

**THE SYRIA (UNITED NATIONS SANCTIONS) (CULTURAL PROPERTY) (EU EXIT)
REGULATIONS 2020**

**REPORT UNDER SECTION 18 OF THE SANCTIONS AND ANTI-MONEY
LAUNDERING ACT 2018 IN RELATION TO CRIMINAL OFFENCES**

A: INTRODUCTION

1. This is a report under section 18 of the Sanctions and Anti-Money Laundering Act 2018 (“**the Sanctions Act**”) in relation to the Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020 (“**the Regulations**”).
2. Section 18(2) of the Sanctions Act requires a report to be laid before Parliament where regulations made under section 1 of the Sanctions Act create offences for the purposes of enforcing any prohibitions or requirements imposed by those regulations, or for the purposes of preventing the circumvention of those prohibitions or requirements.
3. In accordance with section 18, this report: sets out the offences created by the Regulations (see Part B); explains why there are good reasons for the relevant prohibitions or requirements in the Regulations to be enforceable by criminal proceedings (Part C); and sets out the maximum terms of imprisonment that apply to those offences and why there are good reasons for those maximum terms (Part D).

B: THE OFFENCES

4. The principal prohibitions and requirements in the Regulations are aimed at compliance with United Nations (UN) obligations arising under United Nations Security Council Resolution 2199 (2015).
5. The obligations, currently implemented through EU legislation and related UK legislation, were established in response to the destruction of the cultural heritage of Syria by Daesh, Al-Nusrah Front, and other Al-Qaida associated groups, to prevent the trade in items of archaeological, historical, cultural, rare scientific, and religious importance being illegally removed from Syria (and Iraq) during periods of conflict.
6. The Regulations impose various prohibitions on the trade in illegally removed Syrian cultural property, which includes items of cultural property which have been illegally removed from Syria on or since 15 March 2011.
7. The offences created by the Regulations fall into the following categories:
 - a. contravening the principal prohibitions in the Regulations (e.g. breaching a trade restriction) or
 - b. trying to circumvent those principal prohibitions.

8. Details of each of the offences created by the Regulations, the prohibitions and requirements to which those offences relate, and the maximum penalties relating to each offence, are set out in **Annex A** to this report.

C: REASONS FOR CREATING THE OFFENCES

9. In order to fulfil the stated purpose of this sanctions regime, the prohibitions and requirements in the Regulations need to be properly enforced.
10. There are several mechanisms through which these measures can be enforced without criminal proceedings. These include the seizure of goods being dealt with in contravention of certain trade sanctions measures.
11. Having the ability to take enforcement action through criminal proceedings, alongside these other enforcement measures, is appropriate for several reasons. The offences act as a deterrent in relation to the commission of serious acts and omissions which would undermine the purpose of the regime. They also allow the government to take a proportionate response where severity of the act or omission warrants it.
12. Importantly, the offences created by the Regulations are consistent with the offences contained in the legislation which the Regulations will replace. Failing to create offences would mean that there would be an enforcement gap between existing legislation and the Regulations. Special care has been taken to ensure that offences are consistent with existing offences while not duplicating any offences that already exist.
13. These issues are addressed in more detail below in relation to the different types of offences in the Regulations.

Breaches of, and circumvention of, the principal trade prohibitions

14. A breach of these prohibitions is a serious matter as they undermine sanctions which are in place for the purpose of compliance with UN obligations. Creating criminal offences serves as an effective deterrent for such serious actions. In this case, breaches could impede the objective of protecting Syrian cultural property and ensuring, in due course, the safe return to Syria of items of Syrian cultural property which have been illegally removed from the country on or since 15 March 2011.
15. There are other enforcement tools available in relation to trade sanctions, most notably the powers contained in the Customs and Excise Management Act 1979 to issue compound penalties, and to seize and dispose of goods where they are being dealt with in contravention of trade sanctions. The ability to institute criminal proceedings sits alongside these other powers and provides the government with a suite of tools to police and ensure compliance with trade sanctions and ensure that there are penalties that are appropriate to the seriousness of breaches of sanctions measures.

16. The offences in the Regulations replace offences related to movement of Syrian cultural property in the Export Control (Syria Sanctions) Order 2013 as amended by the Export Control (Syria Sanctions) (Amendment) Order 2014. These existing offences are made under section 2(2) of the European Communities Act 1972 and will be revoked by the Regulations, ensuring that there is no overlap.
17. Section 68 of the Customs and Excise Management Act 1979 provides offences in relation to the export of prohibited or restricted goods and so such an offence has not been created by the Regulations.
18. Section 50 of the Customs and Excise Management Act 1979 provides offences in relation to the import of prohibited or restricted goods and so such an offence has not been created by the Regulations.

