The Security Council's ISIL (Da'esh) and Al-Qaida Sanctions Regime:

The Human Dimension

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Introduction

I would like to thank the Max Planck Institute, in particular Prof. Dr. Sieber and Dr. Knust for giving me this opportunity. It is a real honour for me to address this eminent audience.

For the last five years, I have been the Legal Officer supporting the Office of the Ombudsperson for the Security Council's ISIL (Da'esh) and Al-Qaida Sanctions Committee. The Office of the Ombudsperson is a recourse mechanism for people and entities who have been subjected to sanctions because they are suspected, accused or convicted of being associated to Al-Qaida or ISIL. This mechanism offers an avenue for them to request their names to be removed from the ISIL (Da'esh) and Al-Qaida Sanctions List (the "1267 Sanctions list"). In my time with this office, I have worked with two Ombudspersons on over fifty delisting requests. This has given me a unique perspective on the role of this office and the individual post-holders. It has also led me to see the people behind the names on the sanctions list, and meet some of them. I would like to share some thoughts with you today on the "other" dimension of sanctions – the human dimension. There is a double tension at the heart of this subject. The first is the tension between security and the fundamental rights of listed people. The other is between the inclination to categorise "terrorists" as an immutable category or inherent characteristic and the fact that sanctions are meant to be temporary and lead to change. This tension will hopefully be apparent to you throughout this presentation.

The sanctions apply both to individuals and organisations. However, it is the part of the list relating to individuals which will provide a backdrop for my analysis.

In my presentation, I will answer the following questions: What is the 1267 sanctions regime and what does this mean for listed individuals? What does the Ombudsperson process offer?

A. <u>What is the 1267 Sanctions Regime?</u>

1. What is the 1267 Sanctions Regime?

Sanctions are an important tool which the Security Council may use under Article 41 of Chapter VII of the United Nations Charter to maintain or restore international peace and security. Since 1966, the Security Council has established 26 sanctions regimes, 14 of which are currently active.

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The 1267 sanctions regime is currently governed by resolution 2368 (2017) adopted in July 2017. It is administered by a Committee whose main role is to designate individuals and entities for listing and to oversee the implementation of the sanctions. The measures imposed against listed individuals and entities under this regime are an assets freeze, travel ban and arms embargo.

2. Historical background and legal foundation

The 1267 sanctions regime was established by resolution 1267 in October 1999 following the terrorist attacks on the United States embassies in Kenya and Tanzania in 1998. These attacks had been attributed to Usama bin Laden and his associates. This resolution targeted the Taliban leadership and their sheltering of international terrorists, in particular Usama bin Laden - although he himself was not listed until January 2001. Resolution 1267 of 1999 established a sanctions regime which imposed a limited air embargo and assets freeze on the Taliban. The purpose of the resolution was to pressure the Taliban to turn over Usama bin Laden.

The regime soon evolved to include Al-Qaida, and then ISIL in 2015. In the meantime, the regime was split, with the Taliban falling under a separate regime from 2011 onwards. The Security Council reviews and renews the regime roughly every year and a half. The 1267 regime is currently governed by resolution 2368 adopted in July 2017.

3. Fair process concerns and creation of the Office of the Ombudsperson

Following 9/11, a very big number of names[2] were listed, without any recourse or notice of reasons for the listings. When targeting individuals, sanctions impose very strict limitations on human rights and have enormous effects on people's lives. There was no avenue for individuals whose listing was not, or no longer justified, to contest their listing and have their name removed from the list. As a result, growing concerns and criticism were expressed about the lack of fair process of the regime, which was damaging to the credibility of the Council's sanctions. In the 2005 World Summit declaration, the General Assembly called on the Security Council, with the support of the Secretary-General, to ensure that fair and clear procedures are in place for the imposition and lifting of sanctions measures. Ultimately a number of court decisions, most significantly the 2008 judgment of the European Court of Justice in the "*Kadi I case*", struck down the implementing legislation of the European Union for lack of fair process. [3]

[2] In the two months following 9/11, 116 names of individuals and entities were added to the list (see press releases issues between 11 September and 11 November 2011, available at https://www.un.org/sc/suborg/en/sanctions/all/press-releases?page=39 and https://www.un.org/sc/suborg/en/sanctions/all/press-releases?page=38).

