The Norwegian Sanctions Act

Does it permit the Norwegian Government to become proactive in imposing human rights sanctions?

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Preface

The Norwegian Helsinki Committee (NHC) is an Oslo-based, internationally oriented human rights organisation. We support local human rights initiatives in the countries where we are engaged, run projects to document and fight impunity for gross violations of human rights and core international crimes and work with networks of Parliamentarians that promote freedom of religion or belief. We advocate fundamental freedoms, democratic principles, and the rule of law.

The NHC uses various methods, such as monitoring human rights violations, observing elections, developing documentation databases, education, and advocating for national governments and international organisations to place human rights first. We provide expert commentary to the media and submit alternative reports to relevant international human rights reviews. Through social media, we increase popular awareness, garner the political will to confront abuse, and increase respect for human rights.

A significant part of our activities is devoted to strengthening human rights organisations and defenders, whistle-blowers, journalists, and lawyers in Central and Eastern Europe and the five Central Asian republics. We pay particular attention to individuals, groups and networks that are at risk.

Many of our activities take place in authoritarian states, where government policies and legislation restrict freedom of organisation, expression, assembly, religion, or belief, as well as rights to free and fair elections. The judiciary and media outlets in such states are under the control of the government.

Since 2010, the Norwegian Helsinki Committee has cooperated with the international Magnitsky campaign led by Bill Browder. The campaign's main aim is to influence democratic governments to apply Magnitsky sanctions against officials involved in serious human rights violations or corruption with impunity. Such sanctions impose an entry ban, freeze assets, exclude targeted persons from financial services, etc.

In 2021, the Norwegian Parliament adopted legislation permitting the government to impose targeted sanctions against human rights violators on certain conditions. In this report, we present the Sanctions Act and argue that the Government can apply it more proactively than is currently the case.

We thank the Norwegian law company Wikborg Rein, which *pro bono* conducted the legal analysis for the report.

Berit Lindeman

Secretary-General

1 Introduction

Wikborg Rein,[1] a renowned Norwegian and international law company, was requested by the Norwegian Helsinki Committee (NHC) to provide an assessment of the Norwegian sanctions act of 16 April 2021 (the Sanctions Act).[2] The background for the request was NHC's work to strengthen accountability for war crimes and human rights violations. NHC considers that the Sanctions Act both could and should be used more actively by the executive branch of the Norwegian government (the Government) to impose targeted sanctions against foreign persons who commit war crimes and human rights violations, including in relation to the Russian Federation's ongoing war of aggression against Ukraine.

Against this background, and bearing in mind the public debate on how the Sanctions Act should be interpreted,[3] NHC asked Wikborg Rein to assess the following main questions:

1. Does the Sanctions Act and its preparatory works permit the Government to take its own initiatives to impose targeted sanctions as long as there exists "*broad international support*"[4] for such sanctions?
2. Does the "*broad international support*" requirement in the Sanctions Act mean that (a) Norway can only impose sanctions as part of a coalition of states that cooperate on sanctions or (b) that Norway can impose sanctions on its own when it is clear (from international resolutions or otherwise) that there is broad international support for them?
3. Does the Sanctions Act permit the Government to create a sanctions desk that can receive submissions from non-governmental organisations (NGOs) and others? Are there passages in the preparatory works that indicate that this should be done?

In addition, Wikborg Rein was asked to provide input on the following topics:

4. Norway's current targeted sanctions practice to address human rights violations and international crimes related to the Russian Federation's ongoing war of aggression against Ukraine.

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1. More information on Wikborg Rein is available on its website (https://www.wr.no/en/). The analysis presented in this brief was provided by Wikborg Rein as part of its *pro bono* work to support NHC's work on documentation and accountability for war crimes.
2. Lov av 16. april 2021 om gjennomføring av internasjonale sanksjoner (sanksjonsloven) [Act on the Implementation of International Sanctions (Sanctions Act)]. The official version of the Act is available on the website of Lovdata (https://lovdata.no/dokument/NL/lov/2021-04-16-18).
3. See e.g., an article from Dagbladet, "*Støre misforstår loven*" [Støre misinterprets the law], 27 February 2022, available here: https://www.dagbladet.no/nyheter/store-misforstar-loven/75480301
4. Norwegian: "*bred internasjonal oppslutning*". Note that all our translations of relevant laws and preparatory works from Norwegian to English are unofficial office translations.

5. Official statements on current sanction policies.
6. Previous sanctions practices related to human rights and democracy crisis situations, including whether Norway follows the EU or whether it sometimes sanctions differently.
7. Norway's practices of human rights sanctions compared to practices of the US, Canada, the UK, and the EU.

In parts 2 and 4-6 of this report, Wikborg Rein's conclusions on these issues are presented. An executive summary of Wikborg Rein's conclusions is contained in part 2, Executive Summary. A description of the relevant sources of law appears in part 3. Wikborg Rein's analysis of the Sanctions Act (*i.e.*, questions 1 to 3 above) is in part 4, while in part 5, Wikborg Rein addresses the questions relating to sanctions practice (*i.e.*, questions 4 to 7 above).

Part 3 presents the NHC's views and recommendations to Norwegian authorities based on Wikborg Rein's analysis, while an unofficial translation of the report is included as an appendix.

2 Executive Summary

2.1 The Sanctions Act

2.1.1 Does the Sanctions Act and its preparatory works permit the Government to take its own initiatives to impose targeted sanctions as long as there exists "broad international support" for such sanctions?

It is our conclusion that the Sanctions Act permits the Government to take its own initiatives to impose targeted sanctions through the adoption of administrative regulations, provided that the sanctions in question (i) have "broad international support", (ii) aim to maintain peace and security or ensure respect for democracy and the rule of law, human rights, or international law in general, and that (iii) other circumstances do not entail that the Norwegian parliament ("the Storting") should still be either consulted or themselves tasked with implementing the sanctions prescribed in the law. In brief, the plain text of the law allows for such a conclusion, and it is clear from the preparatory works and legislative history that the Storting meant for the Government to have the option to do so.

2.1.2 Does the "broad international support" requirement mean that (a) Norway can only impose sanctions as part of a coalition of states that cooperate on sanctions or (b) that Norway can impose sanctions on its own when it is clear (from international resolutions or otherwise) that there is broad international support for them?

The meaning of the term "*broad international support*" is unclear. It seems to require that the sanctions in question must have broad support in the population and within civil society in general, and that an unspecified number of "like-minded states" must have adopted and to some extent followed up on (albeit not yet fully implemented) equivalent measures.

2.1.3 Does the law permit the Government to create a sanctions desk that can receive submissions from NGOs and others? Are there passages in the preparatory works that indicate that this should be done?

There is nothing in the Sanctions Act to suggest that creating a sanctions desk would *not* be permitted. Therefore, whether such a sanctions desk can be created is essentially a matter of political will.

2.2 Sanctions practice

In respect of UN sanctions, Norway is obliged by international law to implement binding sanctions resolutions adopted by the UN Security Council and has loyally done so.

