingly misused in "drive-stun" mode (direct contact), a practice deemed equivalent to the use of electroshock devices and thus requiring prohibition.[125]

94. Appendix 3 of the Recommendation does not yet include many items listed in the revised draft of Annex III of the EU Anti-Torture Regulation or the UN Special Rapporteur on torture's Category B Goods. These include:

i) Mixtures containing at least 0,3% by weight of PAVA or OC and a solvent (such as ethanol, 1 – proponol or hexane), which could be administered as such as incapacitating or irritating agents, in particular in aerosols and in liquid form, or used for manufacturing of incapacitating or irritating agents;[126]
ii) Restraint chairs with non-metal restraints;[127]
iii) Restraint boards with non-metallic restraints;[128]
iv) Single/limited shot launchers and single shot kinetic projectile launches and associated kinetic impact projectiles;[129]
iv) Leg cuffs;[130]
v) Individual cuffs or rings fitted with a locking mechanism, having an inside circumference exceeding 165 mm when the ratchet is engaged;[131]
vi) Metal handcuffs;[132]
vii) Belly chains/restraint belts;[133]
ix) Combination cuffs;[134]
x) Batons;[135]
xi) Crowd control shields;[136]
xii) Launchers and dissemination devices including multiple barrel launchers;[137]
xiii) Ammunition containing multiple kinetic impact projectiles;[138]
xiv) Large calibre projectiles containing riot control agents;[139]
xv) Malodorant chemical mixtures formulated to produce a foul and deeply unpleasant smell for riot control purposes provided they are non-injurious and have no long-lasting health effects;[140]
xvi) Chemical irritant grenades/projectiles;[141]
xvii) Single projectile electric shock weapon, including Tasers with drive stun mode;[142]
xviii) Projectiles (rubber, plastic, foam, wood);[143]

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[124] CDDH(2025)03, Discussion, First panel discussions; Second panel discussions.
[125] CDDH(2025)03, Discussion, First panel discussions.
[126] See European Commission Amended Annex III, 3.4.
[127] See UN Special Rapporteur on torture's Annex 2, 1.1.
[128] See UN Special Rapporteur on torture's Annex 2, 1.2.
[129] See European Commission Amended Annex III, 2.4 and 2.5; See UN Special Rapporteur on torture's Annex 2, 4.7.
[130] See European Commission Amended Annex III, 1. 3; See UN Special Rapporteur on torture's Annex 2, 1.4.
[131] See European Commission Amended Annex III, 1.2.
[132] See UN Special Rapporteur on torture's Annex 2, 1.3.
[133] See UN Special Rapporteur on torture's Annex 2, 1.6.
[134] See UN Special Rapporteur on torture's Annex 2, 1.5.
[135] See UN Special Rapporteur on torture's Annex 2, 2.1.
[136] See UN Special Rapporteur on torture's Annex 2, 2.2.
[137] See European Commission Amended Annex III, 2.5.
[138] See European Commission Amended Annex III, 2.6; See UN Special Rapporteur on torture's Annex 2, 2.3.
[139] See European Commission Amended Annex III, 3.6; See UN Special Rapporteur on torture's Annex 2, 4.6.
[140] See European Commission Amended Annex III, 3.7; See UN Special Rapporteur on torture's Annex 2, 4.2.
[141] See UN Special Rapporteur on torture's Annex 2, 4.4.
[142] See UN Special Rapporteur on torture's Annex 2, 3.1.
[143] See European Commission Amended Annex III, 2.4. and 2.6.; See UN Special Rapporteur on torture's Annex 2, 2.3.

xix) Dazzling lights and lasers;[144]
xx) Fixed sprayers with motion sensors;[145]
xxi) Acoustic weapons and devices;[146]
xxii) Unmanned aerial vehicles (drones) armed with less lethal weapons;[147] and
xxiii) Stun grenades.[148]