D: REASONS FOR MAXIMUM PENALTIES

19. The penalties imposed by the Regulations are set out in Annex A. In all cases the penalties are consistent with similar offences in other existing legislation. Further detail on the maximum sentences relating to the different categories of offence are set out below.

Breaches of, and circumvention of, the principal trade prohibitions

20. The maximum term of imprisonment for offences related to breaches of the principal trade prohibitions in the Regulations, or circumvention of them, is ten years. This is in line with the penalties in the Iraq (Sanctions) (EU Exit) Regulations 2020, which contain equivalent offences as well as existing offences for breaches of export controls and other trade sanctions measures for example, where trade sanctions are implemented via legislation made under the Export Control Act 2002. The 10-year maximum penalty is considered to be an effective deterrent and is proportionate to the seriousness of these offences.
21. It should be noted that existing penalties relating to the prohibitions referred to in article 12A of Export Control (Syria Sanctions) Order 2013, which are replaced by prohibitions in Part 2 of the Regulations, are currently set at a maximum of two years imprisonment. This is because the existing offences created by the 2013 Order were made under section 2(2) of the European Communities Act 1972, which caps penalties at two years (under schedule 2(1)(d) of that Act). These penalties are currently out of line with domestic penalties for other services that assist prohibited export and trade activities, and do not reflect the serious nature of breaches of trade sanctions. We have therefore harmonised the penalties for these offences with the 10-year maximum penalties currently available for breaches of similar sanctions prohibitions. Aligning the enforcement of trade sanctions and other export controls is appropriate because breaches of trade sanctions are equally as serious as other breaches of export controls.

E: CONCLUSIONS

22. As set out in this report:

- a. There are good reasons for each of the prohibitions and requirements set out in the Regulations to be enforceable by criminal proceedings. The ability to enforce these measures by criminal proceedings is an effective deterrent, it is consistent with existing legislation and, in conjunction with the use of other enforcement measures, it enables the government to take a proportionate response to potentially serious acts and omissions which would undermine the purpose of the sanctions regime. Importantly, the Regulations do not create criminal offences where it has been judged that there already exists a criminal offence that can effectively enforce the prohibitions or requirements in question.

- b. There are also good reasons for the maximum terms of imprisonment that attach to those offences: the maximum penalties are consistent with similar offences in other existing legislation; they are an effective deterrent; and they are proportionate to the seriousness of the types of offences to which they relate.

Lord Ahmad of Wimbledon

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

Annex A: Table of trade sanctions offences

Type of sanction offences	Specific offence	Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020 reference to relevant prohibition or requirement (or other legislation)	Maximum penalty
Breach of controls on export and import of illegally removed Syrian cultural property	<ol style="list-style-type: none"> 1. Export of illegally removed Syrian cultural property. 2. Import of illegally removed Syrian cultural property. 	<ol style="list-style-type: none"> 1. reg. 7(1) 2. reg. 7(2) Offence contained within Customs and Excise Management Act 1979 S50 (import), S68 (export).	<p>Liable on summary conviction</p> <p>To a penalty of £20,000 or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both</p> <p>Liable on conviction on indictment</p> <p>To a penalty of any amount or to imprisonment for a term not exceeding 10 years (this is a modification to the 7 year maximum set out in CEMA for offences relating to exports)</p>
Breach of controls on illegally removed Syrian cultural property	<ol style="list-style-type: none"> 1. Supplying or delivering illegally removed Syrian cultural property 2. Making available or acquisition of illegally removed Syrian cultural property. 3. Providing financial services or funds relating to illegally removed Syrian cultural property. 	<ol style="list-style-type: none"> 1. reg. 8 2. reg. 9 3. reg. 10 4. reg. 11 5. reg. 12 	<p>Liable on summary conviction</p> <p>To imprisonment for a term not exceeding 12 months in England and Wales (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to impose imprisonment) comes into force, 6 months) and 12 months in Scotland, and 6</p>

	<p>4. Providing brokering services relating to illegally removed Syrian cultural property.</p> <p>5. Failure to secure the transfer of illegally removed Syrian cultural property held or controlled by a person to a constable.</p>		<p>months in Northern Ireland, or a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum (or both).</p> <p>Liable on conviction on indictment</p> <p>To imprisonment for a term not exceeding 10 years or a fine (or both).</p>
<p>Circumvention etc. of prohibitions</p>	<p>Intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly to circumvent any of the prohibitions in regulations 7-12 or to enable or facilitate the contravention of any such prohibition.</p>	<p>reg. 13</p>	<p>Liable on summary conviction</p> <p>To imprisonment for a term not exceeding 12 months in England and Wales (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 (general limit on magistrates' court's power to impose imprisonment) comes into force, 6 months) and 12 months in Scotland, and 6 months in Northern Ireland, or a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum, (or both).</p> <p>Liable on conviction on indictment</p> <p>To imprisonment for a term not exceeding 10 years or a fine (or both).</p>