

**Letter dated 28 March 2024 from the Ombudsperson addressed to the President of the Security Council**

I have the honour to transmit herewith to you the twenty-sixth report of the Office of the Ombudsperson to the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities, submitted pursuant to paragraph 21 (c) of annex II to Security Council resolution 2610 (2021), according to which the Ombudsperson shall submit biannual reports to the Council summarizing the activities of the Ombudsperson. The report provides a description of the activities since the previous report was issued, covering the period from 12 September 2023 until 28 March 2024.

I would appreciate it if the present letter, the report and its annex were brought to the attention of the members of the Security Council and issued as a document of the Council.

*(Signed)* Richard **Malanjum**  
Ombudsperson to the Security Council Committee  
pursuant to resolutions [1267 \(1999\)](#), [1989 \(2011\)](#) and  
[2253 \(2015\)](#) concerning Islamic State in Iraq and the  
Levant (Da'esh), Al-Qaida and associated individuals,  
groups, undertakings and entities

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## **Report of the Office of the Ombudsperson submitted pursuant to Security Council resolution 2610 (2021)**

### **(Advance unedited version of the report submitted to the Security Council)**

#### **I. Background**

1. The present report provides an update on the activities undertaken by the Office of the Ombudsperson since the issuance of the twenty-fifth report of the Office to the Security Council on 12 September 2023 (S/2023/662).

#### **II. Activities related to delisting requests**

##### **A. General**

2. The primary activities of the Office during the reporting period, from 12 September 2023 to 28 March 2024, related to delisting requests submitted by individuals.

3. In the context of his casework, the Ombudsperson communicated with the Members of the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011), and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities ("Committee"), as well as with other relevant Member States, and with petitioners and their legal counsel. Further, the Ombudsperson conducted independent research and interviewed various experts and other interlocutors on matters related to ongoing cases.

##### **B. Delisting requests**

4. Since the issuance of the previous report, the Ombudsperson accepted four petitions. Three petitions were new, and one was submitted during the previous reporting period but could not be accepted at the time as it was still pending completion of the submission.

5. As of 28 March 2024, a total of 111 delisting petitions involving requests from individuals, entities, or a combination of both, have been accepted by the Office since its establishment. Unless a petitioner requests otherwise, all names remain confidential while a petition is under consideration. In the case of denial or withdrawal of a petition, the petitioner's name is not revealed at any stage.

6. Since the twenty-fifth report, the Ombudsperson has submitted one comprehensive report to the Committee for its consideration. He has made no presentations to the Committee. During the same period, no individual has been delisted from, or retained on the Committee's sanctions list following the Ombudsperson's review and recommendation.

7. Since its establishment the Office has completed a total of 106 cases in which 103 involved the submissions of comprehensive reports to the Committee,<sup>1</sup> pursuant to paragraph 8 of annex II to Security Council resolution 2610 (2021) and the equivalent paragraph of previous resolutions. 100 cases were fully processed through the Ombudsperson process, resulting in a decision by the Committee.

8. Cumulatively, of the 100 cases completed entirely through the Ombudsperson process, 70 delisting requests were granted, and 30 were denied. As a result of the 70 petitions granted, 65 individuals and 28 entities have been delisted, and one entity has been removed as an alias of a listed entity. In addition, four individuals were delisted by the Committee before the Ombudsperson process was completed, and one petition was withdrawn following the submission of the comprehensive report. A description of the status of all cases is given on the website of the Office of the Ombudsperson.<sup>2</sup> The status of the most recent cases is contained in the annex to the present report.

9. The six pending cases were each filed by an individual. To date, 102 of the 111 cases have been brought by individuals alone. Two cases were brought by an individual together with one or more entities, and six by entities alone. In 64 of the 111 cases, the petitioner was assisted by legal counsel.

10. During the reporting period, the Office has been in touch with the legal representatives of three designated individuals who expressed an interest in filing petitions for delisting, but have not yet done so.

### **C. Gathering information from Member States**

11. For each petition received, the Ombudsperson invites relevant Member States to submit substantive information, accompanied by underlying evidentiary documentation wherever possible.

12. During the reporting period, the Ombudsperson sent 37 requests for substantive information to Member States in six cases during varying phases of their respective procedures. Of the 37 requests, 29 related to the cases accepted during the reporting period.