95. As with the list of prohibited goods (see Section iii. a) of this report above), differences can also be observed between the revised Annex III of the EU Anti-Torture Regulation and the UN Special Rapporteur on torture's Category B list. While both instruments pursue the same overall objective – to prevent the misuse of goods that may facilitate torture or ill-treatment – they are not fully aligned. These divergences stem from differences in mandates and institutional and consultative processes. As previously noted, experts at the CDDH Workshop viewed the UN Special Rapporteur's list as the most comprehensive and up-to-date compilation available at that point in time to form the basis for regional updates.[149] Following the Workshop, in May 2025, the European Commission proposed a draft updated list which is equally relevant, particularly in view of its legal implications for all EU member States, which are also members of the Council of Europe. In this context, and to ensure that Appendix 3 reflects current international and regional standards and practices, it could be amended to include all items referenced in both instruments, bearing in mind that whilst the EU regulation is binding on EU member States, the Recommendation is a non-binding instrument.

96. The Recommendation also calls on member States to establish robust national licensing systems. These should include measures for evaluating, withholding, or revoking export licences; maintaining records of licences and transit authorisations for brokering, technical assistance, and training; publishing annual national activity reports; and exchanging licensing information with other Council of Europe member States [Recommendation, Appendix, 3., 3.2.1. to 3.2.8.].

97. In this context, it is noted that EU member States have an obligation to publish annual activity reports on the applications received, on the goods and the countries concerned by these applications, and on the decisions on export and import of goods covered by the EU Anti-Torture Regulation (see also Section vi. of this report).[150]

98. At the CDDH Workshop, a national expert from **Germany** explained that licenses are denied where there is a risk of use in torture, ill-treatment, or capital punishment. The risk assessment considers previous denials by other EU member States, available and relevant international court judgments, findings of relevant UN, EU, and Council of Europe bodies, including CPT reports, national court judgments, and reports from civil society organisations.[151]

99. As noted in paragraph 36 of this report, practical implementation challenges have emerged. **France** stated that vague technical definitions in the Recommendation and the EU Anti-Torture Regulation hinder enforcement. The broad categorisation of certain items, such as "water cannons," complicates the identification and enforcement efforts, particularly due to general

[144] See UN Special Rapporteur on torture's Annex 2, 5.3.
[145] See UN Special Rapporteur on torture's Annex 2, 4.5.
[146] See UN Special Rapporteur on torture's Annex 2, 5.2.
[147] See UN Special Rapporteur on torture's Annex 2, 5.4.
[148] See UN Special Rapporteur on torture's Annex 2, 5.5.
[149] CDDH(2025)03, Key points made by Patrick Wilcken, stating that Amnesty International and Omega Research Foundation consider the UN Special Rapporteur's lists the most accurate reflection of existing technologies, patterns of use, and associated risks, and recommend them as a basis for a future international treaty and for updates to regional frameworks.
[150] EU Anti-Torture Regulation, Article 26(3); See also CDDH(2025)03, Key points made by Dr Johannes Rickler.
[151] See CDDH(2025)03, Key points made by Dr Johannes Rickler.

customs nomenclature.[152] The 2020 European Commission review report similarly noted the need for clearer definitions of listed goods.[153]

100. The importance of technical assistance and training was highlighted during the CDDH Workshop as a means of supporting the effective implementation of national regulations and promoting compliance with human rights standards across Council of Europe member States. Such training can play a key role in equipping licensing authorities, customs officials, law enforcement agencies, and relevant private sector actors with the knowledge needed to apply export controls effectively and in accordance with applicable standards.

101. Concerns were raised by civil society organisations regarding the nature and content of certain training programmes delivered to law enforcement officials. These concerns related to instruction in the use of goods and techniques that could facilitate or normalise abusive practices, especially when such training is endorsed or delivered by senior officials. Participants emphasised that training in inherently abusive techniques must be explicitly prohibited and that safeguards should be in place to ensure that training programmes do not contribute, directly or indirectly, to torture, ill-treatment, or excessive use of force.[154]

102. In light of these challenges, participants also underlined the importance of using precise and technically accurate language when defining controlled goods and equipment. Such clarity is essential to ensure consistent identification and enforcement by licensing authorities and customs officials.[155] Targeted training was also recommended to raise awareness of applicable regulations among both public and private actors.[156]

103. Unlike in the pharmaceutical sector, where industry has taken an active role in preventing misuse, no examples of self-regulation or structured industry engagement were reported in relation to law enforcement equipment.

vi. On information exchange, dissemination, and co-operation [Recommendation, Appendix, 4.]

