

**THE REPUBLIC OF BELARUS (SANCTIONS) (EU EXIT) (AMENDMENT) (No. 2)
REGULATIONS 2021**

**REPORT UNDER SECTION 46 OF THE SANCTIONS AND ANTI-MONEY
LAUNDERING ACT 2018**

1. This is a report under section 46 of the Sanctions and Anti-Money Laundering Act 2018 (“the Act”) in relation to the Republic of Belarus (Sanctions) (EU Exit) (Amendment) (No 2) Regulations 2021. When new regulations are made under section 45 of the Act to amend sanctions regulations that have already been made under section 1 of the Act, and the regulations being amended state a purpose other than compliance with a UN or other international obligation (i.e. discretionary purposes in section 1(2) of the Act), the Minister making the new regulations must lay before Parliament a report under section 46(2) of the Act which explains why the Minister is of the opinion mentioned in section 45(2)(b) of the Act, namely that:
 - the Minister considers that carrying out the purpose(s) of the regulations being amended would meet one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Act;
 - the Minister considers that there are good reasons to pursue that purpose; and
 - the Minister considers that the imposition of sanctions is a reasonable course of action for that purpose.
2. The Republic of Belarus (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2021 (the “Amendment Regulations”) are made under the Act to amend the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (“the 2019 Regulations”). The Amendment Regulations revoke and replace the Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2021 (the “August 2021 Regulations”), correcting a small number of errors but otherwise with the same effect. The Amendment Regulations maintain the financial, trade and aircraft sanctions measures and the criterion for the designation of persons introduced by the August 2021 Regulations. This section 46 report is therefore substantially similar to that laid alongside the August 2021 Regulations.
3. These amendments to the 2019 Regulations are in response to the escalation of serious human rights violations in Belarus, the Belarusian authorities’ continued violent oppression of civil society, democratic opposition leaders and supporters, independent media and journalists, and continued undermining of democratic principles and the rule of law. This escalation included the forced diversion and landing of the Ryanair flight FR4978 to Minsk on 23 May 2021 by the Belarusian authorities in order to arrest a journalist, Roman Protasevich, and his partner Sofia Sapega; the arbitrary detention of

over 35,000 people; the imprisonment of nearly 600 people on politically motivated charges; the attempted forcible expulsion of the opposition figure Maria Kolesnikova and forced expulsion of other opposition figures; the arbitrary sentencing of the opposition candidate, Viktor Babiriko, to 14 years' imprisonment; the introduction of legislation in May 2021, which suppresses media freedoms and peaceful assembly, and was used as justification to raid the independent organisations Nasha Niva and Tut.by; and the many credible reports of physical mistreatment and torture by the penal and security forces in Belarus, which the UN High Commissioner for Human Rights noted in her report to the Human Rights Council in February 2021. The UK adopted additional sanctions measures to further encourage the Government of Belarus to respect democratic principles and institutions, the separation of powers and the rule of law in Belarus, refrain from actions, policies or activities which repress civil society in Belarus, comply with international human rights law, and respect human rights.

4. Under Part 2 of this instrument, the 2019 Regulations are amended to confer a power on the Secretary of State to designate persons for the purpose of a prohibition on the provision of technical assistance relating to aircraft. Regulation 6 of this instrument amends Regulation 6 of the 2019 Regulations to include 'providing support for or obtaining an economic benefit from the Government of Belarus' as a type of involvement in the specified activities set out in regulation 6(2), which include activities which undermine democracy or the rule of law in Belarus.
5. Part 3 of the Amendment Regulations amends Part 3 (Finance) of the 2019 Regulations to impose financial sanctions.
 - a. The instrument prohibits dealing with transferable securities and money-market instruments issued by relevant persons. This prohibition applies to securities and money-market instruments with a maturity exceeding 90 days that are issued after the date on which the August 2021 Regulations came into force.
 - b. A further measure prohibits granting loans and credit arrangements with a maturity exceeding 90 days, and entering into any arrangement to grant such loans or credit arrangements, to those same relevant persons.
 - c. Thirdly, prohibitions are imposed in relation to the provision of insurance and reinsurance services to a specified category of persons.
6. Part 4 of the Amendment Regulations provides for a number of trade restrictions.
 - a. Prohibitions on the export, supply and delivery, making available and transfer of specified goods and technology that could be used for the interception and

monitoring of communications. There is also a prohibition on the provision of related technical assistance, brokering services, financial services and funds.