13. The Ombudsperson also met in New York with representatives of Member States to discuss the pending cases, the requests for information and follow up questions that arose during the information gathering period. He also discussed the relevance of receiving substantive information and underlying evidentiary documentation directly

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<sup>1</sup> This number includes one case concluded in 2011, in which the petitioner withdrew the delisting request after the Ombudsperson had submitted and presented the comprehensive report to the Committee. It also includes one case concluded in 2013, in which the Committee decided to delist the petitioner after the Ombudsperson had submitted the comprehensive report to the Committee but before the Ombudsperson had presented it to the same. Finally, this number does not include three additional cases in which the Ombudsperson case became moot following a decision by the Committee to delist the petitioners before the Ombudsperson had submitted the comprehensive report.

<sup>2</sup> More information is available on the relevant web page on the website of the Office of the Ombudsperson (see [www.un.org/securitycouncil/sc/ombudsperson/status-of-cases](http://www.un.org/securitycouncil/sc/ombudsperson/status-of-cases)).

from State authorities during his visit to the petitioner's State of residence, in preparation for the interview he conducts with the petitioner.

14. Of the pending six cases, two are in the dialogue phase, three are in the information gathering phase, and in one case the comprehensive report is pending consideration by the Committee.

15. During the reporting period, the Ombudsperson received 21 responses from Member States to his request for information which included a submission of information. Some Member States submitted more than one response sharing information. 11 States expressed a view on the delisting request and 8 Member States responded to the Ombudsperson that they had no information to share. In the completed case, 5 States did not respond to the Office at all. In the pending cases, 18 Member States are yet to respond.

16. During the same period, 7 Designating States have been requested by the Ombudsperson to submit relevant information, and 5 Designating States responded to this request. The responses varied from sharing only a position, to the submission of detailed relevant substantive information. In 4 cases, 4 Designating States submitted relevant information.

17. During the reporting period, in response to the request of the Ombudsperson, two of the three Designating States in two cases stated their opposition to the respective pending delisting requests. As a consequence, the opportunity did not arise for the Ombudsperson to shorten the information gathering period in these pending cases pursuant to annex II, paragraph 3, of resolution 2610 (2021).

18. During the dialogue phase in two cases, the Ombudsperson travelled to the State of nationality and residence of the petitioner and met with the authorities to obtain information.

#### **D. Dialogue with petitioners**

19. The Ombudsperson and the Office interacted with petitioners and their legal representatives, including through written exchanges, videoconferences and in-person meetings.

20. During the dialogue period in two cases, the Ombudsperson travelled to the petitioner's State of nationality and residence to conduct an extensive, in-person interview and to meet with other relevant interlocutors to gather and/or verify information and to gain in-depth knowledge of the case.

#### **E. Access to classified or confidential information**

21. To date, the Office of the Ombudsperson has entered into 22 agreements or arrangements for access to classified information<sup>3</sup> and one arrangement on an ad hoc basis.

22. The Ombudsperson continued his outreach to Member States to sign an arrangement, thereby solidifying the basis for the sharing of classified, de-classified, or confidential information with the Ombudsperson. The value of information sharing arrangements has been discussed specifically with non-Committee Members involved in pending cases and with the new non-permanent Members of the Security Council.

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<sup>3</sup> More information is available on the relevant web page on the website of the Office of the Ombudsperson (see [www.un.org/securitycouncil/ombudsperson/classified\\_information](http://www.un.org/securitycouncil/ombudsperson/classified_information)).

### **III. Summary of activities relating to the development of the Office of the Ombudsperson**

#### **A. General**

23. During this reporting period, the Ombudsperson completed a series of bilateral meetings with all Member States of the Committee, including the new non-permanent Members.

24. On 15 September 2023, the Ombudsperson met with a former Ombudsperson to hear in retrospect thoughts and views relating to the functions and mandate of the Office.

25. On 4 October 2023, the Office of the Ombudsperson had an exchange with the Counter Terrorism Committee Executive Directorate (CTED) to provide information on the mandate, and explore the possibility of knowledge sharing and participation in the Global Compact, and particularly in working groups on issues relating to due process and human rights.

26. On 17 October 2023, the Office of the Ombudsperson had a meeting with the United Nations Special Rapporteur on unilateral coercive measures and human rights to exchange knowledge in relation to sanctions implementations vis-a-vis human rights and the challenges ahead.