104. The Recommendation calls on Council of Europe member States to use the Council of Europe online Platform for Human Rights and Business[157] for information exchange and the sharing of best practices. The Recommendation recognises that the Platform and associated measures could facilitate the dissemination of information to the business community and other key stakeholders, raising awareness of their obligations and of the mechanisms in place to regulate the trade in law enforcement goods and equipment to prevent their use for the death penalty, torture, and other ill-treatment [Recommendation, Appendix, 4.].

105. The Platform was established in accordance with the Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business.[158] However, to date, it has not

[152] CDDH(2024)15REV, p. 22.
[153] COM(2020) 343 final – Report from the Commission to the European Parliament and the Council on the review of Regulation (EU) 2019/125, p. 19.
[154] CDDH(2025)03, Key points made by Dr Michael Crowley.
[155] CDDH(2025)03, Discussion, First panel discussions.
[156] CDDH(2025)03, Discussion, First panel discussions.
[157] Available at: Online Platform for Human Rights and Business - Human Rights Intergovernmental Cooperation.
[158] See Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on Human Rights and Business, adopted on 2 March 2016.

been used for the purpose of exchanging or disseminating information related to the implementation of CM/Rec(2021)2.

106. The role of the private sector should not be overlooked.[159] The UN Special Rapporteur on torture has underlined that states are required to establish national regulations imposing human rights due diligence obligations on operators, including risk-based assessments integrated into corporate risk management systems.[160] The UN Guidelines on Business and Human Rights also emphasise the duty of states to protect human rights, including through regulation, and the responsibility of corporations to prevent and mitigate adverse human rights impacts.[161]

107. During the CDDH Workshop, participants discussed the need to connect this work to broader efforts and evolving internationals standards in the field of human rights and business, including on corporate human rights due diligence.[162] Participants also discussed how to enhance awareness among companies, noting that some raised questions about whether specific products are covered by the list of prohibited or controlled goods.[163] As indicated during the Workshop, awareness among transporters and companies more generally remains limited, which may contribute to occasional breaches.[164] It was also suggested that the Council of Europe could consider developing best practice guidance for state officials and companies involved in the organisation of trade fairs featuring law enforcement equipment, in order to ensure effective monitoring and oversight and to prevent the promotion of prohibited equipment.[165]

108. In its reply to the CDDH questionnaire, **Slovenia** reported conducting regular awareness raising efforts among stakeholders. While there had been applications for licences in the past, the Slovenian Ministry of the Economy has not received any applications for trade in the goods in question over the last three years and has therefore not issued any licences.[166]

109. As noted in paragraph 97 of this report, Council of Europe member States that are also EU members are required under the EU Anti-Torture Regulation to publish annual reports and to notify the European Commission and other EU member States of any denied or annulled authorisations.[167] **Austria**, **Germany**, **The Netherlands**, and **Slovenia** referred to these obligations in their responses to the CDDH questionnaire.[168] In the most recent reporting period, 10 member States reported 246 authorisations granted and nine denials.[169]

110. Annual reporting obligations also exist for the European Commission which submits annual reports.[170] The EU also fosters stakeholder engagement through two main platforms:

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[159] CDDH(2025)03, Discussion, Second panel discussions.
[160] A/78/324 – Interim report of the Special Rapporteur on torture, para. 34, citing the Organisation for Economic Cooperation and Development (OECD)'s Guidelines for Multinational Enterprises on Responsible Business Conduct, General Principles I on Concepts and Principles and IV on Human Rights.
[161] United Nations Guiding Principles on Business and Human Rights, 2011, Principles 2, 3 and 11.
[162] CDDH(2025)03, Key points made by Gianluca Esposito; Key points made by Nicola Wenzel; Discussion, Second panel discussions.
[163] CDDH(2025)03, Discussion, First panel discussions.
[164] CDDH(2025)03, Discussion, First panel discussions.
[165] CDDH(2025)03, Key Points made by Dr Alice Jill Edwards.
[166] CDDH(2024)15REV, p. 41.
[167] EU Anti-Torture Regulation, Article 26(3); See also CDDH(2025)03, Key points made by Dr Johannes Rickler; Key points made by Laura Auger-Perez.
[168] CDDH(2024)15REV, pp. 11, 24, 30, and 41. See also CDDH(2025)04, Key Points made by Dr Johannes Rickler.
[169] See COM/2023/689 final – Report from the Commission to the European Parliament and the Council on export authorisations in 2022 pursuant to the Regulation concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, 8 November 2023, pp. 2-3.
[170] EU Anti-Torture Regulation, Articles 26(4) and 31(4).

