

United Against Torture Consortium Response to European Commission Public Consultation Process on Revisions to the EU Anti Torture Regulation

1st April 2025

Introduction

This response to the European Commission's public consultation process is submitted on behalf of the United Against Torture Consortium (UATC), which comprises the Association for the Prevention of Torture (APT), the International Rehabilitation Council for Torture Victims (IRCT), the International Federation of Action by Christians for the Abolition of Torture (FIACAT), the Omega Research Foundation, REDRESS, and the World Organisation Against Torture (OMCT). Funded by the European Union, the UATC works in partnership with over 200 civil society organisations and other partners in more than 100 countries. The UATC works on torture prevention, protection, survivor rehabilitation, and strategic litigation against torture. A particular focus of its torture prevention work is its ongoing activities to promote and facilitate the introduction and strengthening of effective national, regional, and international measures to regulate trade and use of law enforcement equipment so as to prevent its employment in torture and other ill-treatment. All UATC organisations are members of the global Torture-Free Trade Network.¹

The UATC recognises the significance of the coming into force in 2006 of the EU Anti-Torture Regulation, the world's first and to date only legally binding regional instrument in this area. UATC members have supported the subsequent revisions made by the EU to the instrument² and associated measures to strengthen its implementation by all EU Member States. Consequently, several UATC organisations are members of the European Commission's Informal Expert Working Group providing technical advice on the EU Anti-Torture Regulation and broader Torture-Free Trade initiatives.³

The UATC supports the Commission's current endeavours to review and broaden the scope of goods covered by the EU Anti-Torture Regulation in response to technological developments, and changes in the international market for law enforcement equipment and the nature of use and misuse of such equipment. This regular process of review and revision is essential to the effectiveness of the EU Anti-Torture Regulation in controlling this dynamic and constantly evolving trade, and is a vital element of the EU's, and each EU Member States', obligations to prevent torture and ill-treatment in third countries.

UN bodies, regional human rights organisations, and civil society anti-torture organisations, including UATC, have highlighted how the practice of torture and other ill-treatment is not restricted to police stations, prisons, and other places of detention, but has been widely

¹ Omega Research Foundation, Torture Free Trade Network Update, 26th August 2024, <https://omegaresearchfoundation.org/news/torture-free-trade-network-update/> (accessed 26 March 2025)

² The current revised instrument is 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, available at <https://eur-lex.europa.eu/eli/reg/2019/125/oj/eng> (accessed 26 March 2025)

³ European Union, Register of Commission Expert Groups and Other Similar Entities, <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&do=groupDetail.groupDetail&groupID=3762> (accessed 26 March 2025)

documented in a variety of non-custodial settings including in the policing of protests.⁴ Furthermore, UATC members have documented how law enforcement equipment promoted for use in crowd control or policing of public order situations has been repeatedly misused to facilitate and/or commit torture and other ill-treatment in such non-custodial settings, notably the policing of protest.⁵ We therefore welcome the Commission’s recognition of the need to expand the scope of the Regulation to take into account such practices.

The subsequent UATC comments have been informed by long-standing and ongoing research by UATC member organisations, including with partners, on the trade, use, and misuse of law enforcement equipment around the world.⁶ A further crucial frame of reference has been the UN Special Rapporteur on Torture’s 2023 Study on the global trade in law enforcement equipment used in torture and other ill-treatment.⁷ This influential Study for the first time identified 23 specific types of law enforcement equipment the Rapporteur considered “inherently cruel, inhuman or degrading”, and called for a complete prohibition on their manufacture, trade, and use.⁸ The Study identified 20 other types of weapons and equipment that “have a legitimate function for law enforcement …when used in strict accordance with international human rights standards but can be readily misused to torture or cause ill-treatment”, and consequently called for their trade to be controlled to prevent such violations.⁹

⁴ See for example, United Nations, UN Special Rapporteur on Torture, Nils Melzer, Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, A/72/178, 20 July 2017.

