

# THE BURUNDI (SANCTIONS) REGULATIONS 2021

## REPORT UNDER SECTION 2(4) OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

### Introduction

1. This is a report under section 2(4) of the Sanctions and Anti-Money Laundering Act 2018 (“**the Sanctions Act**”) in relation to the Burundi (Sanctions) Regulations 2021 (“the Regulations”). Section 2(4) requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 considers, in respect of each discretionary purpose of stated in the regulations, that carrying out that purpose meets one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Act<sup>i</sup>; why the Minister considers that there are good reasons to pursue that purpose; and why the Minister considers that the imposition of sanctions is a reasonable course of action for that purpose.
2. Sanctions will continue to contribute to the UK’s efforts as part of an integrated approach to promote our values and interests and to combat state threats, terrorism, cyber-attacks, and the use and proliferation of chemical weapons. The UK will continue to be a global leader on sanctions, based on the smart, targeted use of sanctions, as part of wider political and diplomatic strategies. The UK will enhance its leadership role in developing robust evidence to support sanctions regimes and designations – for national and multilateral sanctions. At the international level, the UK will continue to seek multilateral cooperation on sanctions in response to shared threats, given that a collective approach to sanctions achieves the greatest impact.
3. The Regulations revoke and replace the Burundi (Sanctions) (EU Exit) Regulations 2019 (“**the 2019 Regulations**”) that came into force on 31 December 2020 and were intended to deliver substantially the same policy effects as the EU sanctions regime in respect of Burundi that existed at that time.
4. After reviewing the Burundi sanctions regime in the Annual Review, in accordance with our statutory obligations under section 30 of the Act, the Minister decided that the 2019 Regulations were no longer appropriate for the purpose set out in Regulation 4(b). The purpose in regulation 4(b) of the 2019 Burundi Regulations encourages the Government of Burundi to ‘participate in negotiations with its political opponents in good faith to bring about a peaceful solution to the political situation in Burundi’. Following elections in Burundi in May 2020, there was a managed, broadly peaceful transfer of power to a new President, and although political tensions remain, there is no longer an immediate political crisis.
5. As such the Regulations were no longer appropriate for all of their purposes, and the Minister decided to revoke and replace the 2019 Regulations to reflect the removal of the purpose in regulation 4(b) and its corresponding designation criterion, regulation 6(2)(a)(ii). Apart from this, the Burundi (Sanctions) Regulations 2021 maintain practically the same effects as the 2019

Regulations. The purpose of the regime is to encourage the Government of Burundi to build on positive political developments and demonstrate its commitment to progress by ensuring its behaviour reflects: respect for democracy, rule of law and good governance; refraining from suppression of civil society, and respect for human rights.

### **Purposes and reasons for pursuing the purposes**

6. The Regulations impose sanctions in relation to concerns about respect for democracy, rule of law (including accountability), and good governance; space for civil society; and compliance with human rights in Burundi. In particular, they confer a power on the Secretary of State to designate persons where the Secretary of State has reasonable grounds to suspect that the person is an involved person, and considers that the designation of that person is appropriate, having regard to the purposes stated in regulation 4 (as set out below), and the likely significant effects of the designation on that person.
7. In these Regulations an ‘involved person’ means a person who is or has been involved in-
  - (i) The commission of a serious human rights violation or abuse in Burundi;
  - (ii) The repression of civil society and democratic opposition in Burundi;
  - (iii) Actions, policies or activities which undermine democracy, the rule of law or good governance in Burundi.
8. The purposes of the sanctions regime, as set out in regulation 4 of the Regulations, are to encourage the Government of Burundi to –
  - (a) respect democratic principles and institutions, the rule of law and good governance in Burundi
  - (b) refrain from policies or activities which repress civil society in Burundi;
  - (c) comply with international human rights law and to respect human rights, including in particular, to respect-
    - (i) the right to life of persons in Burundi;
    - (ii) the right of persons not be subjected to torture or cruel, inhuman or degrading treatment or punishment in Burundi, including in the context of rape, other forms of sexual violence and gender based violence;
    - (iii) the right to liberty and security of persons in Burundi, including freedom from arbitrary arrest, detention or enforced disappearance;
    - (iv) the rights of journalists, human rights defenders and other persons in Burundi, to freedom of expression and peaceful assembly.
9. Carrying out these purposes meets one or more of the conditions set out in section 1(2) of the Sanctions Act. In particular, carrying out these purposes falls within section 1(2)(f) in that it promotes compliance with international human rights law or respect for human rights and section 1(2)(i) to promote respect for democracy, the rule of law and good governance.