i) The Anti-Torture Coordination Group (ATCG), established under the EU Anti-Torture Regulation,[171] which discusses and examines the application of the Regulation, including through exchange of information on administrative practices, and the preparation of amendments; and
ii) the Informal Group of Experts, created following the 2020 European Commission review of the EU Anti-Torture Regulation,[172] which provides a broader forum involving civil society, international organisations, academia and industry. The group offers technical expertise and advice, reviews goods, and links the EU Anti-Torture Regulation to global efforts.[173]

111. **Croatia** noted that its authorities participate in ATCG meetings where experts from the EU member States and the European Commission share information regarding administrative issues and discuss questions pertaining to the implementation of the Regulation as well as technical issues with regard to listed goods.[174]

112. CDDH members and Secretariat have actively participated in the Informal Group of Experts and remain engaged in monitoring and contributing to relevant developments in this field.

vii. On support for non-member States [Recommendation, Appendix, 5.]

113. The Recommendation calls on member States to encourage, advise, support and provide information to non-member States to implement measures set out in the Recommendation and other relevant international standards regulating the trade in law enforcement goods and equipment, to prevent their use for the death penalty, torture and other ill-treatment, notably through developing partnerships or offering other forms of support in implementing these standards [Recommendation, Appendix, 5.1, 5.2 and 5.3.].

114. No specific information has been submitted to the CDDH indicating that member States have taken action in this regard. However, some member States have engaged in relevant exchanges within international forums, including with non-members (see Section viii. of this report below).

viii. On action in other international organisations [Recommendation, Appendix, 6.]

115. Rec/CM(2021)2 calls on Council of Europe member States to promote action in relevant international forums to combat the trade in goods used for the death penalty, torture and other ill-treatment, in particular to the UN's processes aimed at exploring the feasibility and scope of a range of options to establish common international standards in this area, including a legally binding instrument [Recommendation, Appendix, 6.1.]. In addition, member States who have not done yet so, are encouraged to join the Alliance for Torture-Free Trade and contribute to this global network for sharing information and best practices [Recommendation, Appendix, 6.2.].

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[171] See EU Anti-Torture Regulation, Article 31.
[172] COM(2020) 343 final – Report from the Commission to the European Parliament and the Council on the review of Regulation (EU) 2019/125, p. 19.
[173] CDDH(2025)03, Key points made by Laura Auger-Perez.
[174] CDDH(2024)15REV, p. 14.

116. Since the adoption of the Recommendation, significant developments have taken place. In June 2019, the UN General Assembly adopted Resolution 73/304, seeking the views of states on the feasibility and possible scope to establish common international standards for the import, export and transfer of goods used for the death penalty, torture and other ill-treatment.[175] Following this, a UN General Assembly-mandated Group of Government Experts (GGE) published a report in 2022 proposing as an option that the General Assembly proceeds with negotiations on an international legally binding instrument addressing both inherently abusive goods and equipment that could be misused for torture or other ill-treatment, while treating trade in goods used for the death penalty separately.[176]

117. In 2023, the UN Special Rapporteur on torture issued a report urging the adoption of an international legally binding instrument, preferably a treaty, highlighting that the global nature of this trade requires multilateral coordination.[177] The proposed treaty would complement and reinforce existing obligations to prohibit and prevent torture and other ill-treatment or punishment.

