

I.**Explanatory memorandum****Draft decree amending Decree No 375/2016 on
selected items in the nuclear area****I. General part****1. Description of the content of the draft legislation, stating the reasons for its submission and a summary of the basic principles and the most important changes it introduces compared to the current legislation.**

The draft decree amending Decree No 375/2016 on selected items in the nuclear area (hereinafter the ‘draft decree’) is being submitted in connection with the amendment to Act No 263/2016, the Atomic Act (hereinafter the ‘Act’), i.e. Act No 83/2025 amending Act No 263/2016, the Atomic Act, as amended.

The State Office for Nuclear Safety (SONS) is authorised to issue the implementing decree under the provisions of § 236 of the Act.

The draft decree generally responds to changes introduced by the amendment to the Act in the area of non-proliferation of nuclear weapons, i.e. in particular to more precise reporting of activities related to nuclear material and selected items and transfer of nuclear items. The draft does not change the substance of regulation in this area.

The draft amendment to the decree proposes only minimal individual changes to the original text of the decree. It specifies more closely and clarifies the list of specific types of movements of selected items in the nuclear area.

Another objective of the proposed amendment is to adapt the list of selected items in the nuclear area to the newly updated versions of international standards adopted within the international Nuclear Suppliers Group, of which the Czech Republic is a member. These standards (Nuclear Suppliers Group Guidelines) are an essential practical instrument in the area of nuclear non-proliferation where the latest knowledge is taken into account.

2. Assessment of the existing legal situation

The existing Decree No 375/2016 on selected items in the nuclear area came into effect on 1 January 2017 and has not been amended to date.

The first reason for changing the current legal situation is the need to clarify and simplify the list of specific types of movements of selected items in the nuclear field and to adapt the text of the regulation to the current terminology in this area.

At the same time, terminology has been harmonised and refined, for example, when the term ‘transfer’ in the former meaning has more generally also included other variants of movement, while in line with the current terminology, a transfer is only understood as the movement of items within the EU.

Another reason for submitting the draft decree is to respond to the results of the application practice to date and thus, in the context of the first-ever amendment of the decree, to take that experience into account in the clarification of the wording of certain provisions.

Explicit requirements for information in the end-use statement for a selected item in the nuclear area are also unified, where the text in the provisions of § 1 did not correspond to the text in the form provided in Annex 2 to the decree.

At the same time, the list of selected nuclear items needs to be adapted in the context of new legislation to newly updated versions of international standards adopted within the framework of the Nuclear Suppliers Group, of which the Czech Republic is a member. This group of the multilateral export control regime has established sets of guidelines (standards). These standards (Nuclear Suppliers Group Guidelines) are an essential practical instrument in the area of nuclear non-proliferation where the latest knowledge is taken into account.

3. Evaluation of the compliance of the draft legislation with the constitutional order and other components of the legal order of the Czech Republic.

The draft legislation is fully compatible with the constitutional order and other components of the legal system of the Czech Republic.

4. Evaluation of the compliance of the draft legislation with the obligations arising for the Czech Republic from its membership of the European Union.

The draft decree is fully compatible with European Union law. It is not contrary to the case-law of the Courts of the European Union and respects the fundamental principles of EU law, such as the principles of legal certainty, proportionality and non-discrimination.

5. Assessment of compliance of the proposed legislation with international treaties binding on the Czech Republic.

The draft act is compatible with international treaties binding on the Czech Republic.

6. Expected economic and financial impact of the draft legislation on the state budget and other public budgets.

Given its nature, the draft legislation has no negative economic or financial impact on the state budget or other public budgets. Nor will the legislation have a negative economic and financial impact on economic operators, including small and medium-sized enterprises.

7. Justification for a possible proposal for the Chamber of Deputies to give its consent to the draft legislation at first reading.

not relevant

8. Explanation of any proposal that the proposed legislation come into effect on a date other than 1 January or 1 July of the calendar year.

The effective date of the amendment to the Decree is stipulated as 1 March 2026.

In accordance with the rule introduced in § 9(2) of Act No 222/2016 on the Collection of Laws and International Treaties, which allows for the setting of a different effective date for legislation than the so-called uniform effective dates, the possibility of setting a special effective date is used.

This is due to the obligation to notify the published regulation in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, where minimum time limits are set between the notification of the technical regulation and its adoption or, more precisely, its efficacy.

In this case, the time limit for the entry into force of the provision is set longer than it would be based on the rule of uniform effectiveness, and the rationale of the concept of *vacatio legis* is thus sufficiently fulfilled.

9. Justification of the individual provisions of the draft legislation; the justification shall include an explanation of their purpose and necessity, a description of the legal rules contained therein and of the rights and obligations arising therefrom.

See the special part of the explanatory memorandum.

10. Evaluation of whether the draft legislation contains a provision which by its nature would constitute a technical regulation under the legislation governing technical requirements for products and information on compliance with the notification obligation under this legislation.

The draft legislation is subject to the notification obligation under the legislation governing technical product requirements.

11. Information on the consultation of the draft legislation with the European Central Bank and the outcome of the consultation if the draft legislation is subject to such consultation.

The draft legislation is not subject to such consultation.

12. Expected impact of the draft legislation, in particular.

12.1 Impact on the rights and obligations of natural persons and corporate entities.

The proposed legislation merely refines, supplements and clarifies existing obligations and will therefore have no impact on the rights and obligations of natural persons and corporate entities.

