



BRIEFING NOTE: THE UK GLOBAL HUMAN RIGHTS SANCTIONS REGIME

November 2020

Introduction

The UK global human rights ('GHR') sanctions regime was introduced on 6 July 2020. It authorises the imposition of financial and immigration sanctions on individuals in order to deter and provide accountability for involvement in certain serious human rights violations.

Legislation

The regime was introduced by [The Global Human Rights Sanctions Regulations 2020](#) ('the Regulations').

The power to make sanctions regulations derives from section 1 of the [Sanctions and Anti-Money Laundering Act 2018](#).

Resources

The UK government has published the following resources:

- [Guidance - Global Human Rights Sanctions: Information Note for NGOs and Civil Society](#)
- [Statutory guidance - Global Human Rights sanctions](#)
- [Policy paper - Global Human Rights Sanctions: consideration of designations](#)
- [OFSI Financial Sanctions Notice](#)

Current Designations

At the time of publication, 55 individuals and two entities have been sanctioned. Designations are viewable on the [UK government's website](#).

The sanctioned group is comprised of Russian officials involved in the 2009 death of Sergei Magnitsky, Saudi nationals involved in the 2018 death of Jamal Khashoggi, Myanmar generals involved in ethnic cleansing of the Rohingya, two organisations involved in abuses in North Korea's gulags, and eight persons responsible for the serious human rights violations against protestors and journalists following the disputed 2020 election result in Belarus.

Despite the recency of the Regulations' introduction, certain patterns are detectable:

- Two individuals are senior generals, with responsibility for military operations.
- Three individuals are medical doctors, listed for failing to administer proper medical care.
- Four individuals are judges, listed for extending the detentions of vulnerable persons and for permitting or perpetuating procedural abuses.
- Fifteen individuals are 'investigators,' listed for recklessly or intentionally failing to fulfil their responsibilities.
- Eighteen individuals are listed for 'concealment' of their and/or others' activities.
- One individual is a head of state.
- Seven are responsible for, or have significant influence over, government authorities, including law enforcement and security services.

Scope of the Sanctions Regime

Purpose

The purpose of the GHR sanctions regime is to provide accountability for, and deter, activities that would, if carried out by a State, amount to serious violations of certain human rights ('Protected Rights') by that State (section 4 of the Regulations).

The Protected Rights (section 4(2)) are an individual's:

- a) right to life;
- b) right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment;
- c) right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour.

Corruption has not yet been included as a ground for sanctioning under the regime, but the government has committed to including this in due course (see [Hansard, 6 July 2020](#)).

The government in the [Information Note for NGOs](#) has suggested some activities which could potentially result in designation, provided the circumstances amount to a serious violation of one or more of the Protected Rights:

- Rape and other forms of sexual violence, including sexual slavery, forced prostitution, forced pregnancy, forced abortion, and enforced sterilization;
- Enforced disappearances;
- Extrajudicial killings, including and especially killings of or violence against human rights defenders, media workers, and journalists, as well as violence or killings motivated on the grounds of an individual's religion or belief; and
- Human trafficking, in so far as it constitutes slavery or practices similar to slavery, servitude, or forced and compulsory labour.

Types of Sanctions

The UK can impose the following sanctions under the GHR regime:

- Asset freezes: This involves the freezing of funds and economic resources (non-monetary assets, such as property or vehicles) of designated persons and ensuring that funds and economic resources are not made available to or for the benefit of designated persons, either directly or indirectly.
- Immigration: This imposes a travel ban on designated persons. A person who is designated in this way becomes an 'excluded person' for the purposes of section 8B of the Immigration Act 1971. This means that the individual will be refused leave to enter or remain in the UK.

Who Can Be Designated?

The Regulations provide the Foreign Secretary with the power to designate ‘involved persons’ (under sections 5 & 6).

The ‘involved person’ can be a state or non-state actor, and can be an individual or a legal person such as a company or organisation. It includes persons of any nationality for activities outside the UK, and non-UK persons for activities within the UK (section 4(4)).

Under section 6(2), an ‘involved person’ means a person who:

- a) is or has been involved in an activity violating one of the Protected Rights,
- b) is owned or controlled directly or indirectly (see section 7) by a person who is or has been so involved,
- c) is acting on behalf of or at the direction of a person who is or has been so involved, or
- d) is a member of, or associated with, a person who is or has been so involved.

Under section 6(3), a person is involved in an activity violating a Protected Right if:

- a) the person is responsible for or engages in such an activity;
- b) the person facilitates, incites, promotes, or provides support for such an activity;
- c) the person conceals evidence of such an activity;
- d) the person provides financial services, or makes available funds, economic resources, goods, or technology, knowing or having reasonable cause to suspect that those financial services, funds, economic resources, goods, or technology will or may contribute to such an activity;
- e) the person provides financial services, or makes available funds, economic resources, goods, or technology to a person mentioned in sub-paragraph (a);
- f) the person profits financially or obtains any other benefit from an activity violating a Protected Right;
- g) the person is responsible for the investigation or prosecution of such an activity and intentionally or recklessly fails to fulfil that responsibility; or
- h) the person contravenes, or assists with the contravention of an asset freeze over a designated person.

