

**Office of the
Ombudsperson
to the
Security Council
ISIL (Da'esh)
and Al-Qaida
Sanctions
Committee**



**This booklet was produced by the
Office of the Ombudsperson to the
United Nations Security Council ISIL (Da'esh)
and Al-Qaida Sanctions Committee.**

Website of the Office of the Ombudsperson:
<https://www.un.org/securitycouncil/ombudsperson>

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Security Council Authorizes Ombudsperson for Al-Qaida Sanctions Regime. The Security Council unanimously adopts resolution 1904 (2009), revising its guidelines concerning the listing of individuals and entities linked to Al-Qaida and the Taliban. Among other things, the resolution authorizes the creation of an Office of the Ombudsperson to help deal with the question of removing individuals and entities from that list. Photo Credit: UN Photo/Paulo Filgueiras.

Targeted sanctions have come to be viewed as an indispensable tool in the fight against terrorism. Since 1999, the United Nations Security Council has designated hundreds of individuals and entities, imposing assets freezes, travel bans and arms embargoes to hinder support for ISIL (Da'esh) and Al-Qaida. However, as the number of designations grew, a clear need emerged for a robust independent review procedure, so that those designated can seek the removal of their names from the sanctions list.

To this end, the Office of the Ombudsperson was established by the Security Council in 2009, pursuant to resolution 1904 (2009) which was adopted by the Security Council at its 6247th meeting on 17 December 2009. The Office became operational in 2010.

This booklet aims to provide a summary of the role and the responsibilities of the Office of the Ombudsperson. It describes the procedures for the review of delisting requests and the achievements of the Office since its establishment, including on due process and fairness.

Ombudsperson appointment

In the context of the ISIL (Da'esh) and Al-Qaida Sanctions List of the Security Council's ISIL (Da'esh) and Al-Qaida Sanctions Committee ('the 1267 sanctions regime'), the Secretary-General of the United Nations, in close consultation with the Committee, is mandated to appoint an eminent individual of high moral character, impartiality and integrity with high qualifications and experience in relevant fields on legal and human rights matters, as the Ombudsperson.

By receiving and reviewing delisting requests from individuals, groups, undertakings, or entities seeking removal of their name from the Sanctions List of the 1267 sanctions regime, the Ombudsperson, an independent and impartial individual, ensures due process including fairness, transparency and the right to be heard. Since the Office became operational in 2010, all appointed Ombudspersons have been former Judges.

The Ombudspersons

- Richard Malanjum (14 February 2022 to Present)
- Daniel Kipfer Fasciati (18 July 2018 to 17 December 2021)
- Catherine Marchi-Uhel (27 July 2015 to 7 August 2017)
- Kimberly Prost (14 July 2010 to 14 July 2015)

A crucial mechanism

The Ombudsperson receives and reviews delisting requests from individuals, groups, undertakings, or entities seeking removal of their name from the sanctions list of the Security Council's ISIL (Da'esh) and Al-Qaida Sanctions Committee.

The Ombudsperson does not question whether the listing by the Committee was reasonable and appropriate but determines whether a continued listing is justified based on the information available presently.

By ensuring respect for due process, the Ombudsperson mechanism enhances the legitimacy and credibility of the 1267 sanctions regime, thus improving the effectiveness of the Committee's counterterrorism measures. The international, independent, and impartial nature of the due process mechanism of the Ombudsperson also mitigates against legal challenges in domestic or regional courts when enforcing 1267 sanctions by Member States.

The Office reports directly to the Security Council in its biannual reports which provide updates on the Office's activities as mandated. The Ombudsperson also requests Committee Members and the Analytical Support and Sanctions Monitoring Team to submit information related to pending delisting requests, and engages on the same with non-Committee Member States in order to obtain information on listed individuals and entities.