In respect of EU sanctions, Norway is not obliged to implement sanctions adopted by the EU. Still, Norwegian authorities have decided to implement almost all EU sanctions regimes, and only rarely modify or change their scope or content. However, on a few occasions, Norwegian authorities have decided not to implement EU sanctions in full or at all. These occasions illustrate that Norwegian authorities do make independent assessments of whether EU sanctions should be implemented in Norwegian law, and, if so, to what extent.

While Norway's sanctions against Russia are based on, and predominantly aligned with, the EU's Russia-related sanctions regime, the Government has made certain modifications, particularly (but not exclusively) to reflect unique trading arrangements between Russia and Norway.

In addition, Norwegian authorities have previously imposed sanctions that are neither UN nor EU based, although this has been achieved through the Storting, rather than by the Government.

3 Recommendations

The Sanctions Act significantly strengthens the toolbox for Norway's human rights policies. However, some shortcomings exist, such as the Act not including "serious corruption" among sanctionable conduct. An unanswered question is whether the government will invite civil society actors to submit cases.

The Act authorises the Government to implement UN Security Council sanctions and restrictive measures adopted by intergovernmental organisations (such as the EU) or measures that otherwise have "*broad international support*". The measures must aim to maintain peace and security or ensure respect for democracy, the rule of law, human rights, or international law in general. It is worth noting that the Act includes "Svalbard", where several countries have vested interests, including the Russian Federation.

The Norwegian government may apply the Act by implementing EU and Security Council sanctions only. However, the Norwegian Helsinki Committee maintains that a more ambitious approach should be developed. As shown by Wikborg Rein's legal analysis presented in the report, the Act allows the Government to actively seek international cooperation to apply sanctions against those who commit human rights violations with impunity.

- Norway should seek cooperation with other Nordic, Baltic, and democratic European States, and possibly with Australia and Canada, to form a group of like-minded states that adopt human rights sanctions against the same violators while also aiming to influence EU human rights sanctions (Magnitsky) policies. The group should coordinate with the US, which currently has the most far-reaching sanction practices.
- Norway should establish a human rights sanctions desk in the Foreign Ministry to receive submissions on human rights (Magnitsky) sanctions cases and to dialogue with civil society and professional actors on its sanctions policies. As noted in Section 5.3 below, "there are quotes in the preparatory works suggesting that there is political manoeuvring room "in special cases" for Norway, together with "a few other states" to play a more active and leading role in sanctions policy, *i.e.*, not exclusively following the EU, but also taking its own practice initiatives. We would think that establishing a sanctions desk or forming a network of like-minded states that seek to adopt coordinated human rights sanctions against the same violators, are (political) initiatives that could be pursued in this regard."
- Norway and like-minded states should support the creation of an international human rights sanction commission ("Magnitsky commission"), a non-governmental body constituted by respected and renowned persons with high integrity and pertinent competence in international human rights and international criminal law. Such a commission can help develop human rights sanctions into a coordinated and

effective tool for democratic states to strengthen respect for human rights where it is most needed.[5]

5. For more detail, see https://www.nhc.no/en/establishing-a-european-magnitsky-commission/ While the proposal describes a "European" Commission, there are strong arguments that the Commission should be named and framed as an "international" commission, seeking to unite democratic states on all continents in developing common Magnitsky sanctions policies.

4 Legal background

4.1 Introduction

In order to provide relevant context for our analysis of questions relating to the Sanctions Act in section 5 below, we include a brief description of the previous (and now repealed) sanctions laws. This is particularly relevant because the content and scope of the Sanctions Act partly build on, and are a continuance of, such prior legal acts.

Furthermore, we include in section 4.3 an overview of the main features of the Sanctions Act.

4.2 Sanctions acts in the past

Broadly speaking, Norwegian legislation consists of (i) acts that have been passed by the Storting and (ii) administrative regulations that have been issued by the Government under authority granted to it by the Storting's acts.

Prior to the Sanctions Act, the Government's authority to issue sanctions flowed mainly from two acts passed by the Storting:

i. The *Act on the implementation of binding United Nations Security Council resolutions* of 7 June 1968[6] (the "1968 Act") provided the Government with the authority to implement sanctions adopted by the UN Security Council in the form of binding resolutions.
ii. The *Act on the implementation of international, non-military measures in the form of disruption or limitation of economic or other forms of relations with third states or movements* of 27 April 2001[7] (the "2001 Act") provided the Government with the authority to implement certain international, non-military measures. The main objective of the 2001 Act was to implement EU sanctions, but as further described in section 5.2 below, the scope was not entirely limited to this purpose.

Collectively, we refer to these two enabling acts as the "Previous Sanctions Acts" in the following.

6. Lov til gjennomføring av bindende vedtak av De Forente Nasjoners Sikkerhetsråd.
7. Lov om iverksetjing av internasjonale, ikke-militære tiltak i form av avbrot eller avgrensning av økonomisk eller anna samkvem med tredjestater eller rørsler.

In addition to the Previous Sanctions Acts, certain enabling acts previously authorised the Government to implement specific economic sanctions against Iran (1980), Argentina (1982), Yugoslavia (1999), and Zimbabwe (2003), and to prohibit – primarily in relation to the Spanish civil war – transportation of weapons, etc. to third states (1937). Both the Previous Sanctions Acts and the four specific enabling acts were repealed when the 2021 Sanctions Act entered into force. Still, the Previous Sanctions Acts and the specific enabling acts may provide guidance in the interpretation of the scope and use of the authority in the Sanctions Act.

In addition to the general and specific enabling acts, the Storting itself has also passed two specific acts (1986 and 1987) which implemented sanctions against the former apartheid regimes in South Africa and Namibia.[8] These acts were repealed in February 1994 but will be commented on to the extent relevant in section 5 below.

4.3 The Sanctions Act[9]

4.3.1 Introduction

In recent years, the number of sanctions regimes has increased, and international trends relating to the targets, content, and scope of sanctions have changed. In order to ensure that the Government has sufficient legal grounds to effectively implement various sanctions in light of these developments,[10] the Sanctions Act was prepared by the (Solberg) Government in 2020[11] and adopted by the Storting in 2021.[12]

The Sanctions Act entered into force on 16 April 2021. It provides the Government with the authority – but not the obligation – to implement certain types of sanctions or restrictive measures if certain criteria are met, cf. sections 1 and 2 of the Sanctions Act.

In essence, the Sanctions Act is a continuation of the Previous Sanctions Acts. However, it also provides some adjustments to, and clarifications of, the wordings and content of key provisions. We will discuss certain general aspects of these key provisions in the following, and more in-depth in section 5.

The Sanctions Act is currently the only legal ground that authorises the Government to implement sanctions independently of the Storting.[13]

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8. Lov om forbud mot salg, formidling m.v. av norsk petroleum til Sør-Afrika (1986) [Act on prohibition of sale, dissemination, etc. of Norwegian petroleum to South Africa] and Lov om økonomisk boikott av Sør-Afrika for å bekjempe apartheid (1987) [Act on Economic Boycott of South Africa to Fight Apartheid].
9. **The Government may also impose certain restrictive measures with basis in other laws, such as the Immigration Act and the Export Control Act. Such legal authorities are not treated in this report.**
10. Prop.69 L (2020-2021), item 2.2.1, p. 7.
11. Prop.69 L (2020-2021).
12. Innst. 290L (2020-2021).