27. On 18 October 2023, the Office had a meeting with the United Nations Special Rapporteur on counter-terrorism and human rights to exchange knowledge on respective mandates and the challenges ahead.

28. On 23 October 2023, the Ombudsperson met with the Director General of the Directorate of Public International Law at the Federal Department of Foreign Affairs of Switzerland to discuss the mandate of the Office of the Ombudsperson and the possible ways forward.

29. On 24 October 2024, a meeting with the International Crisis Group and the Office of the Ombudsperson was held to brief on the work of the Office. The Office subsequently had a follow-up meeting with the International Crisis Group and Humanitarian Dialogue on 4 December 2023 to discuss future work-related matters.

30. On 30 October 2023, the Ombudsperson met with the Principal Legal Adviser of the European Commission to discuss sanctions and the mandate of the Office, including the current challenges faced, particularly in relation to independence.

31. On 16 November 2023, the Ombudsperson had a meeting with the Executive Director of CTED during which the work and complementarity between the respective mandates of the offices was discussed.

32. On 3 December 2023, the Ombudsperson participated in the Residential Sanctions Training for incoming members of the Security Council, organized by the Security Council Subsidiary Organs Branch of SCAD. He presented on the Ombudsperson's mandate.

33. In January 2024, in the context of the program 'The Jones Day Visiting Professorship on Rule of Law in Asia' of the Centre of Asian Legal Studies, Faculty of Law, National University of Singapore and the Jones Day Foundation, the Ombudsperson travelled to Singapore to speak about sanctions and his mandate.

34. On 15 January 2024, the Ombudsperson met with the Deputy Director-General on International Organisations at the Singapore Ministry of Foreign Affairs to highlight the work of the Office and raise awareness of those involved in

implementing sanctions within the ASEAN region of the existence and mandate of the Office.

35. On 16 January 2024, at a meeting with the Singapore Law Society, the Ombudsperson discussed with the Singapore legal fraternity about its awareness of the Office of the Ombudsperson and the need for pro bono lawyers from the ASEAN region.

36. On 18 January 2024, the Ombudsperson delivered a public lecture entitled 'International Sanctions and the Rule of Law' at the Wee Chong Jin Moot Court in Singapore. The Chief Justice of Singapore attended it as the Guest of Honour, along with Singapore judges, law professors and lecturers, law students, legal practitioners, and some members of non-governmental organisations.

37. On 19 January 2024, a podcast talk was held with the Ombudsperson and law professors and lecturers, law students, legal practitioners and social media practitioners on a range of topics, including constitutional milestones and development in Malaysia in the context of human rights and due process.

38. On 2 February 2024, the Ombudsperson met the President and members of the Malaysian Bar in Kuala Lumpur, Malaysia, and discussed, *inter alia*, the possibility of Malaysian lawyers providing legal assistance on a pro bono basis for those listed under the ISIL and Al-Qaida sanctions regime. The Ombudsperson also discussed the idea of the Bar organising a workshop on international sanctions and their implementation, including on the Office of the Ombudsperson to raise awareness of members of the Bar and enforcement agencies in Malaysia and ASEAN nations.

39. On 13 March 2024, the Ombudsperson discussed the work of the Office of the Ombudsperson and challenges faced by the UN Sanction regimes with the Head of the Liechtenstein Working Group on Sanctions.

## **B. Interaction with the Analytical Support and Sanctions Monitoring Team**

40. Throughout the reporting period, the Ombudsperson and Office staff met with individual members of the Analytical Support and Sanctions Monitoring Team to discuss pending delisting requests. During a meeting on 4 October 2023 on the general cooperation between the Office of the Ombudsperson and the Monitoring Team, the Ombudsperson noted that the quantity and quality of submissions by the Team vary per case. The Ombudsperson would welcome ideas and proposals from experts of the Monitoring Team to increase and enrich the submissions of substantive information relevant to delisting petitions. In addition, the Ombudsperson discussed, and would welcome further exchanges with the Monitoring Team in relation to potential sharing of background and contextual information not related to specific petitioners.