- b. A prohibition on the provision of interception and monitoring services, to or for the benefit of the Belarusian Government.
 - c. Prohibitions on the export, supply and delivery and making available of specified goods used in the production and manufacture of tobacco products.
 - d. Prohibitions on the export, supply and delivery, making available and transfer of dual-use goods and dual-use technology for military use. There is also a prohibition on the provision of related technical assistance, brokering services, financial services and funds.
 - e. Prohibitions on the import, acquisition and supply and delivery of petroleum products and potassium chloride ('potash') originating in or consigned from Belarus, or from a person connected with Belarus. In addition, there is a prohibition on the provision of technical assistance, brokering services, financial services and funds relating to trade in petroleum products.
 - f. A prohibition on providing technical assistance to or for the benefit of any person designated under regulation 5(1)(c) of the 2019 Belarus Regulations, where that technical assistance relates to an aircraft.
7. Part 5 of the Amendment Regulations makes provision to allow the Secretary of State to direct the Civil Aviation Authority to refuse permission under articles 250 and 252 of the Air Navigation Order 2016 in respect of Belarusian aircraft, and to suspend or revoke existing permissions. It allows air traffic control to direct the operator or pilot in command of a Belarusian aircraft not to enter UK airspace, or to leave UK airspace by a specified route. It also allows an airport operator to direct the operator or pilot in command of a Belarusian aircraft not to land at an airport. The Secretary of State may direct air traffic control and airport operators to make such directions.
 8. The Amendment Regulations also make amendments to the 2019 Regulations to provide for exceptions from these measures, licensing and enforcement, including the creation of criminal offences.
 9. Section 2(4) of the Act requires a report to be laid before Parliament explaining why the appropriate Minister making Regulations under section 1 of the Act considers that carrying out each of the discretionary purposes of the Regulations would meet one or more of the conditions in paragraph (a) to (i) of section 1(2) of the Act, 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. A report under s.2(4) and the other documents that accompanied the 2019 Regulations were laid before Parliament on 20 March 2019.

10. An annual review under section 30 of the Act, examining whether the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 were still appropriate for the purposes stated in them, was completed on 18 March 2020. It concluded that during the review period the situation in Belarus had remained the same since the 2019 Regulations were laid in Parliament.
11. A summary of the conclusions relating to the discretionary purposes of the section 2 report and the annual review is below, together with an assessment of the current situation for the purposes of this section 46 report.

The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019

12. **Section 2 report, laid before Parliament on 20 March 2019:** The report stated that the discretionary purposes of the 2019 Regulations were to encourage the Government of Belarus to: (a) respect democratic principles and institutions, the separation of powers and the rule of law in Belarus; (b) refrain from actions, policies or activities which repress civil society in Belarus; (c) properly investigate and institute criminal proceedings against the persons responsible for the disappearances of Yury Zakharanka, Viktor Hanchar, Anatol Krasouski and Dzmitry Zavadski; and (d) comply with international human rights law and to respect human rights, including in particular to: (i) respect the right to life of persons in Belarus; (ii) respect the right of persons not to be subjected to torture or cruel, inhuman or degrading treatment or punishment in Belarus, including inhuman and degrading conditions in prisons; (iii) afford persons in Belarus charged with criminal offences the right to a fair trial; (iv) respect the right to liberty and security, including refraining from the arbitrary arrest and detention of persons in Belarus; (v) afford journalists, human rights defenders and other persons in Belarus the right to freedom of expression, association and peaceful assembly; (vi) secure the human rights of persons in Belarus without discrimination, including on the basis of a person's sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
13. The report concluded that carrying out those purposes met one or more of the conditions in section 1(2) of the Act. In particular, carrying out those purposes would fall within paragraph (f), in that it would promote compliance with international human rights law

and respect for human rights. The Government of Belarus continues to violate human rights in Belarus and the UK continues to lead international efforts to encourage Belarus to improve its human rights record and seeks to encourage the Belarusian Government to change. The UK does this by putting pressure on the Belarusian Government to improve the human rights situation in Belarus, including by imposing sanctions on human rights violators working or who have worked for the State.

14. **Annual review:** An annual review was completed on 18 March 2020. It concluded that during the review period the situation in Belarus had remained the same since the 2019 Regulations were laid in Parliament.
15. **Current assessment:** Since the completion of the section 2 report, the situation in Belarus has deteriorated. The UN High Commissioner for Human Rights, in her report to the Human Rights Council (“HRC”) in February 2021 described the human rights crisis in Belarus as unprecedented in the country’s history. The UN Special Rapporteur on Belarus, in her latest report to the HRC, on 5 July 2021, stated Belarus was becoming a totalitarian state which was purging all elements the authorities considered undesirable. Over 35,000 people have been detained and there are over 500 political prisoners. Civil Society and independent media organisations are constantly raided and their employees arrested. There are many credible reports of physical mistreatment and torture inside detention centres and prisons and the authorities are acting in an environment of impunity, with judicial, penal and security officials non-accountable. New laws restricting media freedoms and the right of assembly were introduced in May 2021 to reinforce the security forces crackdown. On 23 May 2021, the Belarusian authorities forced the diversion and landing of the Ryanair flight FR4978 to Minsk in order to arrest a journalist, Roman Protasevich, and his partner Sofia Sapega.
16. In response to this situation, it is a reasonable course of action to maintain the existing sanctions measures under the 2019 Regulations, and the new measures that were introduced by the August Regulations.
17. **Preventing Belarusian aircraft from overflying or landing in the UK:** Conferring powers to enable the Secretary of State and appropriate authorities to take action to prevent Belarusian aircraft overflying and landing in the UK is considered to be a reasonable course of action in order to contribute to the purposes in regulation 4 (a), (b) and (d) of the 2019 Regulations. It will put pressure on the Government of Belarus to change its behaviour as they are likely to reduce the amount of revenue flowing into the Belarusian Government from state-owned air carriers. It will also signal the seriousness of the diversion of Ryanair flight FR4978, and signal support for

Roman Protasevich and others detained by the regime. By acting in concert with the EU and other allies, greater pressure will be brought to bear on the Government of Belarus, as their air carriers (most notably state-owned Belavia) will not be able to operate a large number of their routes.