4.3.2 Legal basis for the implementation of UN sanctions

Norway is bound by international law to implement economic sanctions that are adopted by the UN Security Council. Currently, such UN sanctions are implemented through administrative regulations issued by the Government on the basis of section 1 of the Sanctions Act.

4.3.3 Legal basis for implementation of EU sanctions

Section 2 of the Sanctions Act provides that the Government may implement sanctions or restrictive measures other than the sanctions Norway is obliged to implement from the UN, provided that certain criteria are met.

Section 2 provides that the Government may issue regulations comprising the necessary provisions for Norway to implement sanctions or restrictive measures that *"have been adopted in intergovernmental organisations"* or that "o*therwise have broad international support",* and that "*aim to maintain peace and security or ensure respect for democracy and the rule of law, human rights, or international law in general",* cf. paragraph 1.

The first alternative, *i.e.*, sanctions that "*have been adopted by intergovernmental organisations",* typically comprises sanctions adopted by the EU. Although it is not expressly stated in the wording, it is clear from the preparatory works and the legislative history that the main (albeit not only) purpose of section 2 is to provide the authority to implement EU sanctions in an effective manner.[14] The effective implementation of EU sanctions was also one of the main purposes of the 2001 Act.[15] So far, both the 2001 Act and the Sanctions Act have only been used to implement EU sanctions.

The scope of *the second alternative*, *i.e.*, sanctions that have not been adopted by intergovernmental organisations such as the EU but which "*otherwise have broad international support",* is analysed in sections 5.1 and 5.2 below.

In addition to the introduction of the "*broad international support"* concept, section 2 of the Sanctions Act increases the types of people and entities that Norwegian sanctions can target and also increases the types of sanctions that can be used.[16]

13. *I.e.,* within the scope of the Sanctions Act, and without having to propose a draft bill that has to pass the legislative procedure in the Storting in order to become law.
14. Prop. 69 L (2020-2021) item 5.3.3.1 p. 19, cf. item 5.5 p. 25.
15. Prop. 69 L (2020-2021) item 5.1.2 p. 16, cf. Innst. Nr. 50 (2000-2001) p. 3.
16. Innst. 290 L (2020-2021) p. 3.

First, while the 2001 Act did not allow for the Government to implement globally scoped sanctions regimes (including those adopted by the EU) aimed at individuals and entities, section 2 paragraph 2 in the Sanctions Act now allows for this.

Second, section 2 paragraph 2 of the Sanctions Act provides a non-exhaustive and broader list of the *kinds* of measures that can be imposed. The list is meant to better reflect modern sanctions regimes compared to the 2001 Act. The wording is widely formulated in order to provide the flexibility to implement measures quickly. It should be noted that among other measures, the provision includes a "catch-all" alternative that allows for the implementation of "*other measures aimed at maintaining peace and security or ensuring respect for democracy and the rule of law, human rights, or international law in general*", cf. second paragraph letter f.[17]

4.3.4 Legal basis for the implementation of sanctions that are not adopted by the UN or EU

As noted in section 4.3.3 above, the Sanctions Act authorises the Government to implement sanctions that have not been adopted by intergovernmental organisations but "*otherwise have broad international support",* provided that the measures aim to "*maintain peace and security or ensure respect for democracy and the rule of law, human rights, or international law in general*", cf. section 2.

Hence, the Sanctions Act gives the Government the power to impose sanctions other than those adopted by the UN and EU provided that certain conditions are met. We elaborate further on the scope of this legal basis in sections 5.1 and 5.2 below.

It should be noted that neither the Previous Sanctions Acts nor the Sanctions Act provide grounds for the Government's implementation of so-called unilateral sanctions, meaning sanctions that are imposed by Norway alone and *without* broad international support.

17. Prop. 69 L (2020-2021), item 5.3.2 p. 21-22, cf. item 5.5 p. 25.

5 Analysis of questions regarding the sanctions act

5.1 Does the Sanctions Act permit the Government to take its own initiatives to impose targeted sanctions as long as there exists "broad international support" for such sanctions?

Our conclusion is that the Sanctions Act permits the Government to take its own initiatives to impose targeted sanctions, provided that the sanctions (i) have "broad international support", (ii) aim to maintain peace and security or ensure respect for democracy and the rule of law, human rights, or international law in general, cf. section 2, and that (iii) other circumstances do not require that the Storting should still be consulted. In brief, the plain text of the law allows for such sanctions to be imposed, and it is clear from the preparatory works and legislative history that the Storting meant for the Government to have the option to do so.

First, the wording of section 2 of the Sanctions Act clearly allows for the Government to impose sanctions outside the framework of intergovernmental organisations. This is reflected in the plain text of the law, which reads as follows (our emphasis):

"... [the Government] may issue regulations with the necessary provisions for Norway to implement sanctions or restrictive measures that have been adopted in intergovernmental organisations, *or that otherwise* have broad international support [...]"

Second, the legislative history preceding the Sanctions Act supports this conclusion. Section 2 of the Sanctions Act is essentially a continuance of the 2001 Act. It was clear from the preparatory works to the 2001 Act that it was not meant to be used exclusively for implementing EU (or other intergovernmental organisations) sanctions. While the Ministry of Foreign Affairs (the "Ministry") had proposed to limit the authority in the 2001 Act to only provide grounds for implementing "*decisions of the EU within the area of the common foreign and security policy"*, the majority of the Committee on Foreign Affairs and Defence of the Storting (the "Foreign Affairs Committee**"**) found that the law should "*have an opening"* for the Government to issue regulations implementing *"*measures with *broad international support*, even though the EU, for example, due to internal disagreement, had not made a binding decision within the framework of EU's common foreign and security policy"[18] (our emphasis).

Third, it is equally clear from the preparatory works of the Sanctions Act that the 2001 Act's authority to implement sanctions not already adopted by intergovernmental organisations was meant to be continued in the Sanctions Act. The Ministry explicitly

18. Innst. O. nr. 50 (2000-2001), p. 3.

considered whether the Government's authority to impose sanctions through the Sanctions Act (*i.e.*, without involving the Storting) should be limited to measures adopted by international organisations. It answered the question in the negative. The Ministry acknowledged that in some situations it will be difficult to adopt the necessary and appropriate measures in intergovernmental organisations, which might make it necessary for Norway to implement sanctions in tandem with a group of like-minded states outside the framework of international organisations.[19] Therefore, the Ministry proposed to continue the approach of the 2001 Act, where the Government can implement sanctions outside the framework of intergovernmental organisations *if* the sanctions in question enjoy broad international support:

"The Ministry maintains the proposal to continue the Storting's guidance in the preparatory works [of the 2001 Act] that there should also be an opening for the Government to be able to support and implement in Norwegian law sanctions adopted outside the framework of intergovernmental organisations, provided that the measures have broad support among like-minded states [...]. This would allow the Government to implement sanctions that have broad support among like-minded states but are being blocked by a few states in the EU, without having to go by way of a time-consuming law-making process. A requirement for a law-making process in such a situation could mean the measures in question no longer are relevant when they can be implemented in Norway, which would lessen their effectiveness."[21]

