

THE BOSNIA AND HERZEGOVINA (SANCTIONS) (EU EXIT) REGULATIONS 2020

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 Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020 (“**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 that the purposes of the regulations meet one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Sanctions Actⁱ; 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 to defend the rules-based international order. 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. There is an existing EU sanctions regime covering Bosnia and Herzegovina, which was established in March 2011 and has been extended annually by a Council Decision. It is not currently applied to any named individuals, but provides the EU with a framework to sanction individuals who threaten Bosnia and Herzegovina’s security and integrity. The restrictive measures contained in the Regulations can be applied against individuals whose activities undermine the sovereignty, territorial integrity, constitutional order and international personality of Bosnia and Herzegovina; seriously threaten the security situation in Bosnia and Herzegovina; or undermine the General Framework Agreement for Peace (GFAP, 1995).
4. Bringing this regime into UK law is consistent with UK policy on Bosnia and Herzegovina. The UK has consistently supported the annual renewal of the EU sanctions regime in recognition of the fragility of the political scene in Bosnia and Herzegovina, as an important tool to deter misadventure and to enable the EU to respond quickly should it be required. The Regulations are intended to deliver substantially the same policy effects as the existing EU sanctions regime.

Purposes and reasons for pursuing the purposes

5. The Regulations would allow the UK to impose sanctions against persons suspected of undermining or threatening the sovereignty, territorial integrity, international personality or constitutional order of Bosnia and Herzegovina; of undermining or threatening the peace, stability or security of Bosnia and Herzegovina; or of obstructing the implementation of the GFAP. The sanctions measures in these Regulations consist of an asset freeze and travel ban.

6. The purposes of the sanctions regime, as set out in regulation 4 of the Regulations, are—
 - a) promoting respect for the sovereignty, territorial integrity, international personality and constitutional order ⁽¹⁾ of Bosnia and Herzegovina;
 - b) promoting the peace, stability and security of Bosnia and Herzegovina;
 - c) encouraging compliance with, and the implementation of, the GFAP;
7. Carrying out these purposes meets one or more of the conditions set out in section 1(2) of the Act. In particular, carrying out these purposes would fall within sub-paragraphs (c), (d) and (i) in that it would promote the peace, stability and security of Bosnia and Herzegovina; encourage compliance with the GFAP and promote respect for the sovereignty, territorial integrity, international personality and constitutional order of Bosnia and Herzegovina.
8. There are good reasons for pursuing these purposes. Bosnia and Herzegovina is one of the countries at greatest risk of instability in the Western Balkans region. The UK and the international community remains concerned about the domestic political situation, which continues to be affected by institutional dysfunctionality, divisive ethno-nationalist rhetoric, attempts to undermine the functioning of the state and its institutions, challenges to the GFAP and historical revisionism. Statements from officials within the Republika Srpska (RS) which deny the statehood of Bosnia and Herzegovina and advocate the secession of the RS and for a union with Serbia are of particular concern. The UK, alongside the other members of the Peace Implementation Council Steering Board (PIC SB), has repeatedly expressed its commitment to Bosnia and Herzegovina's fundamental structure as a single, sovereign state comprising these two entities.
9. Against this backdrop, the EU sanctions regime has acted as a deterrent and a signal of EU commitment to Bosnia and Herzegovina's stability and security. Sanctions are not currently imposed against any individuals under the EU regime, although there have been times when the UK would have considered imposing sanctions, had it been possible to secure EU unanimity to do so. The US has imposed sanctions against named persons in Bosnia and Herzegovina for corruption and for obstructing the implementation of the GFAP, which we judge to have had some effect in curbing anti-GFAP activities. Pursuing these purposes would ensure that our approach towards Bosnia and Herzegovina is in lock step with the EU and the US as our closest allies, giving us equivalent tools to respond to threats in Bosnia and Herzegovina, and publicly demonstrating our enduring commitment to Bosnia and Herzegovina's security and stability. It would additionally provide us with the ability to act swiftly, decisively and autonomously to implement sanctions should we judge that the need arises. It is consistent with the UK's strong engagement in the region and with our role as a member of the Peace Implementation Council, which is charged with overseeing the implementation of the GFAP.