[3] Judgment of the Court (Grand Chamber) of 3 September 2008, *Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union and Commission of the European Communities*, Joined Cases C-402/05 P and C-415/05 P, ECLI:EU:C:2008:461. Annulling the regulation of the Council of the European Union that froze the funds of the appellants, the Court found that this regulation infringed on their fundamental individual rights under EC law, including the right to be heard before a court of law, the right of effective judicial review, and the right to property.

In response, the Security Council took many measures to enhance the fairness and transparency of its sanctions regimes.[4] Importantly, in 2009 - ten years after it established the 1267 regime - the Security Council created the Office of the Ombudsperson in resolution 1904 (2009). This mechanism offers an independent recourse to individuals and entities on the 1267 Sanctions list. The creation of this Office is at the core of the tension I spoke of in the introduction: on the one hand, the Council must respect fundamental rights, on the other, it is creating a redressal mechanism for potential terrorists, which may delist individuals who may subsequently re-associate once their names have been removed from the list. As a compromise, the Security Council designed the mechanism so as to meet the fundamental requirements of fair process[5] without infringing too much on its own decision-making power. The Council has since significantly strengthened the Office of the Ombudsperson's mandate. These reforms did not entirely satisfy the European Court of Justice, in particular in the *Kadi II case*[6], but the recent judgment in the *Al-Ghabra case* seems to indicate that it may require listed parties to use the Ombudsperson mechanism before resorting to court.[7]

The Office started operating in July 2010 with the arrival of the first Ombudsperson, Ms. Kimberly Prost. Her mandate expired in July 2015 and Ms. Catherine Marchi-Uhel took over until she moved to her current role with the Syria Mechanism last August. As of 2 December 2017, the position remains vacant.

The figures show that the recourse is effective. Since the Office was established, it has received 79 delisting requests. Out of the 73 cases which have fully concluded through the Ombudsperson process, 56 petitions have been granted and 17 denied.[8] As a result of the 56 petitions which have been granted, 51 individuals and 28 entities have been delisted and one entity has been removed as an alias of a listed entity.

4. What does all of this mean for listed individuals?

a) How do people get on the list?

The criteria for listing are enumerated in resolution 2368 (2017). The main criterion is association to ISIL, Al-Qaida or any associated entity. Membership is not required. Association results from activities which include the financing, planning or perpetration of acts, the supply of arms, or recruitment for ISIL, Al-Qaida or a listed group. The list of activities which warrant listing is not limited. In fact, it includes a vague and

[4] The regime now has objective listing criteria and requires more detailed statements of case in support of listing requests. Summaries of the reasons for the listing are also now publicly available and listed individuals may request exemptions.

[5] Those rights are the right to know the case, the right to answer the case and be heard by the decision-maker, and the right to independent review with an effective remedy.

[6] Judgment of the Court (Grand Chamber), 18 July 2013, *European Commission and Others v Yassin Abdullah Kadi*, Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, ECLI:EU:C:2013:518.

[7] Judgment of the General Court (Third Chamber) of 13 December 2016, *Mohammed Al-Ghabra vs. European Commission*, Case T‑248/13, ECLI:EU:T:2016:721. In this case, the General Court of the European Union encourages listed parties to approach the Ombudsperson before challenging sanctions in court. The Court's approach seems to differ from the approach taken in the *Kadi II case*.

[8] In addition, three individuals were delisted by the Committee before the Ombudsperson process was completed and one petition was withdrawn following the submission of the Comprehensive Report.

broad catch-all phrase: people can be listed for providing *other support* to ISIL, Al-Qaida or an associated entity. This could cover, for example, speech.[9]

Sanctions are imposed as a result of a political process. Individuals and entities are listed at the request of a State, if no Committee member objects. Most individuals are listed without prior criminal conviction as a result of listing requests based on intelligence information. This is because sanctions measures are designed to be preventative, not punitive. As a result, the standard of proof is much lower. However, some States consider it important to provide solid information as a basis for their listing requests, for example a conviction for a terrorism-related offense by a court of law. Such States only propose listings of individuals that have been convicted of such crimes.

Sanctions are imposed without advance notice. Petitioners before the Office of the Ombudsperson have spoken of discovering their listings at the airport or a border while attempting to travel, or while trying to retrieve cash from an ATM. This is because otherwise, people might move their funds or flee, which would defeat the very purpose of the sanctions. This means however that they do not get an opportunity to argue that they should not be listed before the sanctions are imposed on them.

b) Who are the individuals on the sanctions list?