Notably, in addition to discussing the concept of "*broad international support"*, the Ministry underlined that although the Sanctions Act allows the Government to implement measures that enjoy broad international support among like-minded states (but without being adopted within the framework of an intergovernmental organisation), it could still be appropriate under some circumstances to let a given measure undergo considerations and adoption by the Storting. According to the Ministry, whether or not sanctions provisions should be proposed to and enacted by the Storting instead of being implemented through the Government's administrative regulations depends on an assessment of among other things:[22]

- how comprehensive the sanctions measures are
- whether the measures have been drafted/designed in close cooperation with other states, in such a way that the measures in question would be according to a common standard
- whether the measures raise particular concerns of due process
- whether the measures may be nationally controversial
- to what degree a law-making process would weaken the law's relevance and effectiveness

19. Prop. 69 L (2020-2021) item 5.3.3.2, p. 20, cf. item 5.5, p. 25.
21. Prop. 69 L (2020-2021) item 5.5, p. 25.
22. Prop. 69 L (2020-2021) item 5.5, p. 25.

In other words, even though the requirement of "*broad international support"* is fulfilled, it is our understanding that an assessment must be made of whether the Government in fact *should* apply the authority in the Sanctions Act or whether the adoption of sanctions should be left to the Storting in the specific situation. In the absence of any practice pursuant to this part of section 2 authority, we find it difficult to say with certainty where the threshold for parliamentary consideration and adoption is or should be. However, in our view, this additional assessment appears to be more of a safety valve to ensure that principles of the constitutional separation of power are respected rather than a strict and practical limit on the Government's authority to impose sanctions that fulfil the requirements in the Sanctions Act.

The Ministry further emphasised that if the measures in question were of certain importance for foreign or national policy, the Storting's expanded foreign policy- and defence committee should be consulted before the regulation is adopted, in line with current practice. Lastly, the Ministry noted that it may also be "more relevant" to organise a public consultation round/hearing on the sanctions measure to be implemented by way of regulations, for measures that are developed outside the framework of international organisations.

In summary, in order for the Government to use the Sanctions Act to implement measures that have not been adopted by an international organisation, the measure in question needs to have "*broad international support"*. Measures that do not have "*broad international support"* must be implemented by law, if at all.

In addition, even if the implementation of the measure does have "*broad international support"*, both the Ministry and (implicitly) the Storting have presupposed that there may be instances where the Storting should either be consulted or themselves tasked with implementing the sanctions in law. For a closer description of the content and scope of the requirement that sanctions must have "*broad international support"* in order to be based on the Sanctions Act, please refer to section 5.2 below.

5.2 Does the 'broad international support' requirement mean that (a) Norway can only impose sanctions as part of a coalition of states that cooperate on sanctions or (b) can Norway impose sanctions on its own when it is clear (from international resolutions or otherwise) that there is broad international support for them?

5.2.1 What does "broad international support" mean within the Sanctions Act?

In the Sanctions Act, the option to implement sanctions that have "*broad international support"* is expressly included in the wording of section 2. The term "*broad international support"* is rather vague. It does not specify the character or extent of

international support that would satisfy the requirement. In conclusion, and as further described in the following, this is a requirement without a clear-cut scope, which ensures flexibility in its application. That being said, the preparatory works provide some guidelines on the meaning of "*broad international support"*, which we elaborate on below.

In the preparatory works to the Sanctions Act,[23] the Ministry discussed how the legal authority in section 2 could be appropriately drafted. It concluded that two elements should be read into the requirement of sanctions having "*broad international support"*: the measure (i) must have broad support in the population and within civil society in general (but without similarly worded measures having been adopted by a certain amount of other states), and (ii) equivalent measures must have been "adopted and followed up" by a "group of states". Further, the Ministry noted:

"... [a] precondition for providing the Government authority to implement sanctions through administrative regulation, should be that it is a matter of following up sanctions that have been *adopted and followed up* by *a certain number* of *like-minded states*. It is in such situations the need for a quick national implementation is most relevant. If it is relevant to implement measures that do not satisfy such a requirement of being *determined jointly*[26] by a *larger group* of states, it is in the Ministry's view natural that the question is considered by the Storting, and that a separate law or authority, addressing the concrete situation, is passed."[27] (our emphasis).

The term "adopted and followed up" is not further clarified. However, the above statement suggests that several other states must have already at least decided and acted on, if not already fully implemented, the measures in question, in order for the Government to implement them through regulation (notwithstanding the use of the word "should"). Conversely, if such a "larger group" has *not* already implemented the sanctions, it would be up to the Storting, not the Government, to implement the measures in Norwegian law.

The Ministry emphasised that such "international support" must come from "like-minded states", but that the law does not require support from specific states or from a specific number of states and that these questions must be assessed concretely.[28] This provides the Government with some flexibility in the application of the authority, but also some uncertainty.

23. Prop 69 L (2020-2021) item 5.3.3.2, p. 20 cf. item 5.5 p. 25.
26. Norwegian: "*besluttet i fellesskap*"
27. Prop 69 L (2020-2021) item 5.3.3.2 p. 20, cf. item 5.5 p. 25
28. Prop 69 L (2020-2021) item 5.3.3.2 p. 20, cf. item 5.5 p. 25

In this regard, some relevant guidance can be found in quotes elsewhere in the preparatory works. For example, the Ministry mentions “Norway's close/closest cooperation partners, including most EU countries and the US”[29] and “Norway's most important allied and trade partners, including the EU, United Kingdom and the US.”[30] The suggested requirement is a “*larger* group of states” (our emphasis).

As far as we can see, the only example provided in various preparatory works of a situation where the “broad international support”-criteria would be met is where the EU cannot find necessary consensus to adopt a given measure due to a “few states” blocking them.[31] In the same vein, the Foreign Affairs Committee noted to the Storting that “this proposal makes for a solution whereby Norway also may join listing of persons together with a larger group of like-minded states in cases where the measures do not find unanimous support in intergovernmental organisations”.[32] The quotes suggest that a “large group” with “a few” less than 27 would suffice to meet the criteria.

In conclusion, it is our view that the Government may only, according to section 2 of the Sanctions Act, impose sanctions as part of a coalition of states that cooperate on sanctions. The Sanctions Act does not require that this group of states are in any way formally organised as a coalition as such, but it “should be” a precondition for sanctions to be implemented through regulation that other states have “adopted and followed up on” the measures in question.

For the sake of completeness, we note that the possibility for the Storting to implement sanctions is not excluded or otherwise treated by the Sanctions Act. However, various preparatory works point out that Norway does not have a tradition for imposing unilateral sanctions, which suggests that it would be at the very least politically complicated and controversial for Norway to impose sanctions without broad international support, even though the possibility is formally there.

29. Innst. O. nr. 50 (2000-2001) p. 3
30. Innst. 290 L (2020-2021) p.3 (although this quote is not in the context of a discussion of "broad international support")
31. See quoted above, Prop 69 L (2020-2021) item 5.5, p. 25
32. Innst. 290 L (2020-2021) p.3

5.3 Does the law permit the government to create a sanctions desk that can receive submissions from NGOs and others? Are there passages in the preparatory works that indicate that this should be done?

