EUROPEAN COMMISSION
Directorate-General for Migration and Home Affairs
Directorate-General for Research and Innovation
Directorate-General for Trade

Guidance note — Research involving dual-use items

Exporting certain goods/technologies can be a security threat, especially in terms of WMD (Weapons of Mass Destruction) proliferation.

Transactions involving such **dual-use items** can be subject to certain **restrictions**, which may affect your research project.

All H2020-funded projects must comply with the relevant national, international and EU laws on dual-use items.

This note explains what requirements may apply to research involving dual-use items.

Identifying dual-use concerns

Check carefully if your research, develops, produces or uses any dual-use items, technology or software.

What are dual-use items?

- *Definition: items, including software and technology, which can be used for both civil and military purposes, and shall include all goods which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices - Article 2(1) of Regulation No 428/2009*

- *List of items concerned – Annex I of Regulation No 428/2009*

Addressing dual-use concerns

If it does, you will have to comply with the following controls and/or requirements:

- Export authorisations – usually granted by the authorities of the EU country where the exporter is based.

- Brokering authorisations – from the same source (*these are needed if you are carrying out brokering services for dual-use items – Article 5(1) of Regulation 428/2009*).

- Additional restrictions – required by some EU countries. Check with the relevant national authorities.

- Intangible technology transfers (ITTs) – you may require an authorisation to publish your research findings (e.g. in a scientific article in a journal from outside the EU) if they concern technology that could be used to develop, produce or use dual-use items.

- Transit restrictions – some countries may prohibit the transit through their territory of non-EU dual-use items (*whether listed or not in Annex I of Regulation 428/2009*).

If your planned research could involve, develop, produce or use dual-use items, software or technologies, you will need to do the following when preparing your proposal:

- tick the box in the ethics table in part A

- clearly state in part B which items could come under the dual-use rules, and how you will make sure your research complies with the rules

- describe in the risk table in the **management section** what action you would take if the national authorities do not grant authorisation.

If your proposal involves the exportation dual-use items, you will need check the rules governing this in your country and, if necessary, apply to the relevant national authorities for authorisation.

Sample situations

Example 1 — Authorisation required for transferring equipment

A project was planning some testing activities in an EU accessing country. The tests needed an item classified as dual-use under Regulation 428/2009 and so authorisation was needed.

However, because the beneficiary failed to submit its licence application on time to the authorities in the 'exporting' country, the authorisation was not granted in time for the test. The project could not export the equipment and had to choose between:

    (i)   rescheduling the testing in another EU country at the beneficiary's own cost, or

    (ii)   buying new equipment locally.

Example 2 — Authorisation required to publish research

One EU country, invoking Article 3 of Regulation 428/2009, required a prominent virologist to obtain an export licence before publishing the results of his research on a certain virus, as the research could be construed as contributing to the proliferation of biological weapons.

The researcher challenged the requirement before the national court, arguing that his work did not fall within the scope of the article and claiming that the requirement would hamper scientific progress and create legal inequality between different countries.

The court ruled that the authorisation requirement was justified, explaining that any exceptions should be interpreted strictly given the importance of non-proliferation.

Further information

Guidance — How to complete your ethics self-assessment

Dual use on the Europa website

Guidance note — Research with an exclusive focus on civil applications

HISTORY OF CHANGES		
VERSION	PUBLICATION DATE	CHANGE
1.0	03.11.2015	Initial version
1.1	07.01.2020	Updated to VM4.0 / insertion of header

Guidance note — Research with an exclusive focus on civil applications