**D14.1**

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Executive Summary

Details on potential implications of the project and risk-mitigation strategies related the DU – DUAL USE **ethics issue category are detailed.**

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# Introduction

Some activities performed in SPARTA makes the project susceptible to develop, produce, or use items close to dual-use aspects (in the sense of the Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items). This deliverable presents the rules for:

* potential dual-use implications;
* risk-mitigation strategies;

to be followed in SPARTA in relation with the DU – DUAL USE ethics issue category.

# Potential dual-use implications

## Regulations on dual use items

As per Article 1, Regulation No 428/2009[[1]](#footnote-1) sets up a Community regime for the control of exports, transfer, brokering and transit of dual-use items. This Regulation gives in Article 2(1) the definition of a dual-use item as:

*“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”.*

Some particularly sensitive items can also be submitted to regulation for a transit within the EU (see Annex IV of the Regulation).

In top of the European-level regulation, specific measures can be taken by each EU State on non-listed dual-use items because of public security or human rights consideration (see Information Note: Information on measures adopted by Member States in conformity with Articles 5, 6, 8, 9, 10, 17 and 22 of Council Regulation (EC) No 428/2009[[2]](#footnote-2)). A list of competent national authorities can be found in part 7 of the Information Note.

## Identification of dual-use items

### Roles of partners and bodies

Each partner will be responsible for identifying dual-use items they are developing, producing, or using and will be responsible for ensuring the Regulation No 428/2009 and the applicable national laws are met, including filing declarations and/or applying for authorizations to its competent national authorities, in case of export, transfer, brokering or transit of such dual-use items outside of EU.

To this aim, partners can rely on the documentation provided by the European Commission to identify and handle dual-use items[[3]](#footnote-3). The partners will also be supported in this task by the Ethics Committee which also lies in the perimeter of Task 2.5 (Internal ethical, legal, and societal aspects (ELSA) auditing and supervision).  
  
Proposition:   
1. Each partner has to identify potential dual-use items they are developing, producing or using.

2. In case of any doubt, the partner has to refer to the WP leader, which is responsible for identifying and centralizing dual-use items.

3. The WP leader could be supported in the identifying of dual uses items by the Ethics Committee

4. If a dual-use item is identified by the WP leader and the Ethics Committee, the partner in who is developing, producing or using the item is responsible for ensuring the compliance with the Regulation No 428/2009 and the applicable national laws.

5. The Ethics Committee will support the national partner for the compliance with European regulations.

Each partner is responsible for the compliance with European (with the help of the Ethics Committee if needed) and national laws.

Identification of potential

dual-uses items

### Current status

No development, production, or use of dual-use items has been identified at this point.

For the sake of completeness, a trend in military procurement to leverage Components On The Shelf (COTS) platforms has been identified, for example for resource planning software, commercial intrusion detection systems, and Security Information Management Systems (SIEM). In this context, tools for assessment of complex systems developed in WP4 – Program CAPE could be leveraged to assess and certify military equipment. Given the early stage of the execution project at this time, no potentially dual-use items have been developed, produced, or used in CAPE at this point; the situation will be regularly reassessed in the future.

WP4/L3CE? Waiting for reply

WP6/CINI? Waiting for reply

WP7/ITTI? Waiting for reply

WP8/CNR? Waiting for reply

WP13/TNK? Waiting for reply

## Implications of dual-use outputs identification

In cases where the required licenses or authorizations would not be granted by the competent authorities, the export (including the mere electronic provision) of the corresponding Items, Software, and Technology would be restricted accordingly to comply with applicable laws.

If it turns out that SPARTA is developing, producing, or using any dual-use item:

* the relevant Partners concerned will be notified and requested to comply with applicable law;
* the Security Advisory Board will be notified;
* the Ethics Committee will be notified;
* the chair of the Dissemination Committee will be notified;
* the risk-mitigation strategies from Chapter 3 will be applied.

# Risk-mitigation strategies

In case items to be developed, produced, or used in SPARTA are deemed to be dual-use items (in the sense of Council Regulation (EC) No 428/2009) and the relevant national authorities do not grant the required authorization, the following strategies will be considered:

* In case an *export authorization* is not granted, solutions to perform the development, production, or use of the items without exporting it will be explored;
* In case a *brokering authorization* is not granted, solutions to find a substitute item allowing to carry out the plan will be explored;
* In case *additional restrictions* are required, case-by-case solutions will be studied once the mentioned restrictions are explored;
* In case an *authorization to publish* research findings is not granted, solutions to remove or embargo the information while maintaining the scientific essence will be explored;
* In case a *transit restriction* applies, alternative transit roads will be explored.

These generic risk-mitigation strategies will be refined as needed to apply to concrete occurrences. It is not possible to propose concrete risk-mitigation at this date because no development, production, or use of dual-use items has been identified. The strategies chosen might also have an impact on the possible exploitation of the items concerned, in particular in terms of applicable licensing schemes, and will be addressed through WP10 (Sustainable exploitation) activities.

# Summary and Conclusion

This deliverable presented the rules to be followed in SPARTA in relation with the DU – DUAL USE ethics issue category. In addition to the above and to ensure that the regulatory framework is met, Ethics related issues will be addressed in WP2 “Responsible innovation: Ethical, Legal and Societal Aspects” and their outcomes will be reported in its deliverables. The Ethics Committee and the Ethics Adviser will monitor the execution of SPARTA and manage new ethical issues related to DU – DUAL USE if they appear after the start of the project.

1. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009R0428> [↑](#footnote-ref-1)
2. [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016XC0820(01)](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016XC0820(01)&from=EN) [↑](#footnote-ref-2)
3. <http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/guide_research-dual-use_en.pdf> [↑](#footnote-ref-3)