10. There are good reasons for pursuing these purposes. Despite some positive political developments in Burundi, the UK remains concerned about respect for democratic principles, the rule of law, long-term impunity and lack of accountability. There remains a concern about media freedom in Burundi, as well as reports of human rights violations and abuses being committed against the political opposition and critical voices.
11. The UN Commission of Inquiry on Human Rights in Burundi noted during an oral briefing at the UN Human Rights Council in September 2021 that: "Following the end of the 2020 electoral process, the number and frequency of violations initially decreased. However, from June 2021, we noted an increase in violations, mainly in the context of the fight against armed groups allegedly responsible for attacks perpetrated throughout the country since August 2020." It also noted that "the democratic space remains closed and tightly controlled by the Burundian authorities despite some encouraging gestures, seeking to appease the international community" and "there has been no notable progress in the fight against impunity." The UK continues to monitor developments in Burundi and notes the UN Human Rights Council's decision in September 2021 to appoint a Special Rapporteur, who is mandated to monitor the situation of human rights in Burundi, building on the work of the Commission of Inquiry.

#### **Why sanctions are a reasonable course of action**

12. The prohibitions and requirements imposed by these Regulations are a reasonable course of action to encourage the Government of Burundi to build on positive political developments and demonstrate its commitment to progress by ensuring its behaviour reflects: respect for democracy, rule of law and good governance; refrainment from suppression of civil society, and respect for human rights. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. The UK believes sanctions are an effective and reasonable foreign policy tool if they are part of a broader foreign policy strategy for a country or thematic issue, and are appropriate for the purposes they are intending to achieve.
13. The ability of the UK to impose sanctions under this regime sends a powerful message intended to drive behavioural change by the Government of Burundi and others who may be involved in political or human rights violations or abuses. Any designations would also provide accountability for any persons involved and act as a deterrent.
14. There are two principal kinds of prohibition in the Regulations: financial and immigration. These restrictions consist of an asset freeze (which among other things prohibits people from dealing with a designated person's funds and economic resources) and a travel ban. These restrictions can only be imposed upon specified individuals and entities who meet the criteria set out in the Regulations; namely that there are reasonable grounds to suspect that the person is, or has been, involved in the commission of a serious human rights violation or abuse in Burundi; the repression of civil society and democratic opposition in Burundi; or actions, policies or activities which undermine democracy, the rule of law or good governance in Burundi. Their designation must be appropriate for the purposes of the regime in order to ensure that the sanctions are clearly targeted and fulfil the stated purposes of the regime.
15. The Regulations allow for exceptions to the travel ban and also provide for the financial sanctions to be subject to certain exceptions and a licensing framework. The exceptions and licensing provisions support the reasonableness of imposing these sanctions measures on

designated persons, as they can be used, where appropriate, to mitigate unintended or counter-productive impacts, and allow funds to be released where appropriate, for example in relation to basic needs and reasonable legal expenses.

16. These sanctions are not an end in themselves. They are one element of a broader strategy of pressure and engagement to achieve the UK's foreign policy goals. The policy intention is that the sanctions regime remains in place until the UK considers that there has been sufficient positive behaviour change, including in relation to respect for democracy, rule of law and good governance; space for civil society; and human rights, over a sustained period of time. This position may be reached by evidence of positive developments on the ground and some concrete steps having been taken that shows an improvement in the areas of concern outlined in the purposes of these Regulations. The UK will continue to coordinate with international partners, including on the future of the sanctions regime.
17. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information relating to certain designations, the reporting of information by relevant firms, and the holding of records. These kinds of prohibitions and requirements ensure that certain information is appropriately held by those involved with the operation of the sanctions regime and certain information is provided to authorities, and ensure that certain sensitive information is treated securely. These kinds of prohibitions and requirements enable the government to properly operate and enforce the sanctions regime, and therefore their imposition is considered a reasonable course of action for the purpose of the Regulations.

### **Conclusions**

18. The purpose of these Regulations is to encourage the Government of Burundi to respect democratic principles and institutions, the rule of law and good governance in Burundi; refrain from policies or activities which repress civil society in Burundi; and comply with international human rights law and to respect human rights. For the reasons set out in this report, carrying out those purposes meets one or more of the conditions in section 1(2) of the Act. As set out in this report, there are good reasons for pursuing those purposes, and the imposition of immigration and financial sanctions imposed by these Regulations is a reasonable course of action for those purposes.

**Lord Ahmad of Wimbledon**

**Minister of State for South Asia, the UN and the Commonwealth, on behalf of the  
Secretary of State for Foreign, Commonwealth and Development Affairs**

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<sup>i</sup> Section 1(2) states:

“A purpose is within this subsection if the appropriate Minister making the regulations considers that carrying out that purpose would –

- a) further the prevention of terrorism, in the United Kingdom or elsewhere,
- b) be in the interests of national security,
- c) be in the interests of international peace and security,
- d) further a foreign policy objective of the government of the United Kingdom,
- e) promote the resolution of armed conflicts or the protection of civilians in conflict zones,
- f) provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote -
  - (i) compliance with international human rights law, or
  - (ii) respect for human rights,
- g) promote compliance with international humanitarian law,
- h) contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or
- i) promote respect for democracy, the rules of law and good governance.”