41. The Ombudsperson reiterates the recommendation in his twenty-fifth report (S/2023/662) that as the Ombudsperson's comprehensive reports are based on a thorough analysis of the case, including an assessment of the narrative summary of the reasons for listing in each procedure, they should be used to consider updates to the narrative summary of the reasons for listing petitioners in existing listed cases, especially where the designation is retained, bearing in mind paragraphs 57, 58 and 98 of resolution 2610 (2021). Such an approach is crucial from a fairness perspective, particularly for petitioners who submit a repeat request for delisting.

### **C. Liaison with States, intergovernmental organizations, United Nations bodies, and non-governmental organizations**

42. During the reporting period, the Office of the Ombudsperson continued to interact with Member States, in particular, members of the Committee and Member States of relevance to pending delisting petitions. The Ombudsperson continued his discussions with Committee members on cooperation between the Member States and his Office. He also had bilateral meetings with the five new non-permanent Member States of the Security Council prior to the start of their Council membership to discuss the Office's functions and responsibilities in the Committee. Furthermore, he liaised with Member States to discuss his mandate more generally, and its importance for the legitimacy of sanctions imposed by the Security Council.

43. The Office also interacted with agencies and bodies of the United Nations system (including the Office of Counter-Terrorism, the CTED, the Department of Safety and Security, Resident Coordinators and their Offices, the Department of Global Communications, and Special Rapporteurs) and with independent experts, representatives of law enforcement agencies, legal practitioners, counter-terrorism experts, international jurists, academics, and international and human rights law professionals.

### **D. Working methods and research**

44. As was done previously, casework during the reporting period involved extensive open-source research and liaison with various interlocutors and experts, from Member States and otherwise, to collect and analyse information relevant to delisting requests.

45. The Office developed a new search tool in coordination with the Office of Information and Communications Technology (OICT) to enhance its research capacity. Such tools are needed given the increased complexity of information-gathering, particularly in light of greater interconnections between completed and new cases, and an increased number of repeat requests.

### **E. Website**

46. The Office continued to revise and update its website during the reporting period.<sup>4</sup>

47. The Office updated its Presentations<sup>5</sup> webpage with the publication of the Ombudsperson's remarks at a Committee meeting on 30 November 2023, following the Secretariat's briefing to the Committee on its support to the Office. Further, the Office published the Ombudsperson's public lecture on 'International Sanctions and the Rule of Law' at the Wee Chong Jin Moot Court in Singapore, on 18 January 2024.

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<sup>4</sup> Available at [www.un.org/securitycouncil/ombudsperson](http://www.un.org/securitycouncil/ombudsperson).

<sup>5</sup> See: [https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/2023.11.30\\_-\\_ombudsperson\\_remarks.pdf](https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/2023.11.30_-_ombudsperson_remarks.pdf); and [https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/lecture\\_18\\_jan\\_2024.pdf](https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/lecture_18_jan_2024.pdf).

## IV. Other Activities

### A. Outreach

48. The Office of the Ombudsperson produced an information booklet as part of its mandated efforts to explain the Office's functions, mandate, and procedures. The booklet describes the mechanism's unique and crucial role in enhancing the legitimacy of the ISIL (Da'esh) and Al-Qaida sanctions regime. It will be made available to delegates from the Permanent Missions of Member States to the United Nations in New York and distributed to diplomats of Member States elsewhere. Further, the booklet will be shared with other stakeholders and published on the Office's website, and will be made available to those who want to learn more about the Office.

49. The booklet as well as other outreach activities are important for disseminating information about the Committee and the mandate of the Ombudsperson. On several occasions during the reporting period, the Ombudsperson engaged with senior academics as well as law students who requested information about the Office's mandate and the impact of sanctions generally. He has provided publicly available information on the Office in response to such requests, as appropriate, including to the incoming members of the Security Council.

## V. Observations and conclusions

### A. Institutional issues

50. The lack of institutional autonomy of the Office of the Ombudsperson remains an unresolved issue. Since the Office became operational in 2010, it has not been established as a distinct United Nations entity and consequently has not functioned as a fully independent Office. The institutional issues and recommendations raised by all former Ombudspersons in previous biannual reports remain valid.<sup>6</sup>

51. The matter received attention during a Committee meeting on 30 November 2023, during which the Secretariat briefed the Committee on its actions to enhance the independence of the Office of the Ombudsperson, pursuant to paragraph 68 of resolution 2610 (2021). The Secretariat highlighted several informal measures put in place to enhance the independence of the Office since 2016. The Ombudsperson notes, in particular, the Secretariat's commitment in its statement that staff supporting the Office of the Ombudsperson will "work exclusively on matters related to the Office, ensuring that their work does not compromise its independence". However, while such an informal arrangement can mitigate immediate issues, it does not truly resolve the underlying structural problems. As the Ombudsperson emphasized during his statement, the informal arrangements now in place depend on the goodwill of current Secretariat officials and as they have no institutional basis, could be subject to reconsideration following future changes in its leadership.