⁵ See for example: Amnesty International and the Omega Research Foundation, Blunt Force: Investigating the misuse of police batons and related equipment, September 2021, <https://www.amnesty.org/en/latest/research/2021/09/blunt-force/> (accessed 26 March 2025); Amnesty International and the Omega Research Foundation, “My Eye Exploded” The Global Abuse of Kinetic Impact Projectiles, February 2023, <https://www.amnesty.org/en/documents/act30/6384/2023/en/> (accessed 26 March 2025); Amnesty International (with Omega Research Foundation support) “I still can’t sleep at night”: The Global Abuse of Electric Shock Equipment, March 2025, <https://www.amnesty.org/en/documents/pol30/8990/2025/en/> (accessed 26 March 2025); Amnesty International (with Omega Research Foundation support), Tear Gas: an investigation, teargas.amnesty.org (accessed 21 March 2025)

⁶ See for example: Amnesty International and the Omega Research Foundation, Blunt Force: Investigating the misuse of police batons and related equipment, September 2021, <https://www.amnesty.org/en/latest/research/2021/09/blunt-force/> (accessed 26 March 2025); Amnesty International and the Omega Research Foundation, “My Eye Exploded” The Global Abuse of Kinetic Impact Projectiles, February 2023, <https://www.amnesty.org/en/documents/act30/6384/2023/en/> (accessed 26 March 2025); Amnesty International (with Omega Research Foundation support) “I still can’t sleep at night”: The Global Abuse of Electric Shock Equipment, March 2025, <https://www.amnesty.org/en/documents/pol30/8990/2025/en/> (accessed 26 March 2025); Amnesty International (with Omega Research Foundation support), Tear Gas: an investigation, teargas.amnesty.org (accessed 26 March 2025)

⁷ United Nations, Torture and other cruel, inhuman or degrading treatment or punishment Note by the Secretary-General, , thematic study on the global trade in weapons, equipment and devices used by law enforcement and other public authorities that are capable of inflicting torture and other cruel, inhuman or degrading treatment or punishment, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Alice Jill Edwards, Advanced Unedited Version, A/78/324, 23 August 2023, <https://www.ohchr.org/en/documents/thematic-reports/a78324-thematic-study-global-trade-weapons-equipment-and-devices-used> (accessed 26 March 2025).

⁸ UN, Special Rapporteur on Torture (August 2023) op.cit. Annex I, Category A Goods: Prohibited Equipment that is Inherently Cruel, Inhuman or Degrading.

⁹ UN, Special Rapporteur on Torture (August 2023) op.cit. Annex II, Category B Goods: Equipment that should be controlled

Proposed Amendments to Annex II (Prohibited Goods)

We support the recommended additions of hoods and blindfolds, gang chains, and leg irons to the Annex II (Prohibited Goods) List. These are inherently abusive restraints that have no place in any law enforcement or custodial settings and should not be manufactured or traded within the EU or third countries. UN bodies, regional anti-torture organisations and civil society anti-torture organisations have previously highlighted the use of certain of these goods for torture and other ill-treatment. For example, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) considers blindfolding “a form of oppressive conduct, the effect of which on the person concerned will frequently amount to psychological ill-treatment” and consequently recommended that “the blindfolding of persons who are in police custody be expressly prohibited.”¹⁰ UATC members have previously highlighted the promotion of some of these restraints by non-EU companies including at EU trade fairs.¹¹ In her 2023 Study the UN Special Rapporteur on Torture recommended that the manufacture and trade of these goods for law enforcement be prohibited.¹²

The UATC supports the recommended addition of sjamboks, lathis, weighted batons and weighted gloves to the Annex II Prohibited Goods List. Such hand-held kinetic impact weapons are inappropriate for use in any law enforcement or custodial settings. Human rights organisations, including UATC members and Amnesty International, have documented the use of lathis and sjamboks to inflict ill-treatment in the context of demonstrations and other public order situations.¹³ In her 2023 Study, the UN Special Rapporteur on Torture recommended that the manufacture and trade of sjamboks, lathis, weighted batons and weighted gloves intended for law enforcement be prohibited.¹⁴

Although the EU Anti-Torture Regulation has prohibited trade in certain spiked weapons and devices, notably spiked batons and spiked shields, it does not currently prohibit spiked body armour. UATC members have previously uncovered the promotion of body armour containing spikes or serrations by companies at trade fairs and on company websites throughout the world, including within Europe.¹⁵ The UATC therefore supports the recommended addition of such devices onto the Annex II Prohibited Goods List. The UATC notes also that the UN Special Rapporteur on Torture in her 2023 Study specifically recommended that the manufacture and trade of spiked body armour be prohibited.¹⁶

While chemical irritants (also known as riot control agents) can be legitimately used for certain law enforcement purposes, providing they are employed in conformity with human rights standards, the systems and delivery mechanisms used to disperse these chemicals must

¹⁰ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), CPT Standards, “Substantive” sections of the CPT’s General Reports, CPT/Inf/E (2002) 1 - Rev. 2015, paragraph 38.