There is nothing in the Sanctions Act to suggest that creating a sanctions desk mechanism would *not* be permitted. However, when preparing the law, the Ministry noted that it did not find it practical[33] to include a provision that would create such a mechanism, since a legal basis is not needed for the Government to obtain views on the justification for the imposition of sanctions.

Thus, whether such a sanctions desk can be created is a matter of political will (including allocation of economic and personnel resources).

There are quotes in the preparatory works suggesting that there is political manoeuvring room “in special cases” for Norway, together with “a few other states” to play a more active and leading role in sanctions policy, *i.e.*, not exclusively following the EU, but also taking its own practice initiatives. We would think that establishing a sanctions desk or forming a network of likeminded states that seek to adopt coordinated human rights sanctions against the same violators, are (political) initiatives that could be pursued in this regard.

5.4 How does the scope of the Sanctions Act compare to laws of other, similarly situated countries?[34]

5.4.1 The EU and EU Member States

Many EU Member States do not impose any sanctions on their own but become bound by decisions on sanctions once these are implemented in an EU regulation. The EU's competence to impose sanctions pursuant to Article 29 of the Treaty of the European Union (“TEU”) is very broad and without any express limitations. However, the measures must be consistent with the objectives of the EU's external action, as laid down in Article 21 of the TEU.

Poland is an example of an EU Member State that has introduced independent national sanctions on top of the EU's sanctions in the wake of the Russian Federation's war of aggression against Ukraine. On 16 April 2022, Poland passed the *Act on special solutions to counteract aggression against Ukraine and to protect national security*,

33. Norwegian: "*hensiktsmessig*"
34. We note that the description of other sanctions law than Norway should be considered as guidance, rather than legal advice.

which empowered the Polish government to pass specific sanctions against individuals and entities supporting Russian aggression against Ukraine not already included by the EU sanctions.[35]

5.4.2 The UK

The UK sanctions regime flows from the Sanctions and Anti-Money Laundering Act of 2018.[36] According to that act, the appropriate UK Minister may issue sanctions for the purpose of compliance with either (i) a UN obligation, (ii) any other international obligation or (iii) for one of the defined purposes in section 1 (2) of the act. These range from national security interests to promoting respect for democracy.[37] Thus, the UK act clearly authorises unilateral sanctions and does not require the sanctions to have any international support.

5.4.3 Iceland

Iceland's International Sanctions Implementation Act empowers the Icelandic government, having consulted with the Icelandic parliament, to "*participate in and take the necessary measures to implement resolutions of international organisations or group of States concerning sanctions adopted for the purpose of maintaining peace and security and/or for securing respect for human rights and fundamental freedoms*" (our emphasis).[38] The term "*group of States*" in the Icelandic law appears to have a clearer meaning than "*broad international support*" in the Norwegian Sanctions Act.[39] The passage concerning the purpose of the measures, *i.e.*, to maintain peace and security and respect for human rights and fundamental freedoms, is almost identical to the similar regulation in the Norwegian Sanctions Act. On its fact page on international sanctions, the government of Iceland states that Iceland implements restrictive and security measures adopted by either the UN Security Council, the EU or the Organisation for Security and Co-operation in Europe (the OSCE).[40]

5.4.4 Switzerland

Switzerland's Federal Act on the Implementation of International Sanctions (the Embargo Act) of 2002 empowers the Federal Council of Switzerland "to enact compulsory measures in order to implement sanctions that have been ordered by either the UN, the OSCE "*or by Switzerland's most significant trading partners*" (our

35. See https://www.gov.pl/web/mswia-en/solutions-for-counteracting-support-for-aggression-against-ukraine-adopted-by-the-sejm.
36. See https://www.gov.uk/government/collections/uk-sanctions-regimes-under-the-sanctions-act.
37. See https://www.legislation.gov.uk/ukpga/2018/13/section/1.
38. *Lög um framkvæmd alþjóðlegra þvingunaraðgerða* (2008). See a translation of the law into English here: https://www.government.is/library/01-Ministries/Ministry-for-Foreign-Affairs/PDF-skjol/SanctionsAct.pdf
39. But please note that we are not Icelandic qualified lawyers and have not assessed this in detail.
40. See https://www.government.is/topics/foreign-affairs/legal-affairs/sanctions/

emphasis) and which "*serve to secure compliance with international law, and in particular the respect of human rights*".[41] The regulation thus differs from both the Icelandic and Norwegian regulations, as it only empowers Switzerland to join in sanctions outside of the UN and OSCE system if the sanctions have been ordered by one or several of Switzerland's largest trading partners. In practice, that is the EU and the US. In addition, Switzerland may adopt independent freezing measures to safeguard its interests.[42]

5.4.5 Liechtenstein

Liechtenstein's International Sanctions Act of 2008 is almost identical to the Swiss Embargo Act referred above. It authorises Lichtenstein to enforce international sanctions that have been adopted by the UN or "*the most significant trade partners of the Principality of Liechtenstein*" and that "*serve to secure compliance with international law, and in particular the respect of human rights*".[43] Liechtenstein's official fact page on international sanctions further states that the act empowers the government to enforce "*internationally backed sanctions*".[44]

41. See a translation of the law into English here: https://www.fedlex.admin.ch/eli/cc/2002/564/en
42. See https://www.finma.ch/en/documentation/international-sanctions-and-combating-terrorism/international-sanctions-and-independent-freezing-measures/.
43. See a translation of the law into English here: https://www.regierung.li/files/medienarchiv/946_21_05_02_2020_en.pdf.
44. See https://www.llv.li/inhalt/114812/amtsstellen/international-sanctions.

6 Sanctions practice

6.1 Introduction

In this section, we discuss previous and current sanctions practices related to human rights violations and international crimes, including whether Norway follows the EU or whether it sometimes sanctions differently. Further, we describe how Norway's practices of targeted human rights sanctions compare with practices of the US, Canada, the UK, and the EU. Some of these questions intersect, and we address them below.

6.2 Past sanctions practice

6.2.1 UN based sanctions practice

Norway is obligated by international law to implement all binding sanctions regimes that have been adopted by the UN Security Council. Norway has loyally implemented such sanctions regimes.[45]

6.2.2 EU based sanctions practice

Norway is not obligated to implement sanctions adopted by the EU. Still, Norwegian authorities have decided to implement close to all EU sanctions regimes, with a few limited exceptions.

Broadly speaking, the Government has traditionally implemented EU sanctions regimes without making material national modifications to them (*i.e.,* without limiting, expanding, or otherwise changing the scope or content).[46]

However, sanctions practice shows that there have been certain limited exceptions to this main approach:

- *First*, the Government has in certain instances decided to implement EU based sanctions regimes with certain modifications. One example is the Norwegian sanctions regime relating to Venezuela,[47] and, as further discussed in section

45. One example is the Norwegian regulation concerning sanctions against Taliban (FOR-2013-11-08-1294). Another example is the Norwegian regulation concerning sanctions against North Korea (FOR-2006-12-15-1405), which implements both UN and (additional) EU based sanctions (*i.e.,* comprise measures imposed by the 1968 Act or 2001 Act).
46. In practice, the Norwegian provisions have been mere translations of the English text adopted by the EU.
47. Cf. FOR-2017-12-15-2103 section 2 paragraph 7, which provides that the EU consolidated sanctions list is replaced with a national list of asset freezing targets.