18. **Preventing the provision of technical assistance to aircraft for the benefit of designated persons:** Maintaining this measure is considered to be a reasonable course of action in order to contribute to all of the purposes in Regulation 4. Subject to decisions being taken to designate persons for the purpose of this measure, it is intended to be used to make it harder to operate aircraft used by certain designated persons, therefore complicating their travel and increasing pressure on them.
19. **Prohibiting the import, acquisition and supply/delivery of Potash and Petroleum products from Belarus, and the export, making available and supply/delivery of tobacco industry goods:** Maintaining these measures is considered to be a reasonable course of action in order to contribute to all of the purposes in Regulation 4. These measures will reduce the revenue of key Belarusian state-owned enterprises. Petroleum products are the country's top exports and their export is carried out by government-controlled companies – Belneftekhim and Belorusneft. Meanwhile, potash is exported from Belarus by a large state-owned entity, Belaruskali. By acting in concert with other partners, pressure will be brought to bear on the Government of Belarus, as the measures will restrict Belarus's access to income from cigarette manufacturing and sale, and from the export of potash and petroleum products, across other countries' markets as well as the UK.
20. **Prohibiting the export, making available and supply/delivery of interception and monitoring goods and technology, dual-use goods and technology for military use, and prohibiting the provision of interception and monitoring services to the Belarusian Government.** Maintaining these measures (or in the case of the restriction on making available interception and monitoring technology, putting it in place) is considered to be a reasonable course of action in order to contribute to all of the purposes in Regulation 4. They will make it harder for the Belarusian Government to access items that could enable the internal repression of their population, as well as signalling disapproval of their actions. They will also increase the cost of military manufacturing processes, increasing the costs to government of these items for their own use and reducing the revenue of the Belarusian Government so far as these items are produced for export. By acting in concert with the EU, the impact of these measures will be increased as they will cover exports from (and services provided from entities in) the whole of the EU as well as the UK.

21. **Prohibiting the provision of insurance and reinsurance to specified state entities** will make it harder for the Government of Belarus to access insurance to reduce their risk in undertaking a range of different activities. This will make it more expensive for them to fund their operations. It is also likely to increase costs and/or reduce revenue of key state-owned enterprises. This will apply coercive pressure to the Government of Belarus to change its behaviour, and signal disapproval of its current actions. By acting in concert with partners, greater pressure will be brought to bear on the Government of Belarus.
22. **Prohibiting dealing with securities and money-market instruments issued by specified state entities, as well as the provision of loans to them** will reduce the ability of the Belarusian Government to raise finance, for example through the issuing of sovereign debt (as they did in 2020 by issuing bonds on the London Stock Exchange), and the ability of state-owned banks and other entities to raise funds. This will reduce the amount of finance flowing to the Belarusian Government, thus applying pressure on the Belarusian Government to change its behaviour and signalling disapproval of its actions. By acting in concert with other partners, greater pressure will be brought to bear on the Belarusian Government.
23. **Adding to the designation criteria, to include ‘providing support for or obtaining an economic benefit from the Government of Belarus’ as a type of involvement in the specified activities set out in regulation 6(2).** Maintaining this measure is considered to be a reasonable course of action in order to contribute to all of the purposes in Regulation 4. Where the tests for designation are met, it will allow the Secretary of State to designate key individuals who have a mutually reinforcing relationship with Lukashenko along with members of his family and the regime. Such individuals obtain a number of concessions and privileges not given to other private business entities in Belarus in return for their support of Lukashenko and his regime.
24. The existing sanctions measures under the 2019 Regulations have not yet achieved the desired outcomes. A significant number of persons are designated under the existing regime, including Lukashenko, and there are trade sanctions in place covering military goods and technology and goods and technology which may be used for internal repression. The Belarusian Government has shown no signs of wanting to change its behaviour and has strengthened its repression in many areas. More comprehensive measures, as detailed above, are both reasonable and proportionate to achieve the purposes of the sanctions regime.

25. The policy intention is to keep sanctions in place until there has been evidence of concrete improvement in the areas of concern outlined in the purposes of the 2019 Regulations. The FCDO will continue to coordinate with international partners, to push for the rigorous implementation of existing sanctions, and to coordinate on the future of the sanctions regime. For the reasons set out in the section 2 report, carrying out those purposes meets one or more of the conditions in section 1(2) of the Act, there are good reasons for pursuing those purposes, and the imposition of the kinds of prohibitions and requirements imposed by this instrument for those purposes is a reasonable course of action for those purposes.

Lord Ahmad of Wimbledon

Minister for South Asia, the UN and Commonwealth