As of 2 December 2017, there are 256 individuals and 80 entities on the list. Based on the information on the list and the Narrative Summaries, I determined that approximately 25% of individuals on the list are listed because of their leadership role in ISIL, Al-Qaida or a listed entity. There is also a high number of individuals who are said to be financiers, fund-raisers and facilitators. The list also comprises individuals alleged to be fighters and military commanders, recruiters, a few bomb makers and a nuclear scientist. Nuclear scientist, bomb makers

c) Purpose of sanctions: deterrent and preventative measures

Sanctions have a double purpose. The sanctions are meant to *deter* people from engaging in conduct which would result in their listing by creating a fear of being listed. Once applied, sanctions are meant to *prevent* certain activities by creating obstacles which make them very difficult to perform. Combined with the possibility of seeking delisting, sanctions can also have a *deterrent* effect on individuals who are already listed by encouraging them to stop the behavior which resulted in their listing, so that they can be removed from the list.

The deterrent and preventative nature of sanctions means that a listing is not equal to a finding of guilt by a court of law. Actions which can lead to a listing are not the same as those which would incur a criminal charge or conviction. Certain activities which are not criminal in certain countries may nonetheless be considered a form of support warranting a listing. For example, as noted earlier, speech in support of a listed entity can result in a listing.[10] In addition, as a listing is not a criminal charge, the usual fair process

[9] The Ombudsperson has set a threshold for speech to be a valid basis for a listing which is that statements must go beyond expressions of opinion or sympathy and incite, encourage, suggest or persuade towards specific activity or recruitment in support of ISIL. *See* Ombudsperson's Approach to Analysis, Assessment and Use of Information, para. 1.5.2.

[10] *See e.g.* the Narrative Summary of reasons of listing number QDi.198: "Al-Sebai Yusif uses an Internet site, and other media, to support terrorist acts or activities undertaken by Al-Qaida as well as to maintain contact with a

standards and guarantees for criminal proceedings set out in Article 14 of the International Covenant for Civil and Political Rights do not apply.

d) The effect of sanctions on people's lives

Once a person is listed, he is the subject of all three sanctions measures. There is no tailor-made option depending on the type or gravity of past or suspected activities. Under the assets freeze, States must ensure that no funds are available to listed persons, but they are not required to seize or confiscate assets. Under the travel ban, States must prevent the listed individuals' entry into or transit through their territories. There is no requirement to arrest or prosecute these individuals, although this happens routinely in certain States as a consequence of a listing.

Many petitioners have been on the 1267 Sanctions list for ten to fifteen years. The Ombudsperson always asks them about the effect of sanctions on their lives. It is obvious that sanctions have an enormous impact on people's lives, with heavy and long-term repercussions.[11] As sanctions are not tailored to the gravity of the activities that have led to a listing, they sometimes have a hugely disproportionate effect. Often listed individuals are unaware of the possibility to request exemptions until the Ombudsperson informs them of this option when they file a delisting request.[12]

In brief, sanctions matter. When targeting the right people, they can be effective and productive in making it very difficult for terrorists to pursue their goals. However, they can also be counter-productive and constitute an obstacle to reinsertion, sometimes leaving individuals who would have disassociated with no choice but to turn to a listed organization for support (usually the one which led to their listing in the first place), hence perpetuating the circle. It is therefore particularly important to ensure that individuals who are listed at a particular point in time are those who *should* be on the list.

e) How do people get off the list?

There are two ways for listed individuals to be removed from the list: the first option is direct delisting by the Committee. This could result from a State's request to delist the individual and will be considered through the normal decision procedures of the Committee. A petitioner could also appeal through their State of residence or citizenship. This is by far the fastest process, when successful. Additionally, a delisting

number of supporters around the world. He offers praise for Al-Qaida as an organisation and, directly or by inference, encourages individuals to join and support that organisation and its activities on a global basis."