52. The Ombudsperson was also given the opportunity to address the Committee during the briefing. He stated that a change of the status and conditions of service for the Ombudsperson is long overdue. In his statement, the Ombudsperson highlighted longstanding issues arising from the contractual, administrative and staffing arrangements including, *inter alia*, the structure, the reporting line of staff supporting

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<sup>6</sup> See S/2014/553, para. 50: "While achieved in practice, in principle, no separate office has been established and the applicable administrative arrangements, particularly for budget, staffing, staff management and resource utilization, lack the critical features of autonomy."



the Office of the Ombudsperson, the lack of decision-making power on expenses, the duration of the office holder's term and security of tenure, and the contractual status and conditions of service of the Ombudsperson as a consultant.<sup>7</sup> The Ombudsperson also emphasized the importance of exploring measures to ensure continuity in the event of an Ombudsperson becoming unexpectedly incapacitated, or during gaps between the tenures of Ombudspersons.

53. As discussed in his previous report, the Ombudsperson underscored “the importance of the perception that the Office is independent from possible executive influence. The fact that currently both the Committee and the Office of the Ombudsperson are administered by SCAD within DPPA, while the Office of the Ombudsperson is mandated to make a recommendation to the Committee independently, can and may give rise to a perception that both DPPA and the Committee are in a position to influence the Office. Institutionalizing the independence of the Office of the Ombudsperson is therefore critical to counter such a perception.”<sup>8</sup>

54. During the reporting period, it was once more brought to the attention of the Office in the context of organizing travel, that the Ombudsperson's UN travel Certificate is often not recognized by authorities in various States, which can have security implications. While the Office staff members travel with a UN Laissez-Passer, the Ombudsperson is not entitled to a UN Laissez-Passer, due to his contractual situation as a consultant. In the context of recent travel, the Secretariat provided the Ombudsperson with an additional ‘Certification of Employment’, to bring together with the Certificate. The need to take such a step further undermined any semblance of independence of the Office and its holder, let alone an aura of dignity or importance of the Office.

55. In light of the upcoming mandate renewal, and taking the above arguments into account, the Ombudsperson reiterates his proposal, articulated during the 30 November 2023 briefing, that Member States should reconsider changing the status of the Ombudsperson to “Official other than a Secretariat Official” with similar benefits and entitlements to staff, including the authority to manage staff. Such a change in status would resolve the longstanding issues regarding the Office's independence as it would allow the Ombudsperson the ability to manage the Office as an independent entity.<sup>9</sup> In addition, such an arrangement would provide the Ombudsperson with improved conditions of service, including the right to a UNLP. This proposal would preserve existing appointment procedures for the Ombudsperson, and the cost implications of such a change in status would be minimal.

## **B. Information-sharing by Member States**

56. The Ombudsperson continued to engage with Member States to discuss the importance of receiving relevant, timely and specific information on delisting requests as the challenge to receive substantive information from States persists. In discussions with Member States, the Ombudsperson focused on the types of relevant information, the quality of submissions by Member States, how to handle

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<sup>7</sup> Remarks of Ombudsperson, Mr. Richard Malanjum, following Secretariat Briefing to update, pursuant to paragraph 68 of resolution 2610 (2021) (S/RES/2610 (2021)), the Committee concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities, 30 November 2023. See footnote 5 for a link to the remarks.

<sup>8</sup> See S/2023/662, para. 48.

<sup>9</sup> The option to employ the Ombudsperson as an ‘Official other than a Secretariat Official’ was proposed to the Committee in 2016 but no consensus was reached at that time. See S/2016/671, para. 41; S/2017/60, para. 36.

confidentiality, the relevance of a timely submission of information and possible consequences of late, limited or lacking information for the respective pending procedures before the Office of the Ombudsperson. It was also highlighted that, as the Security Council, in resolution 2610 (2021), urges all Member States to ensure any nominations for listing are evidence-based, Member States should make available the information underlying the listing during the Ombudsperson's delisting request review procedure.