12.2 Impact on the business environment of the Czech Republic.

The draft legislation does not have any discriminatory effects.

12.3 Assessment of whether the draft legislation constitutes State aid.

The draft legislation does not constitute State aid.

12.4 Social impact, including impact on specific groups of the population, in particular the socially vulnerable, persons with disabilities and national minorities.

The draft legislation does not have any discriminatory effects.

12.5 Expected impact of the draft legislation on equality between men and women, if the draft legislation regulates or affects the status of natural persons.

The draft legislation does not contain any provisions that would have an impact on the issue of discrimination, nor does it envisage any impact on gender equality.

12.6 Environmental impact.

The draft legislation does not have any discriminatory effects.

12.7 Impact on the protection of children's rights.

The draft legislation does not have any discriminatory effects.

12.8 Impacts on national security or defence.

The proposed draft decree does not envisage the creation of risks in the field of security or defence of the state or their increase. On the contrary, the proposed draft decree will contribute to increasing state security, as its purpose is to refine the process of control of selected items in the nuclear area falling within the area of non-proliferation of nuclear weapons.

12.9 Impacts relating to the protection of privacy and personal data.

Formulation of the draft Decree included a personal data protection impact assessment. The draft decree does not introduce any changes that would have an impact in relation to the protection of privacy or the protection of personal data.

The draft legislation will have no impact on the protection of privacy and personal data. It respects the legal framework for the protection and processing of personal data and its different parameters.

The proposed legislation is in compliance with the protection of privacy and personal data. It complies with Act No. 110/2019 on the processing of personal data, which regulates the rights and obligations in the processing of personal data, as well as with Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

Only the wording of the decree concerning the required data in the end-use declaration is clarified. The original text of the Regulation already requested data on the identification number or date of birth, but these data were explicitly specified only within the model declaration included in Annex 2 to the Regulation. The wording of the requirements for completing the

enumerated data in the end-use declaration laid down in § 1 of the Decree and in Annex 2 to the Decree are therefore to be harmonised.

From the perspective of processing personal data and the requirements of the GDPR, this is necessary processing for the purpose of the exercise of state authority and the performance of public administration tasks.

Personal data are required in the case of an application for a permit for the export, import and transit of a selected nuclear item on the basis of explicit requirements of the Atomic Act. In particular, personal data are requested when filling in the declaration of the end-user (natural person) as authorisation holder pursuant to Annex 2 to the Decree.

The required data is necessary for the adequate and unambiguous identification of natural persons who handle items that fall under the strictly internationally regulated regime in the field of nuclear non-proliferation.

By default, personal data required under this Decree are processed only within the administrative file and their storage is governed by internal file and shredding rules.

13. Assessment of corruption risks of the draft legislation.

The draft legislation contains no provisions that would pose corruption risks.

14. Justification for any proposed derogation in the procedure for discussing the draft legislation.

not relevant

15. Information under the Lobbying Regulation Act

The draft legislation contains no provisions that would pose corruption risks.

II. Specific part

Re Article I (Amendment to Decree No. 375/2016)

Re § 1

Individual variants of movement of selected items in the nuclear area are added.

The original term ‘transfer’ covered, in general, all variants of movement. The new wording reflects the modification and clarification of individual variants of movement resulting from the amendment to the Act (i.e. import, export, transit or transfer) in the case of selected items in the nuclear area. Different regulatory regimes are laid down at the statutory level for individual movements of selected items. For this reason, for the purposes of the end-use statement for a selected item in the nuclear area, the individual specific variants of movements to which the subject matter of the Decree applies are thus listed.

Re § 1(d)

In relation to the newly specified variants of the movement of selected items in the nuclear area, it is necessary to specify more closely the entities whose data must be included in the end-use declaration of the selected item in the nuclear field.

In the case of import, export and transit, administrative proceedings are initiated on the basis of an application, while in the case of transfer, a simple notification is sufficient under the Act.

Re § 2

The text takes into account the regime of transfer of a selected item in the nuclear area as a reported activity.

Re § 3(1)(c)

The term ‘other commercial documents’ is replaced by the more appropriate and general term ‘other documents proving the relationship between the supplier and the end user.’

The amendment extends the options for the applicant to submit more different types of documents transmitted with the purpose of demonstrating the relationship between the supplier and the end-user. The subject of this relationship is all movement of the selected item in the nuclear area. The documents requested serve as a basis for requesting a guarantee from the receiving State.

Re § 3(2)(a)

The possibility of establishing an exception to the specified period of 5 working days from the completion of export, import or transit for the notification of specified data is added.

In justified cases, the Office has the discretion to set a longer deadline for submitting notifications ex officio.

Re § 5

An end-user’s declaration is legally required only for import and transfer situations, while a guarantee from the receiving state is required for export. The original wording of the provision used only the general term ‘import’. The new wording clarifies and gives concrete expression to the various variants of movement by expressly adding the possibility of transferring a selected item in the nuclear area.

Re Annex 1

This list is based on relevant standards (checklists) issued under the International Non-Proliferation Control Regime based on relevant international treaties (Nuclear Suppliers Group Part 1 Guidelines). These checklists are subsequently confirmed by publication in the circulars of the International Atomic Energy Agency.

The list of selected items in the nuclear area is now published in a complete new version, which reflects updated versions of international standards and adheres to the traditional established structure of numbering and marking of items of international standards.

Re the Annex

The end user declaration specimen is merely adapted to the more precise terminology used in this amendment to the decree.