[11] Petitioners have described the regime as punitive and draconian, constituting a serious interference with their fundamental rights. At least two petitioners have described the sanctions as a "civil death" and another has described the stigma and reputational damage resulting from sanctions, noting that he and his family have become "social outcasts". Being the subject of an assets freeze means that the individual does not have access to a bank account. This makes it impossible to find a job in many countries, which leads to a lack of income and food for the family. Sanctions may lead to the obligation to rely on loans or charity of friends and family (or engage in undeclared or illicit activities, sometimes for years). They also make it difficult if not impossible to get married and found a family in many cultures. The travel ban prevents individuals from performing religious obligations such as the Hajj (pilgrimage to Mecca). They cannot travel for their own or a family member's medical procedures or to visit family (such as sick parents) abroad.

[12] There is a possibility to request exemptions under certain circumstances through a Focal Point mechanism which is distinct from the Ombudsperson process. An exemption to the assets freeze can be approved for basic or extraordinary expenses. An exemption to the travel ban can be granted to allow individuals to enter their own country of nationality, to travel for the fulfillment of a judicial process or on a case-by-case basis.

could occur following one of the reviews undertaken by the Committee: deceased persons, defunct entities and periodic reviews (every three years).

However, the avenue with the best chances of success for the listed individual is to file a delisting request with the Office of the Ombudsperson, which takes approximately eight to sixteen months.[13] Nothing prevents an individual who has requested his delisting first through a State to turn to the Ombudsperson with the same request. By contrast, a person presenting a *repeat* request to the Ombudsperson will have to show new elements.

B. What is the Ombudsperson process?

1. What does the Ombudsperson process offer?

First the Ombudsperson process offers a human dimension in an otherwise faceless and opaque environment, that of sanctions.

It is the first time since the imposition of sanctions that the petitioner has an opportunity to be heard, to explain his position and to respond to the allegations against him to an independent Ombudsperson who will convey this to the decision maker, the Committee.

Through dialogue with the Ombudsperson, the process also provides an opportunity for the petitioner to understand the listing. The Ombudsperson may clarify misconceptions about the list, such as, for example, that only formal members of Al-Qaida or ISIL can be listed, a commonly held view.

In retention cases, the process offers an opportunity to receive encouragement for steps already taken towards disassociation and guidance on the way forward.

And of course, in the best-case scenario for a petitioner, the process can lead to delisting.

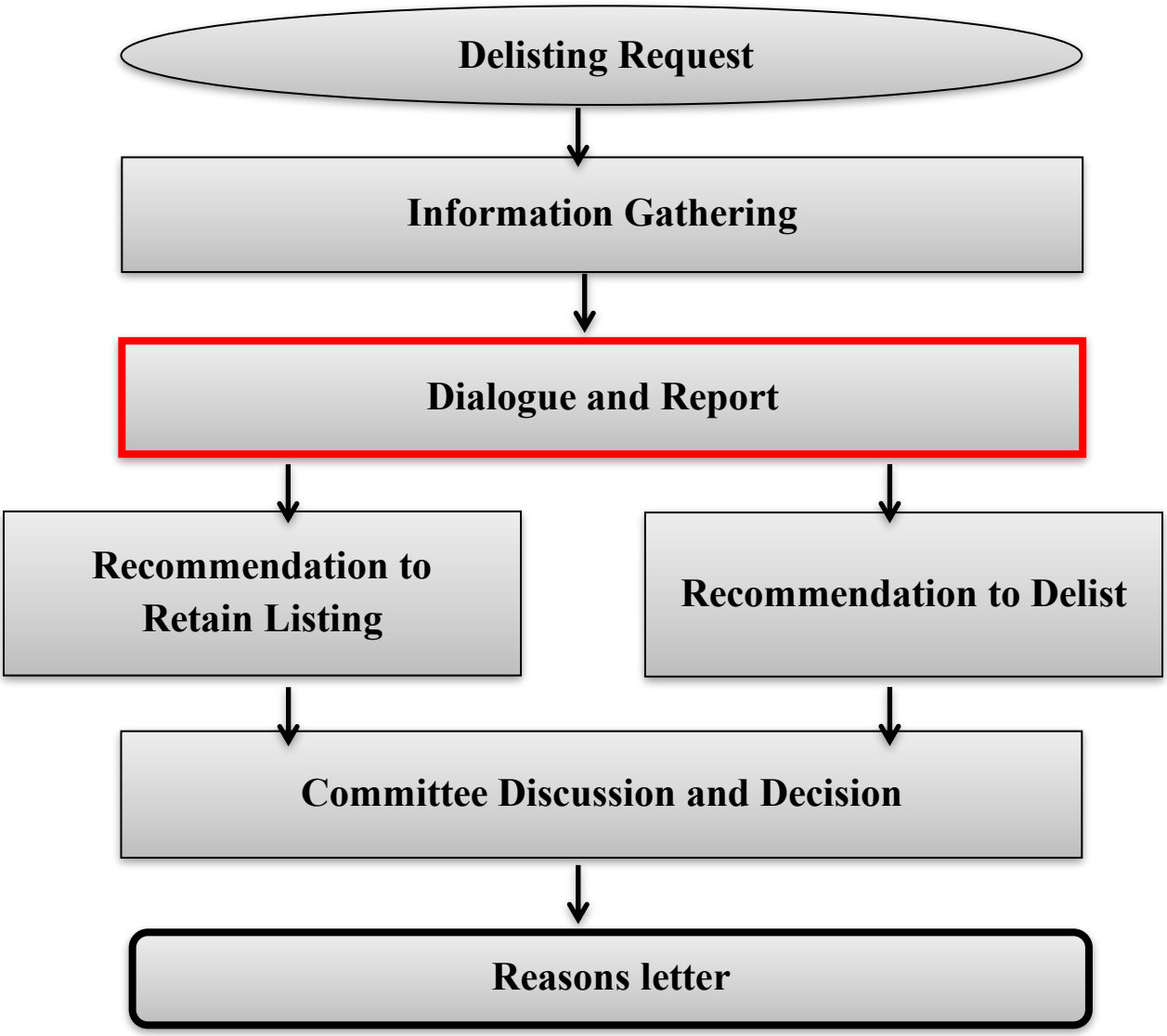
2. How does the Ombudsperson reach her conclusion?