Historical overview

- **1999:** Establishment of the 1267 Committee with the imposition of a limited air and financial embargo on the Taliban.
- **2000:** The sanctions measures are expanded and now include targeted sanctions against Usama bin Laden.
- **2002:** The 1267 sanctions regime expands to targeting individuals and entities associated with Al-Qaida.
- **2006:** The Focal Point for delisting is established.
- **2008:** An annual review by the Committee of names on the 1267 sanctions list is mandated.
- **2009:** The Office of the Ombudsperson is created to receive and review delisting requests from Petitioners associated with Al-Qaida and the Taliban. The Focal Point for delisting continues to serve all other sanctions regimes and handles exemption requests for the 1267 sanctions list.
- **2011:** The Al-Qaida and Taliban sanctions regimes are split. The Office of the Ombudsperson's mandate is restricted to individuals and entities associated with Al-Qaida.
- **2011:** The Office's mandate is strengthened by the establishment of the reverse consensus requirement for the Committee to overturn the Ombudsperson's recommendation to delist.
- **2014:** The Office's mandate now includes individuals and entities associated with ISIL (Da'esh).
- **2017:** The Ombudsperson is now responsible for deciding on the content of the summary of the analysis to be shared with Petitioners upon completion of their case, in consultation with the Committee Members only regarding possible security concerns.
- **2024:** Resolution 2734 (2024) formalizes the practice, which began in 2021, of sharing a redacted version of the comprehensive report with the Petitioner. Until then, only a summary of the analysis was shared.

ISIL (Da'esh) and Al-Qaida sanctions list

The listing

The Committee decides on listings of individuals, groups, undertakings, or entities when there are reasonable grounds for the Committee to believe that the listed party is associated with ISIL (Da'esh), Al-Qaida or any of their affiliates or splinter groups. Resolution 2734 (2024) urges all Member States 'to participate actively in maintaining and updating the ISIL (Da'esh) & Al-Qaida Sanctions List by contributing additional information pertinent to current listings, submitting delisting requests when appropriate, and by identifying and nominating for listing additional individuals, groups, undertakings, and entities' (...) 'while ensuring that such nominations are evidence-based.'

Sanctions measures

1 Asset Freeze

Freeze funds, financial assets/economic resources (including funds derived from property owned/ controlled)

2 Travel Ban

Prevent the entry into/transit through territories (prevention shall not apply where it is necessary to fulfil a judicial process or when the entry/transit is justified)

3 Arms Embargo

Prevent direct/indirect supply, sale or transfer of arms and related materials

Delisting requests

A Petitioner or their representative may submit a delisting request to the Office of the Ombudsperson either via post or via e-mail. The website of the Ombudsperson sets out the exact and detailed procedure and provides a complete overview of the requirements for filing a delisting request.

Delisting requests should include, inter alia, an explanation as to why the designation does not, or no longer, meet the listing criteria. The request should address the facts and reasons for the listing as stated in the list entry and the narrative summary of reasons for the listing. For repeat requests, the Petitioner must also submit relevant recent information that was not available at the time of her or his previous procedure. Should a Petitioner wish to receive legal assistance, pro bono legal assistance is made available on an ad hoc basis.

Delisting requests may be sent to the following address:

United Nations
Office of the Ombudsperson to the ISIL (Da'esh)
and Al-Qaida Sanctions Committee (DPPA)
UN PO Box 20
New York, NY 10017
United States of America

Or via e-mail: ombudsperson@un.org

For further information, please see:

<https://www.un.org/securitycouncil/ombudsperson/application>

Ombudsperson procedure

Phases of the procedure

From the moment the Ombudsperson accepts a petition and circulates it to the Committee, it takes between 8 to 16 months for a case to be completed. Upon receiving a delisting request from a Petitioner, the Ombudsperson:

- i Gathers information from various sources, including from Member States whom the Ombudsperson believes may have relevant information in the case, and requests these States to share the information with the Ombudsperson. Further, information is gathered from relevant interlocutors with specific expertise and via open-source research. The information must be relevant, credible, and reasonable to be considered when making a recommendation for the case. The process of gathering information, eliciting, and following up on responses from Member States to requests for information, verifying and corroborating information can be extensive and time-consuming.
- ii Engages with the Petitioner via an interview, thus providing the right to be heard.
- iii Prepares a comprehensive report on the case, which reflects the information gathered, and outlines the main arguments concerning the delisting request.

- iv Based on a thorough analysis, recommends to the Committee whether the delisting request should be granted or not.
- v Submits the comprehensive report to the ISIL (Da'esh) and Al-Qaida Sanctions Committee for its consideration.
- vi Presents in-person the analysis and argumentation for the recommendation to the members of the Committee.
- vii Receives the decision from the Committee and informs the Petitioner of the outcome.