6.3.4 below, recent sanctions against Russia.

- *Second*, the Government has in a few instances decided not to implement EU sanctions regimes at all. This includes autonomous[48] EU restrictive measures against Al-Qaida, ILIS (Da'esh), Bosnia-Herzegovina, DR Congo, Turkey, and terrorism.[49] From our understanding, the political reasons for why Norwegian authorities have taken a different view have varied and may for example have been based on Norway's role as a neutral mediator in conflicts relevant to the EU regimes.

These exceptions illustrate that the Government does make independent assessments of whether and how EU sanctions should be implemented in Norwegian law, and, if so, to what extent. It should be noted that EU sanctions are adopted based on the EU's common foreign and security policy (CFSP), which is not part of the EEA agreement (to which Norway is party). Hence, the EU context may, at least in principle, differ from Norway's foreign and security policy.

Furthermore, due to the scope of the 2001 Act, the Government has not (until the Sanctions Act took effect in April 2021) had sufficient legal grounds to implement those of the EU's sanctions regimes that are not connected to a specific state, group, organisation, or conflict, but that target certain activities irrespective of where or by whom they are performed. However, Norwegian authorities have endorsed such regimes politically.

6.2.3 Other Norwegian sanctions practice

Both the Storting and various Norwegian governments have clearly stated that Norway does not have a tradition of implementing so-called unilateral sanctions,[50] cf. section 4.3.4 above. The Previous Sanctions Acts did not include grounds for such unilateral sanctions.

However, it should be noted that while not considered unilateral sanctions as such, the Storting has previously adopted certain specific enabling acts (against Iran (1980), Argentina (1982), Yugoslavia (1999) and Zimbabwe (2003)) which provided a basis for the Government to impose sanctions that were not UN or EU based, as described in section 4.2 above. We cannot see that any of these specific enabling acts explicitly required the measures to be implemented by the Government to have "*broad international support"* or a similar requirement, although we understand that most had such support in practice, and that Norway acted in conjunction with other states.[51]

48. Meaning sanctions that are not adopted by the EU to implement UN sanctions, but as supplements to UN sanctions or sanctions that have not at all been adopted by the UN.
49. According to Prop. 69 L (2020-2021) item 3.3 p. 8.
50. In the meaning of sanctions that are imposed by Norway alone and without basis in broad international support.

Furthermore, we noted in section 4.2 that the Storting passed two specific acts (from 1986 and 1987) which themselves implemented sanctions against South Africa and Namibia. The Ministry has in earlier works described that Norway in these events ordered far-reaching measures (*e.g.*, wide reaching restrictions on trade and investments) that *went further* than most other states.[52]

Against this background, there are some examples where Norway has passed acts comprising more comprehensive sanctions than other states and without necessarily having "*broad international support"* for the concrete sanctions in question. However, these were not necessarily enabling acts that provided the Government with broad authority to impose sanctions. Assuming that the Sanctions Act is not meant to make any material changes to Norwegian sanctions practice, and while we have not analysed this in detail, this historic sanctions practice could arguably suggest that the "*broad international support"* requirement in section 2 of the Sanctions Act should be interpreted rather restrictively, in the sense that where Norwegian sanctions have had a broader scope than sanctions implemented by other comparable states, these have been implemented by the adoption of acts to this effect in the Storting and not by the Government.

6.2.4 Concluding remarks

In our view, sanctions practice under the previous Sanctions Acts show that various Norwegian governments normally and predominantly followed the EU in content and timing of Norwegian sanctions. In many instances, the Norwegian sanctions regimes have merely been a transposition of the relevant EU regulation, where the EU based legal text has not been re-worked but merely provided as a Norwegian translation (supplemented by certain administrative or linguistic adaptations).[53]

However, Norwegian authorities have still in certain instances decided not to implement EU based sanctions in full or at all and have also imposed sanctions that are neither UN nor EU based through the adoption of special laws. Sanctions practice under the Previous Sanctions Acts thereby shows that Norwegian authorities do make independent assessments of the adoption of sanctions, and that the Storting (but notably not the Government) has also in one instance gone further than other states in the imposing of sanctions. In addition, however, previous practice also indicates that in

51. See further descriptions of this in the preparatory work to the Yugoslavia related sanctions act (Ot.prp. nr. 81 (1998-1999), item 3, p. 3), available here: https://www.regjeringen.no/no/dokumenter/otprp-nr-81-1998-99-/id160003/?ch=1, and to the Zimbabwe related sanctions act (Ot.prp. nr. 91 (2002-2003), item 5, p. 3) available here: https://www.regjeringen.no/no/dokumenter/otprp-nr-91-2002-2003-/id175425/.
52. Ot.prp. nr. 91 (2002-2003), item 5, p. 3 available here: https://www.regjeringen.no/no/dokumenter/otprp-nr-91-2002-2003-/id175425/
53. *E.g.,* that "the Union" is to be read as "Norway", jurisdictional aspects etc.

instances where Norwegian sanctions have had a broader scope than sanctions implemented by other comparable states, this has been done by the adoption of acts to this effect in the Storting and not by the Government.

6.3 Sanctions practice after the adoption of the Sanctions Act

6.3.1 UN based sanctions practice

As Norway is obligated to implement all sanctions that are adopted by binding resolutions made by the UN Security Council, the Government will use the authority in section 1 of the Sanctions Act to implement regulations necessary to fulfil this stately obligation.

6.3.2 EU based sanctions practice, including relating to human rights

Since the Sanctions Act took effect in April 2021, the (Solberg) Government used the new legal basis in section 2 of the act to implement three EU sanctions regimes that the 2001 Act did not provide sufficient legal basis for, see section 4.3.3 above. This was due to their theme-based and global scope, as the three regimes sought to change activities that are not connected to a specific state, group, organisation, or conflict, but rather to certain activities that shall be sanctioned irrespective of where or by whom they are committed.[54]

Respectively, the three regimes sanction serious human rights violations and abuses,[55] cyber-attacks[56] and the proliferation and use of chemical weapons[57] committed anywhere in the world. The three Norwegian regulations are transpositions of the corresponding three EU regimes, meaning that they refer to the text and annexes of the relevant EU regulation on which they are respectively based (together with a Norwegian translation of the EU text). For instance, this means that the Norwegian sanctions regime against serious human rights violations and abuses only target those actions that are defined in the underlying EU regulation[58] (which does not include corruption), and that the persons and entities made subject to Norwegian asset freezes as a consequence of such actions are those designated by the EU.[59]

54. To our knowledge, such types of 'thematic' sanctions regimes have not (yet) been used by the UN Security Council but may in principle be adopted with basis in Article 41 of the UN Charter, and thus by the Government with basis in section 1 of the Sanctions Act.
55. Council Regulation (EU) 2020/1998 and Norwegian regulation FOR-2021-05-11-1458.
56. Council Regulation (EU) 2019/796 and Norwegian regulation FOR-2021-05-11-1459
57. Council Regulation (EU) 2018/1542 and Norwegian regulation FOR-2021-05-11-1456
58. Cf. Article 2 of Council Regulation (EU) 2020/1998
59. *I.e.,* those that are included in Annex I to Council Regulation (EU) 2020/1998 under the relevant authority.