118. Efforts to draft such an instrument are supported by several UN mandate holders, including the Special Rapporteurs on freedom of peaceful assembly and association, on extrajudicial, summary or arbitrary executions, and by the current UN High Commissioner for Human Rights. These efforts are also supported by a growing global network of over 80 NGOs.[178]

119. In parallel, relevant developments have also taken place at the regional level. The Committee for the Prevention of Torture in Africa (CPTA) recently held a panel event during the 83rd ordinary session of the African Commission on Human and Peoples' Rights in May 2025, which featured discussions on the issue of torture-free trade in the African continent and the need for a torture-free trade treaty. The panel underscored the importance of regional cooperation and alignment with international standards aimed at preventing the trade in goods used for torture and other ill-treatment.[179]

120. As highlighted during the CDDH Workshop, the next step requires strong political will from states, including active prioritisation, participation in, and promotion of, the UN-led process, as set out in 6.1 of the Recommendation. Council of Europe member States were invited to take a leading role in advancing this process, including by tabling a UN General Assembly resolution to initiate formal negotiations.[180]

121. In this regard, the CDDH questionnaire inquired whether member States had engaged with other international organisations.[181] **Andorra**, **France, Poland** and the **Slovak Republic** informed the CDDH that they support the development of a legally binding international instrument to regulate the trade in goods and equipment used for torture, aiming to establish common international standards.[182]

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[175] General Assembly Resolution A/RES/73/304 – Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards, 2 July 2019, para. 1.
[176] See A/76/850 – Report of the Group of Governmental Experts, "Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards," 30 May 2022, paras. 132-133.
[177] A/78/324 – Interim report of the Special Rapporteur on torture, para. 83; See also CDDH(2025)03, Key points made by Dr Alice Jill Edwards.
[178] CDDH(2025)03, Key points made by Patrick Wilcken. See also Amnesty International, UN: Essential elements of the Torture-Free Trade Treaty, 23 September 2022.
[179] See Final communiqué of the 83rd Ordinary Session of the African Commission on Human Rights and People's Rights, 2-22 May 2025.
[180] CDDH(2025)03, Key points made by Patrick Wilcken.
[181] CDDH(2024)08, question 2, b), (iv).
[182] CDDH(2024)15REV, pp. 8-9, 22, 37, 39-40.

122. **Andorra** noted that it had supported, since 2002, the annual and later bi-annual General Assembly resolutions on torture and other cruel, inhuman or degrading treatment or punishment. These resolutions call on all states to take concrete measures, particularly legislative, administrative and judicial, to prohibit and prevent the production, trade, export, import and use of equipment specifically designed to inflict torture, or which has no practical use other than to such treatment.[183]

123. **Estonia** reported that it is a member and serves as vice-chair of the GGE, established in accordance with General Assembly Resolution 73/304 in July 2021.[184] The **Slovak Republic** indicated that it has been among the co-sponsors of this Resolution.[185]

124. The Alliance for Torture-Free Trade, established in 2017 on the margins of the UN General Assembly, now counts over 60 members, including the EU. As of the time of writing, all but five Council of Europe member States have joined the Alliance.[186]

125. Several states, including **Estonia**, **Germany**, **Malta**, **Poland**, the **Slovak Republic** and the **United Kingdom**, indicated in their replies to the CDDH questionnaire that they support and are members of the Alliance for Torture-Free Trade.[187] **Andorra** reported that, although it has not joined the Alliance, it shares its principles and reaffirms its strong commitment to ending the trade in goods used for torture and the death penalty.[188]

III. Conclusions and recommendations

1. Conclusions

126. The examination of the implementation of CM/Rec(2021)2 reveals that important progress has been made across Council of Europe member States since its adoption. Many have aligned their national frameworks with the Recommendation, either through the direct application or transposition of the EU Anti-Torture Regulation or through the development of dedicated national legislation.

127. All EU member States that responded to the CDDH questionnaire indicated that the measures set out in the Recommendation are implemented through the EU Anti-Torture Regulation, which they consider consistent with the Recommendation's objectives. Some EU and non-EU member States have gone further by initiating new legislative measures or strengthening sanctions regimes. Others are still in the process of drafting relevant legislation. The limited number of replies from non-EU member States, however, means that a comprehensive overview remains incomplete.