a) Procedure

Upon acceptance of a delisting request, the Ombudsperson will start the *Information Gathering phase*. The purpose of this phase is to obtain as much relevant information as possible, from a variety of actors and sources. Most of the information collected by the Ombudsperson emanates from States and is usually intelligence information. The Ombudsperson also conducts independent research.

[13] An individual requesting his delisting through the Ombudsperson will in essence make one of the following three arguments. First, the petitioner may contest the existence of some or all of the facts described in the Narrative Summary, in other words, he claims that everything is wrong and he has never been associated. Second, the petitioner accepts the existence of these facts but argues that they do not establish his association with ISIL or Al-Qaida. Third, the petitioner concedes that he has been associated with ISIL or Al-Qaida, but he submits that he has disassociated from them or that his circumstances have changed. This is in my experience the most persuasive argument in terms of success rate of petitions. And of course, claims that are backed up by information will have a higher success rate. *See* the Ombudsperson website, at https://www.un.org/sc/suborg/en/ombudsperson/application for advice on how to present delisting applications to the Office of the Ombudsperson.

Once all the information is gathered, the Ombudsperson meets with the Petitioner to the extent possible, during the *Dialogue phase*. During this interview, the Ombudsperson puts the gathered information to the Petitioner, in as much details as possible, subject to any confidentiality constraints. The petitioner is thus made aware of the case against him and has the opportunity to respond, or simply tell his side of the story.



At the end of the Dialogue phase, the Ombudsperson submits her *Comprehensive Report* to the Committee which includes her analysis and recommendation on the request. After translation, the Ombudsperson orally presents her report to the Committee. The decision to delist or to retain a name on the sanctions list rests with the Committee, but by default the decision will follow the Ombudsperson's recommendation, subject to a reverse consensus procedure which has never been invoked.[14]

[14] If the Ombudsperson recommends that the Committee consider delisting the petitioner, sanctions no longer apply after 60 days unless there is a consensus of the 15 members of the Committee to retain the listing. In the

b) Legal standard

In her analysis and report to the Committee, the Ombudsperson answers the question whether there is *sufficient information to provide a reasonable and credible basis for the listing presently*.[15] This means that the "burden of information", to the extent the analogy is possible for this process, is on States and other information providers, not petitioners. In other words, if no information is forthcoming, the delisting request will be granted. But this does not mean that petitioners should sit by and wait idly. The more information they can advance to show disassociation, the better for their case. This legal standard also means that the Ombudsperson does not *review* the Committee's original decision to list. The situation may well have changed in the meantime, and what matters is the information at the time of the Ombudsperson's analysis.

c) What does the Ombudsperson look for?