Decision

The decision-making power lies with the ISIL (Da'esh) and Al-Qaida Sanctions Committee, which considers the comprehensive report and decides whether the name of the Petitioner should be removed from the List or not.

- i If the Ombudsperson's recommendation is to retain, the listing remains and that is the end of the matter for the Committee.
- ii If the recommendation is to delist:
 - the Petitioner's name is removed 60 days after the Committee completes its consideration of the comprehensive report; or,
 - the Committee decides by consensus that the listing remains (the application of the reverse consensus procedure). If there is no consensus, the Chair shall, upon the request of a Committee Member, submit the question of whether to delist the Petitioner to the Security Council for a decision within a period of 60 days; and in the event of such a request, the listing stays, and the requirement for States to implement the measures remain, until the question is decided by the Security Council.

To date, there has been no consensus to maintain sanctions in a case where the Ombudsperson recommended delisting and no case has been referred to the Security Council.

For further information, please see:

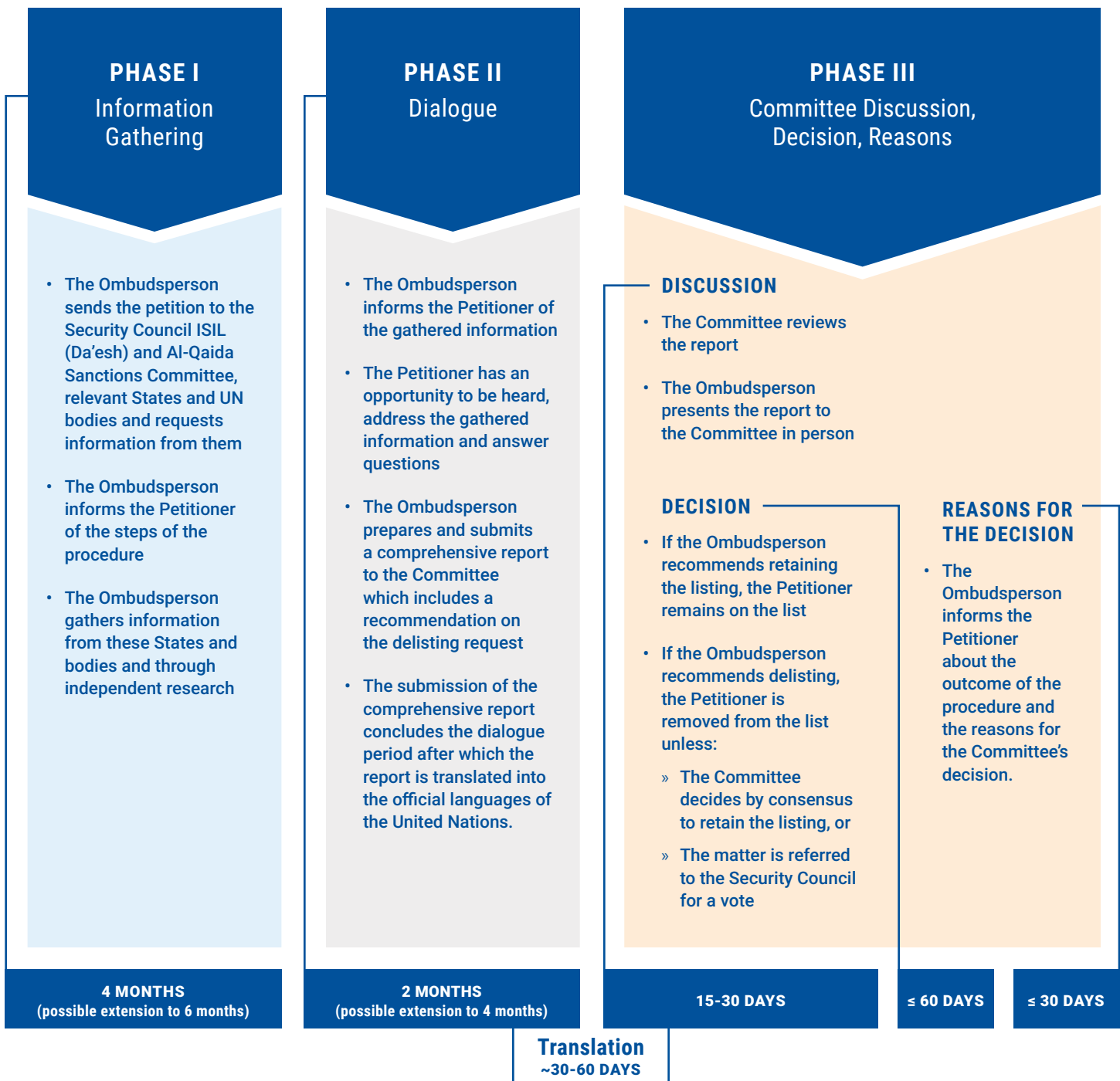
<https://www.un.org/securitycouncil/ombudsperson/procedure>