¹¹ Omega Research Foundation, Review of EU Anti-Torture Regulation and its implementation, November 2020, <https://omegaresearchfoundation.org/reports/review-of-eu-anti-torture-regulation-and-its-implementation/#> (accessed 1 April 2025).

¹² UN, Special Rapporteur on Torture (August 2023) op.cit. Annex I, 1.5, 1.6 and 1.9.

¹³ Amnesty International and the Omega Research Foundation, Blunt Force: Investigating the misuse of police batons and related equipment, September 2021, <https://www.amnesty.org/en/latest/research/2021/09/blunt-force/> (accessed 26 March 2025)

¹⁴ UN, Special Rapporteur on Torture (August 2023) op.cit. Annex I, 2.3, 2.4 and 2.5.

¹⁵ Omega Research Foundation, Workshop for OSCE participating States: Implementing para. 21 of MC Decision 7/20 on the prevention and eradication of torture Organised by ODIHR in cooperation with Omega Research Foundation 20 October 2021, Vienna.

¹⁶ UN, Special Rapporteur on Torture (August 2023) op.cit. Annex I, 2.2.

be appropriate to such purposes. They must not, for example, readily facilitate the dissemination or build-up of high levels of chemical irritant that are injurious to health. A particular concern in this regard are systems designed to disseminate chemical irritants in enclosed spaces where this risk is heightened. UATC organisations have previously highlighted the development and promotion of such systems for law enforcement and custodial purposes by non-EU companies.¹⁷ We note in this regard that certain regional organizations, notably the CPT, have specifically called for a prohibition on the use of certain chemical irritants, particularly pepper spray, in confined spaces.¹⁸ Furthermore, the UN Special Rapporteur on Torture in her 2023 Study warned that the use of fixed sprayers in confined indoor spaces, including detention facilities, poses a risk of injury or fatality from asphyxiation or other effects of the chemical irritant.¹⁹ Consequently, we support the recommended addition to the Annex II Prohibited Goods List of chemical irritant dissemination devices intended to be fixed to walls or ceilings in enclosed spaces such as prisons.

Similarly, we support the recommended addition to the Annex II (Prohibited Goods) List of equipment and projectiles for dispensing injurious quantities of chemical irritants from aerial platforms. UN bodies, and civil society human rights organisations, have documented the inappropriate and dangerous use by certain State military, security, and police forces of ‘wide area’ chemical irritant delivery devices fixed onto drones, notably against large crowds of protestors.²⁰ We do, however, suggest that the current description “explosive projectile” be replaced by the more inclusive term “launched or dropped projectile” as this would more accurately describe the nature of the chemical irritant projectiles that have been developed and promoted.²¹

Proposed Amendments to Annex III (Controlled Goods)

The UATC supports the Commission’s recommendations to disaggregate and more precisely describe leg restraints, i.e. by adding non-adjustable leg irons to the Annex II (Prohibited Goods) List and adding adjustable leg cuffs to the Annex III (Controlled Goods) List. These changes are consistent with the recommendations of UN Special Rapporteur’s Study, which calls for the trade in weighted leg restraints and fetters to be prohibited and the export of leg cuffs to be controlled.²²

UATC has documented the misuse of a range of law enforcement equipment for torture and other ill-treatment in a variety of non-custodial contexts, notably in the policing of demonstrations. We consequently support the Commission’s addition of certain categories of such law enforcement equipment to the Annex III (Controlled Goods) List, notably malodorants and single kinetic impact projectiles (KIPs) and associated launchers. These

¹⁷ Omega Research Foundation, Tear gassing by remote control, The development and promotion of remotely operated means of delivering or dispersing riot control agents, December 2015, <https://omegaresearchfoundation.org/reports/tear-gassing-by-remote-control/#> (accessed 1 April 2025).

