

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

BURUNDI (SANCTIONS) REGULATIONS 2021

Monday 17 January 2022

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Friday 21 January 2022

© Parliamentary Copyright House of Commons 2022

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chair: JAMES GRAY

Abrahams, Debbie (*Oldham East and Saddleworth*)
(Lab)

† Daby, Janet (*Lewisham East*) (Lab)

† Davies, Dr James (*Vale of Clwyd*) (Con)

† Doughty, Stephen (*Cardiff South and Penarth*)
(Lab/Co-op)

† Harris, Rebecca (*Lord Commissioner of Her
Majesty's Treasury*)

† Heaton-Harris, Chris (*Minister for Europe*)

† Jones, Mr David (*Clwyd West*) (Con)

† Jones, Gerald (*Merthyr Tydfil and Rhymney*) (Lab)

† Lamont, John (*Berwickshire, Roxburgh and Selkirk*)
(Con)

† Latham, Mrs Pauline (*Mid Derbyshire*) (Con)

† Lopresti, Jack (*Filton and Bradley Stoke*) (Con)

† Maynard, Paul (*Blackpool North and Cleveleys*)
(Con)

† Mercer, Johnny (*Plymouth, Moor View*) (Con)

† Morris, Grahame (*Easington*) (Lab)

† Shelbrooke, Alec (*Elmet and Rothwell*) (Con)

Smith, Nick (*Blaenau Gwent*) (Lab)

† Thompson, Owen (*Midlothian*) (SNP)

Kevin Maddison, *Committee Clerk*

† **attended the Committee**

Second Delegated Legislation Committee

Monday 17 January 2022

[JAMES GRAY *in the Chair*]

Burundi (Sanctions) Regulations 2021

6 pm

The Chair: I remind the Committee that Mr Speaker has enjoined us all to maintain social distancing and to wear our masks in Committee if we choose to do—which I will be doing, and I hope the Committee will, too.

The Minister for Europe (Chris Heaton-Harris): I beg to move,

That the Committee has considered the Burundi (Sanctions) Regulations 2021 (S.I. 2021, No. 1404).

It is a pleasure to serve under your chairmanship, Mr Gray.

The statutory instrument was laid on 13 December 2021, under the powers provided by the Sanctions and Anti-Money Laundering Act 2018, also known as the sanctions Act. The instrument revokes and replaces the Burundi (Sanctions) (EU Exit) Regulations 2019 to remove one of the purposes of that regime and its corresponding designation criterion.

After reviewing the Burundi sanctions regime in the annual review, in accordance with our statutory obligations under section 30 of the sanctions Act, Lord Ahmad of Wimbledon, the sanctions Minister, decided that the 2019 Burundi regulations were no longer appropriate for all their purposes. The purpose in regulation 4(b) of the 2019 regulations encouraged 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 and broadly peaceful transfer of power to a new President and, although political tensions remain, there is no longer an immediate political crisis. As such, Lord Ahmad decided to revoke and replace the 2019 regulations to remove the purpose in regulation 4(b) and its corresponding designation criterion, regulation 6(2)(a)(ii).

Apart from that, the Burundi (Sanctions) Regulations 2021 maintain the same effects as the 2019 Burundi regulations. Hon. Members should note that there are currently no designations under that regime.

In response to the improved political climate in Burundi, we decided not to transition the specific individual designations under the EU sanctions regime to the UK’s autonomous Burundi sanctions regime at the end of the transition period. We have seen more positive developments in Burundi since that time, and we warmly welcome the Government of Burundi’s closer co-operation with the international community over the past year. We also note, for example, that the Government have re-engaged with some media outlets. We welcome that increased commitment to human rights.

While those are encouraging steps towards peace and stability in Burundi, the UK Government still want to see further progress over a sustained period of time. We remain concerned by reports of human rights violations and abuses being committed against the political opposition and other critical voices. We are concerned about the treatment of human rights defenders in Burundi, and the ongoing impunity of those who have violated or abused human rights in Burundi and of those who do so now. Breaches of human rights and the impunity of perpetrators sully and compromise the gains made towards long-term stability in Burundi.

The purposes of the sanctions regime now are to encourage the Government of Burundi: first, to respect democratic principles and institutions, the rule of law and good governance in Burundi; secondly, to refrain from policies or activities that repress civil society in Burundi; and, thirdly, to comply with international human rights law and respect human rights. Maintaining the regime, even without designations, underlines the seriousness of our desire to see that progress. It also allows us to designate persons for sanctions swiftly should the need arise.