57. The Ombudsperson observes that during bilateral meetings, the Ombudsperson and Member States have established a good mutual understanding of the meaning of the language in the resolution pointing to the responsibility of States to submit relevant and substantive information in pending cases before the Office. In practice however, the Office does not necessarily receive responses from all Member States to the Ombudsperson's requests for information and must continuously engage with Member States to obtain information. While some States provide thorough substantive information in relation to a case, other States remain silent or only share their position regarding a delisting request. States who object to a delisting request should also provide their reasons for objecting. The Ombudsperson therefore has a basis on which to assess this opinion before making the recommendation.

58. The Ombudsperson emphasizes that a lack of information cannot by default be held against a petitioner. A petitioner should not be negatively affected solely because Member States did not submit information. In fact, the lack of information can be interpreted to mean that no information exists which would justify the retention of a name on the list. The Ombudsperson invites Designating States in particular to provide relevant information to defend the listing initiated by them, should their position be that the listing should remain. Presently, Designating States do not 'defend' the listing enough by providing substantive information that the Ombudsperson can consider in making his recommendation. The Ombudsperson has noted in some cases that Designating States have taken a "hands-off" approach and often provide very little substantive information in relation to the delisting request. The Ombudsperson also emphasizes the importance for States to provide both inculpatory and exculpatory information they may possess to the Ombudsperson in relation to specific cases.

59. The specific requirements pertaining to the Ombudsperson's review of repeat requests also continued to be a topic of discussion with Member States. Repeat requests are not comparable with an appeal in a criminal court case. The Ombudsperson accepts a repeat request only if the petitioner presents relevant additional information which was not considered in the previous delisting request. Subsequently, the Office of the Ombudsperson requests relevant Member States to share recent information. As any information submitted in relation to the previous delisting requests by the petitioner will be taken into account, what is of particular importance is material which has become available since, or is of relevance to, the additional information provided by the petitioner.

60. The Ombudsperson again calls upon Member States to prioritize participation in his delisting request procedures. He also reiterates that, as observed in his previous report, the basic principles of fairness dictate that the petitioner should know the core of the information that underlies their designation and be able to respond to it.<sup>10</sup>

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<sup>10</sup> S/2023/662, para. 35.

## C. New resolution and mandate renewal

61. Resolution 2610 (2021) expires on 17 June 2024. In light of the forthcoming mandate renewal, the Ombudsperson proposes below several amendments to the existing resolution, including to remedy technical errors. Several of these proposals reflect observations that have been made in previous bi-annual reports. The Ombudsperson will continue to liaise with Member States leading up to the mandate renewal on these, and other potential, proposals.

### *1) Change to status of Ombudsperson to enhance independence of the Office*

62. As indicated above (para. 55), the Ombudsperson proposes that paragraph 68 of the Resolution should be amended to include a change of status of the Ombudsperson to an “Official other than a Secretariat Official” with similar benefits and entitlements to staff, including the authority to manage staff. Such a change in status would resolve the longstanding issues regarding the Office’s independence as it would allow the Ombudsperson the ability to manage the Office as an entity independent of SCAD/SCSOB.

### *2) From “Summary of analysis” to “redacted CR” to reflect current practice: Annex II, para. 16*

63. The Ombudsperson recalls that in 2021, the Office, together with the Committee, established the practice of sharing a redacted version of the comprehensive report rather than a summary of the Ombudsperson’s analysis only, with the Petitioner, both in retention and delisting cases. This practice enhances the transparency of the procedure and fairness to the Petitioner.<sup>11</sup>

64. In order to reflect this practice in the Resolution, the Ombudsperson proposes that the term “summary of analysis” be amended to “redacted comprehensive report”, in paragraph 16 of Annex 11 of Resolution 2610.