¹⁸ See for example, CPT, Report to the Czech Government on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 March to 2 April 2008

¹⁹ UN, Special Rapporteur on Torture (August 2023) op.cit. Annex II, 4.5.

²⁰ UN Human Rights Council. Report of the Detailed Findings of the Independent International Commission of Inquiry on the Protests in the Occupied Palestinian Territory, A/HRC/40/CRP.2, 18 March 2019

²¹ Omega Research Foundation, Tear gassing by remote control, The development and promotion of remotely operated means of delivering or dispersing riot control agents, December 2015.

²² UN, Special Rapporteur on Torture (August 2023) op.cit. Annex I, 1.6; Annex II, 1.4.

additions also reflect the recommendations of the UN Special Rapporteur on Torture's Study.²³

The UATC notes that the Commission recommends that ammunition containing multiple KIPs and also multi-barrel launchers (some of which are capable of firing volleys of large numbers of KIPs simultaneously) should be added to the Annex III (Control Goods) List. UATC members and other human rights organisations have grave concerns about the use of ammunition containing multiple KIPs for law enforcement purposes, notably in the policing of protest. Such ammunition is inherently indiscriminate and, in practice, the multiple KIPs fired often hit and injure unintended targets including bystanders, as well as/or instead of those targeted. Furthermore, there is growing evidence from across the globe of serious, sometimes life-changing injuries (including blindings), or even fatal injuries resulting from the use of this ammunition.²⁴ UATC members have similar concerns about the development, promotion and use in practice of multi-barrel launchers that can be used to fire volleys of KIPs or chemical irritant projectiles directly at protestors, again resulting in serious injuries and deaths.²⁵ Consequently, while we welcome the inclusion, for the first time, of these items in the scope of the EU Anti Torture Regulation we would recommend that the Commission consider moving them from Annex III (Controlled Goods) List to Annex II (Prohibited Goods List), either in this current review or during a future review of the Regulation.

Conclusion and further action

UATC welcomes the significant expansion of the scope of the EU Anti Torture Regulation in terms of law enforcement equipment covered, to take account of contemporary developments in technology, marketing and use and misuse of law enforcement equipment. We support all of the Commission's proposed revisions to both the Annex II (Prohibited Goods) List and to the Annex III (Controlled Goods) List, whilst highlighting certain areas where we believe specific goods (i.e. multiple KIPs and multi-barrel launchers capable of firing KIPs) should be prohibited.

We therefore strongly recommend that the current review process be completed and the Commission recommendations be adopted as soon as possible.

UATC notes and welcomes the forthcoming formal comprehensive review of the implementation of the EU Anti-Torture Regulation, which is due to be completed in December 2025. We believe this is the most appropriate process to consider any further revisions to Annex II and Annex III, as well as how the Regulation can be more effectively implemented by all EU Member States.

²³ UN, Special Rapporteur on Torture (August 2023) op.cit. Annex II, 2.3, 4.2 and 4.7.

²⁴ Amnesty International and the Omega Research Foundation, "My Eye Exploded" The Global Abuse of Kinetic Impact Projectiles, February 2023, <https://www.amnesty.org/en/documents/act30/6384/2023/en/> (accessed 26 March 2025)

²⁵ Amnesty International and the Omega Research Foundation, "My Eye Exploded" The Global Abuse of Kinetic Impact Projectiles, February 2023, <https://www.amnesty.org/en/documents/act30/6384/2023/en/> (accessed 26 March 2025)

Submitted by Omega Research Foundation, Association for the Prevention of Torture (APT), REDRESS, World Organisation Against Torture (OMCT), the International Rehabilitation Council for Torture Victims (IRCT), and the International Federation of Action by Christians for the Abolition of Torture (FIACAT).



The United Against Torture Consortium (UATC) is an EU-funded project that unites the strengths and expertise of six international anti-torture organisations (IRCT, OMCT, FIACAT, APT, Omega Research Foundation, and REDRESS), in collaboration with over 200 civil society organisations and other partners in more than 100 countries, to strengthen and expand torture prevention, protection, rehabilitation, and strategic litigation.