128. The international context has evolved significantly since the adoption of the Recommendation. Notably, the UN Special Rapporteur on torture has issued detailed lists of goods and equipment that should be prohibited or controlled (Category A and B goods), reflecting current technological developments and associated risks, and has called for the adoption of a global legally binding instrument on torture-free trade. This initiative has been supported by

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[183] A/RES/72/163 – General Assembly Resolution on Torture or other cruel, inhuman or degrading treatment or punishment, adopted on 19 December 2017.
[184] CDDH(2024)15REV, p. 19.
[185] CDDH(2024)15REV, p. 39.
[186] CDDH(2025)03, Key Points made by Gianluca Esposito.
[187] CDDH(2024)15REV, pp. 24, 28, 39, 45.
[188] CDDH(2024)15REV, p. 9.

NGOs, several UN mandate holders, and a number of states, including Council of Europe member States.

129. Momentum is growing toward the development of such an instrument. Already in 2021, the Recommendation, when calling on Council of Europe member States to take action in relevant international forums, had urged particular attention to the UN's processes aimed at exploring the feasibility and scope of, notably, a legally binding instrument. Regional initiatives, including those undertaken within the EU and by the African Commission on Human Rights and Peoples' Rights, further underscore the emerging consensus on the need to regulate the trade in law enforcement-related equipment. Civil society organisations play a crucial role as key drivers of international and interregional dialogue on torture-free trade, and continued engagement with these actors will be essential to building a comprehensive global response.

130. The Alliance for Torture-Free Trade continues to serve as a valuable platform for dialogue and cooperation. However, membership among Council of Europe member States remains incomplete.

131. Active engagement by Council of Europe member States in these initiatives is not only consistent with the Recommendation but is also essential to advancing the Organisation's core objectives: the absolute prohibition and prevention of torture and other ill-treatment, and the abolition of the death penalty at all times and under all circumstances.[189] States have a universally accepted positive obligation to take preventive measures to prevent torture and other forms of ill-treatment, including through preventive measures within their jurisdictions.[190] In the Reykjavik Declaration adopted at the Fourth Summit of Heads of State and Government of the Council of Europe in 2023, member States reaffirmed their commitment to the universal abolition of the death penalty.[191]

132. Important challenges remain. The international trade in law enforcement equipment that may be used for torture or other ill-treatment remains significant and includes a wide range of economic actors, including state-owned, large, medium and small enterprises with complex international networks.

133. The lists of prohibited and controlled goods in Appendices 1 and 3 of the Recommendation have not been updated since 2021, despite significant technological and market developments. This includes not only new trends such as the misuse of equipment in extra-custodial settings and during the policing of public assemblies, but also the emergence of new types of goods and equipment – such as drone-mounted launchers – which now require careful regulatory attention, whether through control or prohibition.

134. Member States also reported practical challenges in the implementation of the Recommendation, including identifying prohibited goods, enforcing advertising and trade fair restrictions, providing technical training, and applying effective sanctions. Concerns were raised about the lack of self-regulation among companies producing law enforcement equipment.

135. In contrast, the regulation of pharmaceutical chemicals used in lethal injection represents a successful model. Strong partnerships between regulators and manufacturers – supported by voluntary compliance protocols and robust supply chain controls – have helped prevent the

[189] CDDH(2025)03, Key points made by Gianluca Esposito.
[190] See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 2(1). See also CDDH(2025)03, Key points made by Dr Alice Jill Edwards.
[191] See Reykjavik Declaration – United around our values, 16-17 May 2023, p. 5.

misuse of medicines. Because many of these medicines are used to save lives, export regulations must be carefully designed, in consultation with relevant stakeholders, to avoid unintended harm to patients. While Appendix 2 of the Recommendation remains up-to-date, stakeholders emphasised the need for an emergency procedure to enable timely updates and to ensure adequate supply chain safeguards. Although many retentionist states now face increasing difficulties in obtaining drugs for executions, secrecy provisions in some US jurisdictions continue to hinder transparency. Following the difficulty for US prisons to get chemical products used in lethal injections, a new execution method of execution – nitrogen hypoxia – has emerged, raising ethical and human rights concerns and requiring coordinated responses.

136. Overall, the Recommendation remains a robust and relevant instrument. However, gaps in implementation are observed. Further efforts are required to strengthen national legal frameworks, raise awareness among stakeholders, improve enforcement practices, and align national systems with evolving international standards through coordinated action.