Why sanctions are a reasonable course of action

10. The imposition of financial sanctions (including asset freezes) and immigration sanctions (travel bans) of the kind imposed by these Regulations is a reasonable course of action for the purposes of promoting respect for the sovereignty, territorial integrity, international personality and

⁽¹⁾ The General Framework Agreement for Peace in Bosnia and Herzegovina, and in particular the Constitution of Bosnia and Herzegovina contained in Annex 4 to the Agreement, establishes the fundamental structure of Bosnia and Herzegovina as a single sovereign State comprising two entities, namely the Federation of Bosnia and Herzegovina and the Republika Srpska.

constitutional order of Bosnia and Herzegovina; promoting peace, stability and security; and encouraging compliance with, and implementation of, the GFAP.

11. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. The UK believes sanctions can be an effective and reasonable foreign policy tool if they are one part of a broader foreign policy strategy for a country or thematic issue, and are appropriate to the purposes they are intending to achieve.
12. There are two principal kinds of prohibition in the Regulations: those relating to financial sanctions and those relating to immigration sanctions. These restrictions consist of an asset freeze (ensuring a designated person's funds and economic resources are not dealt with, and ensuring that funds and economic resources are not made available to or for the benefit of a designated person, directly or indirectly) and a travel ban. These restrictions can only be imposed upon specified persons 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 undermining or threatening the sovereignty, territorial integrity, international personality or constitutional order of Bosnia and Herzegovina; of undermining or threatening the peace, stability or security of Bosnia and Herzegovina; or of obstructing the implementation of the GFAP and that their designation is appropriate having regard to the purposes of the regime and the likely significant effects of the designation on that person. This is in order to ensure that the sanctions are clearly targeted at those who threaten the peace, stability and security of Bosnia and Herzegovina, and therefore fulfil the stated purpose of the sanctions. 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 mitigate any possible negative or counter-productive impacts.
13. These sanctions are not an end in themselves. They are one element of a broader strategy to achieve the UK's foreign policy goals in Bosnia and Herzegovina. Sanctions are one method by which the UK can address and disincentivise challenges to the peace, stability and security of Bosnia and Herzegovina as well as efforts to obstruct the implementation of the GFAP. The UK will continue to work alongside international partners, including the EU, US and the Office of the High Representative, to promote respect for the sovereignty, territorial integrity, international personality and constitutional order of Bosnia and Herzegovina and encourage compliance with the GFAP.
14. The policy intention is to retain the power to impose sanctions relating to Bosnia and Herzegovina until the UK Government is assured that peace, stability and security in Bosnia and Herzegovina is fully entrenched. The UK Government may regularly reassess whether this status has been reached based, for example, on whether substantive reforms, concrete steps towards EU accession, or the agreed objectives and conditions for the closure of the Office of the High Representative have been achieved. The UK will continue to coordinate with international partners, including on the future of the sanctions regime.
15. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information, 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 that 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 also considered a reasonable course of action for the purposes of the Regulations.

Conclusions

16. The purposes of these Regulations are to promote respect for the sovereignty, territorial integrity, international personality and constitutional order of Bosnia and Herzegovina; to promote peace, stability and security within the country; and to encourage compliance with, and the implementation of, the GFAP. For the reasons set out in this report, carrying out those purposes meets one 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 the kinds of prohibitions and requirements imposed by these Regulations for those purposes is a reasonable course of action for those purposes.

Lord Ahmad of Wimbledon
Minister of State, Foreign and Commonwealth Office, on behalf of the Secretary of State for Foreign and Commonwealth Affairs

ⁱ 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.”*