Transparency

After the Ombudsperson receives the communication from the Committee on its decision to retain or delist a name, the Ombudsperson informs the Petitioner of this decision. The Ombudsperson also shares with the Petitioner a redacted copy of the comprehensive report, after agreement by the Committee on the redactions. This redacted report replaces the summary of the analysis, which contained fewer details.

Procedure for requests for delisting submitted to the Office of the Ombudsperson (S.C. resolution 2734 (2024))

THE OMBUDSPERSON ACCEPTS THE DELISTING REQUEST



APPROXIMATELY 8-16 MONTHS

Assessment, Standard and Approach

Assessment of information:

The methodology adopted in assessing gathered information is:

- i Appropriate to an international context;
- ii Consistent with the preventative nature of the sanctions measures, the applicable criteria and standards;
- iii Subject to relevant confidentiality restrictions;
- iv Not subject to any procedural rules of any one legal system; in particular, it does not 'admit' or 'exclude' information or otherwise apply 'rules of evidence' as recognised in some legal traditions, notably the common law;

Each piece of information is assessed based on, among other things, relevance, specificity and credibility. Credibility of the information is a critical component of the standard applied. However, the relevance, specificity and credibility of such information and the weight to be accorded to it is done on a case-by-case basis.

As such, the individual factors to be considered in a case may take on a greater or lesser significance depending on the context and circumstances. Upon assessment, a piece of specific information may not necessarily be relied on when making a recommendation. The reason or reasons for doing so will be detailed to the Sanctions Committee.

Standard and approach:

To ensure fairness in assessing delisting requests, the Ombudsperson applies a consistent standard of whether there is sufficient information to provide a reasonable and credible basis for the listing at the time of the petition being filed based on all available information.

The Ombudsperson gathers information to determine whether the Petitioner (an individual, group, undertaking, or entity) is associated with ISIL or Al-Qaida presently through:

- 1 participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, or on behalf of, or in support of;
- 2 supplying, selling, or transferring arms and related material to;
- 3 recruiting for; or
- 4 otherwise supporting acts or activities of ISIL (Da'esh) or Al-Qaida, or any cell, affiliate, splinter group or derivative thereof.

The Ombudsperson also considers changed circumstances and possible disassociation from the relevant entity.

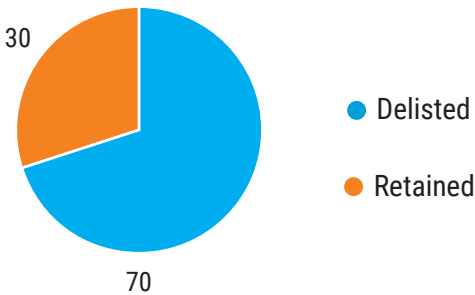
For further information, please see:

<https://www.un.org/securitycouncil/ombudsperson/approach-and-standard>

Achievements of the Office of the Ombudsperson

The Office of the Ombudsperson has accepted a total of 111 petitions as of 1 July 2024, of which 105 cases have been completed. Five cases were resolved or withdrawn prior to the Committee decision, and 100 cases have concluded through the Ombudsperson process, as a result of which 70 requests were granted and 30 were denied, meaning that 65 individuals and 28 entities were delisted, and one entity was removed as an alias of a listed entity.

CASE OUTCOMES



For further information, please see:

<https://www.un.org/securitycouncil/sc/ombudsperson/status-of-cases>

Annexures



HOMEPAGE



BIOGRAPHY OF THE
OMBUDSPERSON



STATUS OF CASES



PROCEDURE



APPROACH TO
ASSESSMENT
OF INFORMATION



REPORTS

Disclaimer



While this booklet provides a summary of the procedures and practice of the Office of the Ombudsperson, the official language of the relevant resolutions remains definitive.

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