Finally, I wish to draw to the attention of the Committee to the fact that, after laying the regulations in Parliament on 13 December last year, an error was identified in one of the purposes of those regulations. The error is the inadvertent omission of “including” from part of the “Purposes”, in regulation 4(c)(ii).

That provides that the purposes of the regulations contained in the instrument are to encourage the Government of Burundi to comply with international human rights law and to respect human rights, including, in particular, to respect the right of persons not to be subjected to cruel, inhuman or degrading treatment or punishment in Burundi in the context of rape, other forms of sexual violence and gender-based violence. The intention had been to refer to the right of persons not to be subjected to cruel, inhuman or degrading treatment or punishment in Burundi, including in the context of rape, other forms of sexual violence and gender-based violence, but the word “including” was omitted. However, this omission does not make a substantive difference, as the purposes are clear that they encourage the Government of Burundi to comply with all international human rights law—not just in the context of sexual or gender-based violence—and that regulation 4(c)(ii), which omits the word “including”, is an example within a wider definition. Nevertheless, the intention is to correct the error as soon as a suitable opportunity to amend the regulations arises. I obviously welcome the opportunity to hear the views of the Committee on the regulations, and I commend the regulations to the Committee.

6.5 pm

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): It is a pleasure to see you chairing the Committee, Mr Gray, and I thank the Minister for what he has set out. I understand that, overall, these are largely technical changes. The Opposition will not oppose the overall framework for the sanctions regime, because if we wanted further designations to be made in the future, or further actions to be taken, removing it would make no sense at all.

However, I have some questions for the Minister, because I fear that he somewhat skipped over some of the serious and genuine concerns about the human rights situation in Burundi. I hope he can explain in a bit more detail why there are now no designations and rollovers of individuals. What assessments were carried out on the individuals who had previously been designated, or indeed on others about whom concerns have been expressed to the Government either privately or publicly, of which there are a number?

I will come back to some wider questions about the sanctions regime that the SI is part of in a moment, but the Minister said that political tensions remain. I fear that is somewhat understating the situation. Humanitarian and human rights organisations have highlighted consistent abuses in Burundi that, in some cases, are alleged to amount to crimes against humanity. There were initially promising signs that the Government of Burundi were taking steps under the new Administration to improve the human rights situation, including a return to open dialogue, which had largely deteriorated previously, and progressive statements made by the new President—for example, to rein in violent youth groups, to release political prisoners and to expand journalistic freedoms. In reality, however, little has been achieved and structural human rights abuses continue to take place. In some cases, it is alleged that they have actually got worse.

I fear that relinquishing all sanctions against individuals in Burundi is only likely to encourage those who want to take a more repressive approach and take the country back into very difficult territory. It is not just me saying this; it is the view of a number of senior and significant individuals, including Doudou Diène, the chairperson of the UN Commission of Inquiry on Burundi, who said:

“We call on everyone concerned for Burundi to look under the surface. Since President Ndayishimiye’s inauguration 15 months ago, not only have grave human rights violations continued to occur, but in some respects the situation has deteriorated”.

The UN Commission of Inquiry on Burundi, established in 2016, continues to document grave human rights violations. It concluded in September 2021 that

“no structural reform has been undertaken to durably improve the situation. Serious human rights violations have continued to be committed by State officials and members of the *Imbonerakure* with the acquiescence of the authorities or even at their instigation. The rule of law continues to be progressively eroded.”

Indeed, it has been alleged that excessive brutality has been shown to anyone suspected of opposing the authority of the ruling party, with arbitrary arrests, torture and even killings. Of course, that applies to a whole range of individuals—whether civilians or journalists and others who have provided criticism—and dissenting civil society and members of the media have been at serious risk of detention and forced disappearances. The United Nations working group says that, as of 2020, there had been more than 238 people disappeared. Cases of violations by the police forces and others that would amount to crimes against humanity according to the UN Human Rights Council, have also been documented.

Of course, there are issues as well across the borders, with horrific stories of bodies floating down the Ruzizi river. Bodies that are cuffed have been seen floating in the rivers. Survivors of situations have described torture, and Human Rights Watch and others have detailed harrowing accounts, substantiating abuses conducted over many years by a number of Administrations. So I

hope that the Minister will be able to respond to some of those allegations and explain, in that serious and worrying context, why he is so optimistic about the progress that is being made, because that optimism is clearly not shared by a range of independent observers.

In conclusion, I want to raise a couple of wider points, because this measure is obviously part of the wider sanctions regime. The Minister will be aware that there was a debate in Westminster Hall just a few weeks ago regarding the wider sanctions regime, and there was criticism of it, which directly relates to this measure. It was asked why we are not sanctioning more individuals using the powers under the sanctions legislation—indeed, under the Magnitsky amendment that was part of it.