### *3) Automatic referral*

65. In order to enhance due process and alleviate the collective impact of United Nations sanctions upon family members of listed individuals, the Ombudsperson proposes that within a given period after a name is added to the sanctions list, that name is automatically referred to the Office of the Ombudsperson for review according to the procedures set out in Annex II. As is the case within the existing procedures, names that are under review by the Ombudsperson will be excluded from the Committee’s Annual Review.<sup>12</sup>

66. Alternatively, or in addition, if during the Annual Review process, there is no objection from the State of nationality and/or residence to the delisting of the individual, the case should be referred automatically to the Ombudsperson for review, without the requirement that the individual apply directly to the Ombudsperson. This would enhance the efficiency of the mechanism as well as avoiding delays.

67. The Ombudsperson proposes that language to this effect is included in the new resolution.

### *4) Technical amendments*

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<sup>11</sup> S/2023/133, paras. 59-62 and S/2023/662, paras. 49-51.

<sup>12</sup> See S/2023/662, paras. 40-42.

*i) Contradiction between paras. 13 and 14*

68. As noted in previous reports (S/2022/608, S/2023/133, S/2023/662), there is a contradiction inherent in the language of paragraphs 13 and 14 of Annex II to resolution 2610 (2021), which relate to the sharing comprehensive reports with non-Security Council members who participated in the delisting review process.

69. Paragraph 13 of Annex II to resolution 2610 (2021) contains language that was not included in previous resolutions. It provides that “[u]pon completion of the Comprehensive Report, the Ombudsperson will provide a copy to those non-Security Council members who participated in the delisting review process”. It has proven impossible for the Ombudsperson to comply with this provision in several cases without finding himself in breach of paragraph 14 of Annex II, which stipulates that the Comprehensive Report shall only be released to a State of nationality and residence or the Designating State upon request and with the approval of the Committee. Given the impossibility of complying with both provisions concurrently, the Ombudsperson has to date taken the pragmatic approach, that is, to continue the practice that was in place prior to the adoption of resolution 2610 (2010).<sup>13</sup>

70. The Ombudsperson proposes that this contradiction be resolved in the forthcoming resolution and he remains available to discuss potential solutions.

*ii) Paragraph 63*

71. The Ombudsperson does not only *receive* delisting requests in an independent and impartial manner. The main task of the Ombudsperson is to *review* them. The Ombudsperson would therefore propose that the language be changed from “receive” to “receive and review” in paragraph 63 of the new resolution.

*iii) Cross-referencing error: Annex II, paragraph 21 (b)*

72. The reference to paragraph 82 in Annex II, paragraph 21(b) is erroneous. It should refer to paragraph 61. Paragraph 20(b) concerns the role of the Ombudsperson in informing listed individuals about their listing. Para 61 directs the Secretariat to notify relevant States of a listing, whereas para 21 (b) of Annex II concerns the subsequent notification by the Ombudsperson directly to the listed individual / entity. Paragraph 82, on the other hand, concerns notifications after a delisting (not a listing).<sup>14</sup>

73. The Ombudsperson therefore proposes that the reference should be to paragraph 61, not 82.

## **D. Pro bono legal assistance**

74. The Ombudsperson expresses his gratitude to the lawyers who have represented Petitioners, and also those who have recently indicated their willingness to work with petitioners on a pro bono basis in upcoming cases. Access to legal assistance is a key aspect of fairness. While legal assistance is not a requirement for submitting a delisting request to the Office of the Ombudsperson, and the procedure is not a court

<sup>13</sup> S/2023/133, paras. 63-64 and S/2023/662, paras. 52-53.

<sup>14</sup> Resolution 2253 (2015), para. 20 (b) of Annex II refers to para. 53 of that resolution, which is identical to para. 61 of resolution 2610 (2022), hence it is clear that the reference in the latter resolution is incorrect.

proceeding, petitioners can and have benefitted from such legal assistance in many cases.

75. During the reporting period, the Office cooperated with the Association of Defence Counsel Practising Before the International Courts and Tribunals in The Hague, which distributed a call for pro bono lawyers to its members. The members were invited to consider providing pro bono legal assistance to individuals/entities who seek removal of their name from the Committee's sanctions list. Several Defence Counsel responded and confirmed their availability to assist future petitioners, should they request pro bono legal assistance.

76. The Ombudsperson also had several meetings with lawyers in Singapore and Malaysia who indicated their interest in providing pro bono legal assistance to future petitioners, with a focus on listed individuals/entities in South-East Asia.