When analysing a petition to delist, the Ombudsperson considers whether the petitioner is presently associated with ISIL, Al-Qaida or any associated entity. In this context, the Ombudsperson assesses whether the petitioner has disassociated from the relevant entity by examining whether there are signs of disassociation. Petitioners who argue that they have done so are generally those who admit to having been associated in the past but claim that this is no longer the case.

To assess disassociation, the Ombudsperson will take into account a petitioner's change of circumstances, which includes changes of conduct, state of mind and views.[16] Admissions of responsibility for past conduct and openness about the reasons for past support and current change of views are also relevant. A genuine expression of remorse and the reconsideration and rejection of violent extremism will also weigh in favour of delisting. The Ombudsperson will assess the credibility of the petitioner on these issues.

Cooperation with State authorities and enrolment in a deradicalisation or rehabilitation programme are all favourable factors. For example, Kuwait has put in place a one-year rehabilitation programme to support the disassociation efforts of individuals who admit to their prior actions, with a view to increasing their chances of being delisted from the sanctions list. This is a great initiative and a petitioner's willingness to engage in this programme will no doubt be considered favourably by the Ombudsperson. [17]

absence of consensus, it is also possible for a member State to refer the matter through the Chair to the Security Council for decision. This reversed consensus was introduced by resolution 1989 (2011) and since then none of these two scenarios has occurred. For further details, *see* Security Council resolution 2368 (2017) and its Annex 2, which defines the mandate of the Ombudsperson. A more detailed procedural chart is available on the website of the Office of the Ombudsperson, which includes specific timelines for each phase of the process.

[15] This legal standard was invented by the first Ombudsperson after analyzing the standards applicable in many countries and systems.

[16] A change in views by a petitioner as to ISIL or Al-Qaida, if genuine and sustained over a period of time, can be a significant factor in showing disassociation.

[17] In her last report to the Security Council in August 2017 (S/2017/685, para. 32), the Ombudsperson described this programme as follows: "The programme includes a social integration plan, participation in lectures, adherence to certain rules in the use of social media, monthly meetings with representatives of the government committee, the opportunity for therapy and quarterly assessment by the government committee. For those individuals who, either during the course of the programme or following its completion, would request their delisting from the sanctions list via the Ombudsperson, Kuwait would be prepared to share the assessment reports on the progress of the participant with the Ombudsperson and, through him or her, with the Committee."

The time that has lapsed since the conduct showing association is also relevant, although it will rarely support delisting by itself, in the absence of any other factors. This is because there may be many factors contributing to an appearance of inactivity, including circumstances limiting the individual's activities (the sanctions or imprisonment[18]), or impediments to the collection of information.

The Ombudsperson will also consider whether there is a threat of future involvement. The gravity and extent of the original conduct and depth of involvement are all relevant factors in this context.

Finally, the Ombudsperson may verify if there is objective support for the disassociation, such as assessments done by doctors, psychologists and other experts, although this is not a condition for delisting.

3. Reasons letters: a powerful tool with useful messages

At the end of the process, the petitioner receives a letter which summarises the reasons for the decision. These reasons letters are a component of fair process and are delivered both in retention and delisting cases (they show that the decision was not arbitrary, regardless of the outcome). This step has been a contentious issue in the procedure with strong resistance from certain Committee members which at times have opposed reasons letters containing any substance at all. This is because reasons letters are at the core of the tension between security and rights. The underlying concern is this: Will providing reasons with information to petitioners make us unsafe?

This is a very interesting issue presently because the Security Council just amended the procedure in resolution 2368 (2017) in July 2017 to ensure that the summary of reasons accurately describes the principal reasons for the recommendation of the Ombudsperson, as reflected in her report. As the reasons letter is a summary of her analysis, it is the Ombudsperson who prepares the summary of reasons, for the Committee's review. The only purpose of this review is to address any security concerns and check whether any confidential information has been inadvertently included. This limitation on the Committee's review power in terms of the substance of reasons will hopefully set a new trend and safeguard the petitioners' right to be informed as fully as possible about the basis for the decision on their delisting request.