There has been some suggestion that that is due to capacity issues in the Foreign, Commonwealth and Development Office for investigating individuals. Some excellent staff work in the sanctions unit and elsewhere; I know the fantastic work they do. However, we need to ensure that they are properly resourced and have all they need at their disposal, because we seem to be lagging behind the United States and others in designating individuals, whether it is in relation to Burundi or a number of other circumstances. Can the Minister say whether further, similar measures will come out of the reviews that the Department has been undertaking? Can we expect further statutory instruments like this one to be brought forward in the weeks ahead?

We want these powers to be used fully and proportionately. Fundamentally, however, we have these powers and we should hold to account those guilty of human rights abuses, corruption and illicit finance—all these things that we all say we want to see action on—and use the powers to their fullest extent, not just in Burundi but more broadly.

I hope that the Minister can answer some of those questions.

6.11 pm

Chris Heaton-Harris: I thank the hon. Member for Cardiff South and Penarth for his points and his questions, and I will try to answer as many of them as I possibly can.

I guess that I will take the second bit first, because we are using the Magnitsky sanctions regime a great deal. Since the UK’s global human rights sanctions regime was established in July 2020, we have designated 75 individuals and six entities under the global human rights sanction regime, and we have also designated 27 individuals under the global anti-corruption sanctions regime since it was established last April.

Obviously, the full sanctions list is available for everybody to see on the gov.uk website and it provides quite some detail about those individuals and entities designated under sanctions regulations made under the Sanctions and Anti-Money Laundering Act. We work with our international partners and take soundings from all the non-governmental organisations that the hon. Gentleman referred to when we are establishing the detail before going through any sort of designation.

The hon. Gentleman asked some very legitimate questions about Burundi itself, including why we are not designating more people in Burundi. Maintaining the regime that we have encourages the Government of Burundi to build on the recent positive political

[Chris Heaton-Harris]

developments. It also underlines the seriousness of our desire to see further progress. It allows us the flexibility to designate, should we see fit and should the evidence suggest that is what we need to do. It also allows us to designate swiftly if the need arises.

We keep the sanctions regime under constant review and monitor political developments in the country, including on human rights, on a very regular basis. The hon. Gentleman mentioned what other people are doing when it comes to designations in Burundi. I note that the US Government revoked its Burundi sanctions regime in November. The UK and the US have different legislative frameworks and powers for imposing sanctions. However, we also note that the EU renewed its Burundi sanctions regime in October.

On the more general point about human rights in Burundi, we welcome the Government of Burundi's closer co-operation with the international community over the past year. We note that the steps that the Burundi Government have taken to demonstrate greater commitment to human rights, including prisoner releases, are very positive and we urge them to deliver further progress over a sustained period.

However, we also watch the situation in Burundi very closely and take advice from a number of the entities that the hon. Gentleman referred to. We remain concerned about reports of human rights violations and abuses being committed against the political opposition and critical voices, and we are also concerned about the treatment of human rights defenders in Burundi, as I outlined in my opening remarks. Breaches of human rights, coupled with impunity of perpetrators, compromise the gains made towards long-term stability in the country.

While Burundi's human rights situation remains concerning for the UK, we want to recognise the positive steps and progress on human rights that have been made

under the new President's leadership. We want to see that progress continue. As the hon. Gentleman knows, we have a small diplomatic presence, in the British Embassy Liaison Office Bujumbura, through which we continue to work with the resident international community to advocate improved human rights in Burundi. We also engage through a whole host of international forums, such as the UN Human Rights Council, to continue that push.

We continue to call on the Government of Burundi to co-operate with all UN human rights mechanisms, including the new special rapporteur, and to enable the reopening of the Office of the United Nations High Commissioner for Human Rights in Burundi. We have also provided support to a range of local human rights and media freedom actors, as well as the national human rights commission. We take such matters extremely seriously, and I hope that hon. Members see how important we consider them to be.

As I set out in my opening speech, the Burundi (Sanctions) Regulations 2021 in essence maintain the same effects as the those of the previous regime. The UK Government are pleased to work with the Government of Burundi on priority issues, including human rights. We call on the Government of Burundi to co-operate with all the UN human rights mechanisms, including the new special rapporteur, and to facilitate the reopening of the Office of the UN High Commissioner for Human Rights in Burundi.

I thank the hon. Member for Cardiff South and Penarth for his points and questions. If I have missed anything, I will happily write to him. I hope that the Committee will support the regulations.

Question put and agreed to.

6.16 pm

Committee rose.