Broadly speaking, the adjustments that Norway has made to EU sanctions regulations have been limited, such as adjusting the jurisdictional scope to reflect Norwegian sanctions jurisdiction and fitting or excluding EU-specific provisions to the Norwegian context.

6.3.3 How does Norway's human rights sanctions practices compare with the US, the UK and Canada?

There is a great deal of overlap in scope between the EU (and therefore also Norway's, see section 6.3.2 above), US[60] , UK[61] and Canadian[62] regimes for sanctions aimed at human rights violations, with one notable exception being serious corruption. The US and Canada target serious corruption offences within the framework of their human rights sanctions regimes, and the UK has adopted a separate anti-corruption sanctions regime. The EU has however so far been reluctant to combat corruption by way of targeted sanctions measures.

Of these, the US has been the most aggressive in its pursuit of serious human rights abusers through the use of sanctions and has by far the highest number of designations under its human rights regime. Similarly, to the punitive mechanisms of the other regimes, the US Global Magnitsky Act allows for blocking sanctions imposed on persons determined to have committed or been complicit in certain human rights abuses or for corrupt acts anywhere in the world, meaning they are effectively blocked from taking part in the US economy. In contrast to the other regimes, however, the US will also under certain circumstances impose *secondary* sanctions targeting persons and entities outside its own jurisdiction, that do business with US-sanctioned human rights abusers.

Although there are certain overlaps between the different regimes' listings of human rights abusers, there is no one-to-one relationship between them.

6.3.4 Norwegian sanctions practice related to Russia and Ukraine

In the following, we describe Norway’s current targeted sanction practice to address human rights violations and international crimes related to the Ukraine situation.

The Norwegian sanctions regime relating to Russia and Ukraine has been in place since 2014, cf. FOR-2014-08-15-1076 (the “Norwegian Russia-related sanctions regulation”).[63] It is based on, and is predominantly aligned with, the EU's Russia-

60. See the Global Magnitsky Act (2017) and Executive Order 13818
61. See the Sanctions and Anti-Money Laundering Act (2018), the Global Human Rights Sanctions Regulations (2020) and the Global AntiCorruption Sanctions Regulations (2021)
62. See the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law) (2017)

related sanctions regime, including the predominant parts of the sanctions packages imposed by the EU in 2022 in response to the escalations in Russia's aggression towards Ukraine.[64]

Still, the Norwegian Russia-related sanctions regulation is not a direct implementation of the relevant EU regulations as such.[65] In practice, however, the provisions are Norwegian translations of the English wording of the relevant EU regulations, with very few substantial changes.[66] Furthermore, in respect of asset freezing measures, the Norwegian Russia-related sanctions regulation does not include a separate Norwegian list of designated persons and individuals, but merely includes a hyperlink to the consolidated EU financial sanctions list.

Against this background, although Norwegian authorities are not strictly obliged to follow EU sanctions, it is likely that the EU's interpretation of the underlying EU legislation would be considered highly relevant by Norwegian sanctions authorities when interpreting the scope or content of the Norwegian Russia-related sanctions regulation. Hence, Norwegian authorities would be likely to look to EU case law and EU guidance when interpreting its content and scope.

However, it should be noted that in 2022, the Norwegian government expressly excluded or modified certain Russia-related EU sanctions when implementing them into Norwegian law. These national adjustments have made Norway's Russia-related sanctions regime slightly narrower than the EU regime on which it is based. As described in the following, the reasons for doing so have varied.

First, the Government decided to not (yet) implement the EU sanctions targeting the broadcasting activities of certain Russian state-owned media.[67] It was stated that such measures might potentially be implemented into Norwegian law at a later stage, but that the matter will undergo more thorough assessments by Norwegian authorities before doing so.[68] Notably, considerations relating to the freedom of expression appear to be the main basis for the Norwegian hesitation. This is noteworthy as freedom of expression is not a principle unique to Norway, but rather a basic principle which was, undoubtedly, duly considered also by the EU when adopting the relevant

63. See also FOR-2014-05-09-612.
64. See Council Regulations (EU) No. 833/2014, 269/2014, 208/2014, 692/2014 and 2022/263.
65. *I.e.*, it does not merely include a reference to the EU regulations and a statement saying that the EU regulations are to be treated as Norwegian law.
66. However, should there be discrepancies between the EU version of the text and the Norwegian version of the text included in the Norwegian Russia-related sanctions regulation, the Norwegian version prevails within Norwegian jurisdiction.
67. See Council regulation (EU) 2022/879 (amending Council Regulation (EU) 833/2014).
68. See the royal resolution (https://www.regjeringen.no/no/dokumenter/kglres_sanksjoner/id2904494/) and press release (https://www.regjeringen.no/no/aktuelt/sanksjoner/id2904511/) dated 18 March 2022 (both accessed on 23 June 2022).

media restrictions. Hence, this hesitation shows that the Government does make independent assessments of the adoption of EU sanctions from a Norwegian perspective.

Second, and perhaps less surprisingly, the Government modified the EU prohibition against providing access to EU ports for Russian-flagged vessels.[69] First, the Norwegian prohibition includes an express carve-out for Russian-flagged "fishing vessels" (Norwegian: "*fiskefartøy*") which does not expressly follow from the wording of the EU prohibition.[70] Second, the prohibition only applies to ports in the Norwegian mainland, and does thereby not prevent Russian-flagged vessels from using ports in the Norwegian territories of Svalbard and Jan Mayen. This is contrary to other parts of the regulation, which generally applies also to those parts of the Norwegian territory.

These two national modifications are mainly based in the distinctive political and legal relation between Norway and Russia relating to fisheries, which is also regulated by international law.[71]

It is also worth noting that the Government's recent statements about Russia-related sanctions also show a reluctance to impose sanctions that have not yet been adopted by the EU. Specifically, we note that there were public discussions relating to the potential closure of Norwegian airspace to Russian aircraft, but the Government decided not to impose such a measure before it was adopted by the EU, even though countries such as Sweden, Denmark, Austria, and Finland had adopted equivalent flight bans and other political parties were advocating for it.[72]

6.4 The Government's signals on future sanctions practice

In respect of potential future sanctions practice, we note that *inter alia* strengthening the respect for human rights is mentioned in the political platform for the current Government.[73] However, we cannot see that the platform expressly mentions the use of sanctions as a tool in this respect.