Why is this so important? If the Ombudsperson is able to deliver the message she wishes to the petitioner unimpeded, the reasons can be a very powerful tool, especially in retention cases. The new resolution provides that in cases where the listing is retained, the summary of the analysis must cover *all* the arguments for delisting by the petitioner to which the Ombudsperson responded. When a person is retained on the list, it means that there is sufficient information to reasonably consider that the petitioner is associated to ISIL, Al-Qaida or a listed group. However, this could change over time, and that is the very purpose of the sanctions and their deterrent and preventative effect. In this situation, the Ombudsperson may wish to give the Petitioner advice or leads of a path to follow in order to disassociate. She may for example suggest that the petitioner undergo a particular therapy or participate in a

[18] Detention entails limited opportunities to associate with a listed entity, which makes it difficult to assess what may look like a change of conduct or a lack of information showing recent association. The question the Ombudsperson asks herself is what happens when the petitioner is released. In my experience, these considerations have made it more difficult for petitioners in detention to be successful in their delisting requests, but not impossible. And petitioners can present a repeat request upon release on the basis of changed circumstances.

deradicalisation programme, or that he stop socialising with certain individuals. She may also offer encouragement to a petitioner who has taken steps towards disassociation but has not yet completed the process. It is important in such cases not to discourage a petitioner, but instead to acknowledge the efforts made and encourage further work. The reasons letter may equally help the petitioner to reflect on his conduct. All will depend on the particular situation of the petitioner.

All this will also give the petitioner and the Ombudsperson a common benchmark to measure progress in the future if an unsuccessful petitioner returns with a repeat request. In cases where the Ombudsperson is able to share her Comprehensive Report with the authorities of the State of residence, this will also allow these authorities to be on the same page on these issues.

In addition, for the deterrent purpose to be effective, the Petitioner needs to understand why his name is being retained on the list. If he has to guess which attitude he has to change, he may be unable to do so. The public Narrative Summaries are often too vague to provide a useful insight for the petitioner on what he needs to work on. It is therefore crucial for the Ombudsperson to be able to communicate as complete reasons as possible. Hopefully the new wording in resolution 2368 will facilitate this task.

4. The person in the role

The Ombudsperson's job is challenging and it takes a special kind of person to perform this role, which is at the core of the tension between security and rights. As there is currently a gap pending the appointment of the new Ombudsperson, I would like to highlight how important the personality of the post-holder is. The Office of the Ombudsperson has been fortunate to have two extremely competent, independent and strong women as Ombudspersons, Ms. Kimberly Prost and Ms. Catherine Marchi-Uhel. The Ombudsperson's personality is also relevant when considering the human dimension of sanctions and influences the way in which she performs her duties.

The following attributes are crucial for the Ombudsperson.

First, the Ombudsperson must be independent, in other words, be able to resist pressure from States which may have their own agenda and may not necessarily accept the idea of an independent Ombudsperson. It is for the Ombudsperson to set clear and firm limits. She or he must be able to take unpopular stances for the sake of fair process.

Second, the Ombudsperson must be impartial, in other words, she or he should not be influenced by misleading considerations such as for example the past crimes of a petitioner. The main question to be answered by the Ombudsperson when making a recommendation on a petition is the following: "Is the petitioner presently associated to ISIL, Al-Qaida or an associated entity?" Other relevant considerations which complete this main interrogation include the threat of future involvement.

Third, the Ombudsperson must have authority. There are two sides of the coin. Fairness and impartiality go both ways. They should be applied equally towards petitioners and States. Stakes are high in terms of security, and the Ombudsperson must not be manipulated by petitioners. It is also this authority which successfully allows the Ombudsperson to advise petitioners on the way forward.

Finally, the Ombudsperson's competence will have an impact on the quality of her reports. The quality of the reasoning in the analysis is essential and has a direct impact on the credibility of the position, both

towards States (some of which will have access to the report) and the petitioner (who will receive a summary in the reasons letter).

Take-aways

The key messages to remember from this presentation are the following:

- There is a tension between security and individual rights;
- Sanctions are an infringement on someone's rights and have a huge impact, so it is important to target the right people;
- The Ombudsperson process offers not only a fair, effective, independent and impartial recourse;
- The Ombudsperson can also help listed individuals get back on track by offering encouragement and guidance;
- The reasons letters are a very powerful tool which must be safeguarded at all cost.

And finally, I would like to leave with you a message to reflect on, which we once received from a petitioner following his delisting: "This will allow me to start a new life. I will never disappoint you in the future."