77. The Office is preparing an online workshop for pro bono lawyers to explain the Office's mandate, the value of pro bono legal assistance and the expectations of the Office for pro bono lawyers, including ethical measures to be observed.

## **E. Administrative issues**

78. Due to the current liquidity issues facing the Secretariat of the United Nations, the Office anticipates having to take cost-cutting measures. The Office will continue to do its utmost to fulfil its mandate despite these constraints.

79. In this context, however, the Ombudsperson recalls that its procedures are bound by strict timelines mandated by the resolution, and that travel to conduct interviews with Petitioners must take place within these parameters. The Ombudsperson also emphasizes the importance of in-person interviews. As stated in previous reports, in-person interviews are critical to assess the Petitioner's credibility and state of mind,<sup>15</sup> as well as to ensure "a more holistic experience during the meeting and to uphold the standard of fairness to the Petitioner".<sup>16</sup> Should travel need to be postponed, or in-person interviews no longer possible due to budgetary restraints, this would have an impact on due process.

80. In addition, the Office was informed that the translation process for comprehensive reports will potentially be delayed due to the liquidity crisis. Such a delay would affect the timing for the Ombudsperson's presentation of his reports to the Committee, which would also impact on fairness.

81. The Ombudsperson also emphasizes the critical role of interpretation during interviews with petitioners and witnesses in the State of residence of the petitioner. In 2024, the Office for the first time has budgeted resources available specifically to work with UN staff interpreters. The interpreters are familiar with the work of the Office, and are bound by confidentiality due to their contractual status as staff of the Organization.

82. The Office has yet to move to a secure office space as recommended by UN DSS. As no existing alternate workspace meeting DSS recommendations could be identified, and pending major renovations of the building make it uneconomical to

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<sup>15</sup> S/2017/685, para. 23, where the Ombudsperson held that "An in-person interview is in principle the best way to assess a petitioner's credibility and state of mind. Not only is such an assessment critical to determining whether he or she has engaged in a disassociation process, it is also important in cases where a petitioner has been detained for a significant period of time and no recent information on any activities in support of a listed entity is available".

<sup>16</sup> S/2021/676), para. 19 and S/2021/1062), para. 19.

upgrade existing workspace, the Secretariat has therefore assisted in implementing DSS recommended mitigating measures until a final solution is found.,

83. To date, the Office of the Ombudsperson has benefitted from the support of three interns over a period of nine months, who consecutively worked on outreach and database projects while also providing other assistance to the Office in the discharge of its mandate. While the internships are unpaid, it is important that funds to cover administrative costs associated with hosting interns continue to be made available given the value of their contributions to the Office.

## Annex

### Status of recent cases<sup>17</sup>

#### Case 111, one individual (Status: information-gathering phase)

<i>Date</i>	<i>Description</i>
12 February 2024	Transmission of case 111 to the Committee
12 June 2024	Deadline for completion of the four-month information-gathering period

#### Case 110, one individual (Status: information-gathering phase)

<i>Date</i>	<i>Description</i>
8 February 2024	Transmission of case 110 to the Committee
8 June 2024	Deadline for completion of the four-month information-gathering period

#### Case 109, one individual (Status: information-gathering phase)

<i>Date</i>	<i>Description</i>
28 December 2023	Transmission of case 109 to the Committee
28 April 2024	Deadline for completion of the four-month information-gathering period

#### Case 108, one individual (Status: dialogue phase)

<i>Date</i>	<i>Description</i>
21 September 2023	Transmission of case 108 to the Committee
21 March 2024	Information-gathering period completed
21 May 2024	Deadline for completion of the two-month dialogue period

#### Case 107, one individual (Status: dialogue phase)

<i>Date</i>	<i>Description</i>
23 June 2023	Transmission of case 107 to the Committee
23 December 2023	Information-gathering period completed
23 April 2024	Deadline for completion of the extended dialogue period

#### Case 106, one individual (Status: Committee consideration)

<i>Date</i>	<i>Description</i>
26 May 2023	Transmission of case 106 to the Committee
26 November 2023	Information-gathering period completed
26 March 2024	Comprehensive report submitted to the Committee

<sup>17</sup> The status of all cases since the establishment of the Office of the Ombudsperson can be accessed through the website of the Office: <https://www.un.org/securitycouncil/sc/ombudsperson/status-of-cases>.