69. Cf. article 3ea of Council Regulation (EU) 833/2014.
70. Cf. section 19a of the Norwegian Russia-related sanctions regulation.
71. See in particular the royal resolution dated 29 April 2022, available here: https://www.regjeringen.no/no/dokumenter/kglres_sanksjoner2/id2910739/
72. *E.g.*, this news article from Dagbladet: *Norge sperrer ikke russisk luftrom* dated 27 February 2022 accessible here: https://www.dagbladet.no/nyheter/norge-sperrer-ikke-russisk-luftrom/75480182
73. The "Hurdalsplattform" (2021-2025) is available here: https://www.regjeringen.no/contentassets/cb0adb6c6fee428caa81bd5b339501b0/no/pdfs/hurdalsplattformen.pdf (accessed 23 June 2022).

Further, it is our impression of statements made in press releases and news media in relation to recent sanctions escalations towards Russia that the Government wants to have a coordinated or joint approach between Norway and other states, and in particular with the EU. This in order for Norwegian sanctions to be effective and forceful.

On a separate note, in relation to the Storting and not the authority of the Government, it should be noted that there are remarks in preparatory work to the Sanctions Act that suggest that the Storting may play a more proactive role in its sanctioning policy. In "special cases", the Storting "may take the lead" "together with a few other states"[74] on sanctions measures. What is meant by "special cases" is not described in detail, but the example provided is situations where Norway's initiative could be viewed positively in the effort to bring more states in on the measures. The Storting noted it would be "safest"[75] that such measures were implemented by law,[76] *i.e.,* by the Storting itself.

74. Norwegian: "*[å gå] foran*"
75. Norwegian: "*mest forsvarlig*"
76. Prop 69 L (2020-2021) item 5.1.2, p. 26 cf. Innst. O. nr. 50 (2000-2001) p. 3,

Appendix:

Act on the Implementation of International Sanctions (The Sanctions Act)[77]

Section 1. Authorisation to implement binding UN resolutions

The King [*i.e.*, the Government] may issue regulations with the necessary provisions for the implementation of binding resolutions of the United Nations Security Council pursuant to Article 41 of the UN Charter.

The King decides whether a decision by the Security Council is binding.

Section 2. Authorisation to implement international non-military measures

The King may issue regulations with the necessary provisions for Norway to implement sanctions or restrictive measures that have been adopted in intergovernmental organisations, or that otherwise have broad international support, and which aim to maintain peace and security or ensure respect for democracy and the rule of law, human rights, or international law in general.

Regulations pursuant to the first paragraph may comprise

a. prohibition of or restrictions on trade, services and economic or financial transactions

b. prohibition or restriction on scientific, technological, and cultural cooperation

c. financial sanctions against natural or legal persons

d. travel restrictions

e. other measures aimed at maintaining peace and security or ensuring respect for democracy and the rule of law, human rights, or international law in general.

Regulations pursuant to the first paragraph apply with the restrictions that follow from international law or from an agreement with a foreign state.

77. This is an unofficial English translation by the Norwegian Helsinki Committee of the Sanctions Act. The official Norwegian text is available on the website of Lovdata (https://lovdata.no/dokument/NL/lov/2021-04-16-18).

Section 3. Scope of the Act

The law applies

a. on Norwegian territory, including Norwegian airspace

b. on board all vessels, including aircraft, drilling platforms and other similar mobile facilities under Norwegian jurisdiction

c. for all Norwegian citizens and persons domiciled in Norway

d. for all enterprises registered in the Register of Business Enterprises

e. for all companies with regard to business activities they conduct in whole or in part in Norway.

The law applies to Svalbard and Jan Mayen. The King may issue regulations on the application of the law to the Norwegian dependent territories.

The King may issue regulations on deviating scope for measures implemented pursuant to this Act.

Section 4. Penalty for violations of provisions given pursuant to the law

Anyone who violates provisions issued pursuant to sections 1 and 2 of this Act shall be punished by fines or imprisonment for up to three years or both.

Anyone who negligently violates provisions as mentioned in the first paragraph shall be punished by fines or imprisonment for up to six months or both.

Section 5. The relationship to the Public Administration Act

The Public Administration Act's rules on individual decisions do not apply to decisions made pursuant to or based on this Act to implement international sanctions against natural or legal persons.

Section 6. The right to request that a listing be changed or revoked

A natural or legal person who is the subject of sanctions or restrictive measures implemented in Norwegian law may request the Ministry of Foreign Affairs to change or revoke the listing of the person in question, if the person in question considers himself to be incorrectly listed and

a. is a Norwegian citizen

b. is domiciled in Norway

c. is a company registered in Norway

d. has been listed on the initiative of Norway, or

e. Norway's implementation of international sanctions entails real encroachment on the person's rights.

To the extent that the listed person is subject to UN-binding sanctions under international law, the request may only be that the Ministry of Foreign Affairs, to the best of its ability, ensure that the listed person is removed from the relevant UN list by the UN Security Council or by one of the UN Security Council subordinate bodies.

A request pursuant to the first paragraph shall be submitted in writing and be substantiated. The request is processed in accordance with the rules on individual decisions in the Public Administration Act, Chapters IV and V.

If the Ministry of Foreign Affairs does not accede to the request, the listing may be appealed to the King in Council in accordance with the rules in the Public Administration Act, Chapter VI.

The King may issue regulations on the processing of requests to change or revoke listings pursuant to this provision.

Section 7. Court proceedings of lawsuits concerning the validity of list entries

For litigation concerning the validity of listings pursuant to sections 1 and 2 of the Act, the Disputes Act applies when nothing else follows from rules given in or pursuant to this Act.

As a condition for proof of matters that can otherwise be kept secret for reasons of national security or the relationship with a foreign state, cf. the Disputes Act § 22-1, the King may decide that the information shall only be made known to a special lawyer appointed for the listed. The special lawyer is appointed by the court as soon as possible after such a decision has been made and shall be reimbursed by the state.

When a decision has been made as mentioned in the second paragraph, the Citizenship Act § 31 c third and fourth paragraphs and §§ 31 d to 31 h apply, with the exception of § 31 g first paragraph, corresponding to the court's processing of the case.

The King may issue regulations on the appointment of a special lawyer pursuant to the second paragraph.

Section 8. Entry into force, etc.

The law applies from the time the King decides [16 April 2021]. The King may enter into force the individual provisions at different times.

From the time the law enters into force, the following laws are repealed:

a. Act of 4 June 1968 No. 4 for the implementation of binding resolutions of the United Nations Security Council

b. Act of 27 April 2001 No. 14 on the implementation of international, non-military measures in the form of interruption or limitation of economic or other relations with third states or movements

c. Act of 58 June 2003 No. 58 on special measures against the Republic of Zimbabwe

d. Act of 6 June 1980 No. 18 on the implementation of sanctions against Iran

e. Law of 43 June 1999 No 43 concerning special measures against the Federal Republic of Yugoslavia (FRY)

f. Act of 16 April 1937 on power of attorney for the King, or the person he authorises, to prohibit Norwegian ships from being used to bring people who are engaged in war, weapons, 'loty', aircraft, or parts thereof to foreign countries.

Regulations issued pursuant to the laws mentioned in the second paragraph, letters a, b and c also apply after this law has entered into force.

Section 9. Amendments to other laws

From the time the law enters into force, the following changes are made to other laws:
– – –

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