An ‘activity’ includes an omission (section 4(4)).

Legal Tests

Before a person can be designated:

- There must be ‘reasonable grounds to suspect’ that the person is an ‘involved person’ (section 6(1)(a)); and
- Designating that person must be considered appropriate having regard to the purposes of the GHR sanctions regime, and the likely significant effects the designation will have on that person (section 6(1)(b)).

Consideration of Designations

The following factors have been identified in the [FCDO Policy Paper](#) as relevant, but not exhaustive, in deciding whether a person should be considered for designation:

- a) The Foreign, Commonwealth and Development Office's ('FCDO') human rights priorities. These currently include media freedom, combatting modern slavery, preventing sexual violence in or related to conflict, freedom of religion or belief, torture prevention, and the protection of human rights defenders.
- b) The nature of the victim. Particular attention will likely be given to activities that are carried out in relation to individuals who seek to obtain, exercise, defend, or promote human rights, such as journalists, civil society activists, human rights defenders, and whistle-blowers. The victim's connections to the UK may also be considered.
- c) The seriousness of the conduct, the scale, impact, and nature of the abuse, and the person's involvement, including whether the conduct has a systematic nature or is part of a pattern of behaviour.
- d) International profile and collective action. Particular consideration will likely be given to cases where international partners have adopted, or propose to adopt, sanctions and where action by the UK is likely to increase the effect of the designation in addressing the issue in question.
- e) For non-state actors, whether they have acquired a significant degree of control, authority, and organisation over people or an area.
- f) The status and connections of the involved person. Consideration will be given to which designations would have the most impact in providing accountability for the violation or abuse in question. This may involve considering the position of the person in the hierarchy of an organization and whether that person has particular links to the UK, which would make them particularly affected by travel or financial restrictions.
- g) The effectiveness of other measures, including law enforcement. Particular attention is likely to be given to cases where the relevant jurisdiction's law enforcement authorities have been unable or unwilling to hold those responsible for human rights violations or abuses to account.

In a briefing for NGOs on 10 July 2020, the FCDO noted that:

- There are no time limitations around applying GHR sanctions to historical cases. The key is whether the sanctions would have a deterrence or accountability effect.
- There is a focus on both the political impact (behavioural change, deterrence, and accountability) and the practical impact (impact on assets and movement).
- The regime is genuinely global and takes a thematic approach, rather than focusing on particular countries or regions.

What Information is Required and Preferred?

In order to make a designation, the government requires the following information:

- Identification of activity that would amount to a serious violation of one of the Protected Rights.
- The identity of the person or persons responsible for the violation.
- A description of how and to what extent named persons are involved in the activity.

The FCDO advises that those seeking to provide information take all appropriate steps to ensure that the information is verified or verifiable and from a trusted source, and that all information provided is relevant to the proposed designation. The FCDO has indicated that they maintain a preference for open-source (publicly-available) material, such as existing NGO reports, UN investigations, or court proceedings.

The FCDO further advises that it will be unable to provide comments, updates, or feedback on proposed designations, evidence, or other information that has been submitted.

Confidentiality

The FCDO has advised that information provided to it which needs to be treated as confidential must be clearly marked as such. However, there may be circumstances where the FCDO may have to release the information in accordance with UK law, such as under data protection or freedom of information regimes, or in the context of litigation (see the [FCDO Information Note](#)).

Accordingly:

- Consideration should be given to any risks if the information is disclosed.
- The information provided should be accurate, necessary, and proportionate.

Who Must Comply?

The prohibitions and requirements imposed by the Regulations apply within the UK and in relation to the conduct of all UK persons wherever they are in the world. UK persons include British nationals, as well as all bodies incorporated or constituted under the law of any part of the UK. Accordingly, the prohibitions and requirements imposed by the Regulations apply to all companies established in any part of the UK, and they also apply to branches of UK companies operating overseas.

It is prohibited to intentionally participate in any activities if the person knows that the object or effect of them is to circumvent the prohibitions and requirements imposed by the Regulations or to enable or facilitate the contravention of any of the financial or immigration sanctions prohibitions.

Review of Designations

Designations may be reviewed or amended by the relevant Minister in certain circumstances:

- A relevant designation may at any time be varied or revoked by the Minister (section 22(2)).
- The Minister must revoke the designation if at any time they consider that the required conditions (see 'Legal Tests' above) are not met (section 22(3) & (4)).
- The designated person may request the Minister to vary or revoke the designation at any time while it has effect (section 23(1)).
 - On receiving a request, the Minister must decide whether to vary or revoke the designation, or to take no action (section 23(3)).
 - A further request may only be made if there is a significant matter which has not previously been considered by the Minister (section 23(2)).
- The Minister must review each designation every three years (section 24).

Designations are reviewed by a court in the following circumstances:

- Following a review by the Minister, the designated person, or a person affected by the decision, may apply to the High Court, or, in Scotland, the Court of Session, for the decision to be set aside (section 38(1)-(3)).
- In determining whether the decision should be set aside, the court must apply the principles relevant to an application for judicial review (section 38(4)).

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Photo cover by Alamy: London is a notorious safe haven for the wealth of corrupt actors and human rights abusers.