137. The CDDH notes that further efforts may be required to ensure the full and consistent implementation of the Recommendation, particularly in relation to the adoption or updating of national laws, regulations, and enforcement mechanisms in line with the Recommendation's Appendix. In particular, not all member States have enacted legislation providing for sanctions. Clear penalties for violations, procedures for seizure and confiscation, and bans on the advertisement or display of prohibited goods at trade fairs or online are not yet in place in all Council of Europe member States. Council of Europe member States should also ensure that measures are in place for the destruction or decommissioning of existing stocks of prohibited items, which is provided for in the Recommendation but not in the EU Anti-Torture Regulation.

138. The Recommendation seems not to have been systematically disseminated across all Council of Europe member States. Translations and targeted outreach to relevant authorities, including customs officials, law enforcement agencies, licensing bodies, companies, and trade fair organisers, could enhance awareness and implementation. More could be done to support outreach and awareness-raising, including the development of best practice guidance for public officials and private actors.

139. While training is widely recognised as a key preventive measure, not all member States have introduced or strengthened training modules addressing the use and risks of inherently abusive equipment or techniques. There may be value in further integrating such elements into professional training programmes to help prevent normalisation of torture or ill-treatment.

140. More could be done to engage with the private sector and the promotion of human rights due diligence, including establishing or strengthening internal compliance systems and alignment with the UN Guiding Principles on Business and Human Rights, particularly among manufacturers and exporters of law enforcement equipment.

141. Member States should also remain attentive to emerging execution methods – such as the use of nitrogen gas – that currently fall outside the Recommendation and national regulatory frameworks on trade in goods used for torture and death penalty.

142. Opportunities exist to deepen dialogue and cooperation with civil society organisations and experts, particularly in legislative processes, trade fairs monitoring, and training and awareness initiatives. Where implemented, such partnerships have demonstrated added value in curbing the trade of goods used for torture and the death penalty.

143. Oversight of trade fairs held within member States' territories could be reinforced to prevent the promotion of inherently abusive goods. Where applicable, this may include inspections of stalls and catalogues, immediate confiscation of prohibited items, and company bans. The cooperation model applied at Milipol Paris – involving organisers, authorities, and civil society – could serve as an example of good practice.

144. Finally, transparency remains limited in some contexts, especially among non-EU member States. The regular publication of national licensing data, enforcement records, and trade statistics could contribute to greater public oversight and accountability.

2. Recommendations for possible further action

145. The CDDH proposes that the Committee of Ministers initiates a review with a view to possible revision of Appendices 1 and 3 of the Recommendation in order to reflect international developments, address emerging risks and align with the UN Special Rapporteur on torture's proposed Category A and B lists and the revised draft annexes of the EU Anti-Torture Regulation. This review could also consider introducing a simplified procedure for the amendment of Appendix 2 regarding pharmaceuticals used in lethal injection executions.

146. The Committee of Ministers could also promote the use of the Council of Europe's Platform on Human Rights and Business for the exchange of good practices and developments in trade controls and the prevention of torture, ill-treatment, and the death penalty, and ensure the availability of sufficient resources to support this work.

147. The Committee of Ministers could consider developing best practice guidance for state officials and private actors involved in the organisation and participation of law enforcement equipment trade fairs. Such guidance could support effective monitoring and oversight and help prevent the promotion of inherently abusive or prohibited equipment.

148. The CDDH proposes that the Committee of Ministers considers establishing a periodic review mechanism for the Recommendation, including modalities for civil society input and coordination with relevant Council of Europe bodies.

149. The Committee of Ministers could encourage the five remaining Council of Europe member States to join the Alliance for Torture-Free Trade.[192] This would underline the collective commitment of the Organisation and its member States to ending the trade in goods used for torture.

150. Finally, the Committee of Ministers could reiterate its collective support for the development of an international legally binding instrument on torture-free trade, including through coordinated action by Council of Europe member States in the relevant UN process. Should this initiative not succeed, the Committee of Ministers could consider exploring the feasibility of a Council of Europe binding instrument on the trade of goods used for torture and the death penalty, open to ratification by non-member States.

[192] Namely, Andorra, Azerbaijan, Monaco, San Marino, and Türkiye.