



## Security Council

Distr.: General  
9 August 2022

Original: English

---

### Letter dated 9 August 2022 from the Ombudsperson addressed to the President of the Security Council

I have the honour to transmit herewith the twenty-third 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 17 December 2021 to 8 August 2022.

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

---

\* Circulated in the language of submission only.



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

### 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-second report of the Office to the Security Council on 16 December 2021 (S/2021/1062).

### II. Activities related to delisting requests

#### A. General

2. The primary activities of the Office during the reporting period related to delisting requests submitted by individuals.

3. The Office was operational without an Ombudsperson for two months, after the mandate of former Ombudsperson, Daniel Kipfer Fasciati, ended on 17 December 2021. Richard Malanjum was appointed to the post of Ombudsperson by the Secretary-General on 28 January 2022. He assumed his functions on 14 February.

4. In the context of his casework, the current Ombudsperson communicated with relevant Member States and conducted independent research. He interviewed petitioners, various experts and other interlocutors related to the cases. In July, the Ombudsperson submitted comprehensive reports in two cases.

5. Despite the two-month gap between the conclusion of the former Ombudsperson's mandate and the beginning of the current Ombudsperson's mandate, all timelines for the review of petitioners' delisting requests under resolution 2610 (2021) have been honoured. The transition period is discussed in more detail in section IV of the present report.

#### B. Delisting requests

6. During the reporting period, six new petitions were submitted to the Office. As at 9 August, a total of 105 delisting petitions 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 of the process.

7. Since the Office was established, the Ombudsperson has submitted 95 comprehensive reports<sup>1</sup> 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, pursuant to paragraph 8 of annex II to Security Council resolution 2610

<sup>1</sup> This number includes one case concluded in 2011, in which the delisting request was withdrawn by the petitioner 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. 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.

(2021) and the equivalent paragraph of previous resolutions. During the reporting period, two reports were submitted to the Committee, which remain under the Committee's consideration at the time of writing.

8. During the reporting period, the Ombudsperson conducted interviews with two petitioners in person.

9. Since the twenty-second report, two individuals have been delisted from the Committee's sanctions list following the Ombudsperson's review and recommendation.

10. Cumulatively, since the Office was established, 96 cases involving requests from an individual, an entity or a combination of both have been resolved through the Ombudsperson process or through a separate decision of the Committee. In the 91 cases fully completed through the Ombudsperson process, 68 delisting requests have been granted and 23 have been denied. As a result of the 68 petitions granted, 63 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 of the cases is given on the website of the Office.<sup>2</sup> The status of the most recent cases is contained in the annex to the present report.

11. There are currently nine cases pending. Five cases are in the information-gathering phase. Two cases are in the dialogue phase. In two cases, the Ombudsperson has submitted a comprehensive report to the Committee for its consideration.

12. The nine pending cases were each filed by an individual. To date, in total, 96 of the 105 cases have been brought by individuals alone, 2 cases by an individual together with one or more entities and 6 cases by entities alone. In 60 of the 105 cases, the petitioner is being or was assisted by legal counsel.

13. In addition to the nine pending cases, during the reporting period the Office engaged in dialogue with a further three designated individuals who have expressed interest in filing a petition for delisting but have not yet done so.

14. The Ombudsperson held two video conferences with representatives of a Member State pertaining to the scope of redactions that the Ombudsperson made to a comprehensive report.

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

15. For each petition received, the Ombudsperson invites members of the Committee, as well as other relevant States, to submit substantive information to his Office indicating an association between the petitioner and ISIL (Da'esh) or Al-Qaida, or a lack thereof. The Ombudsperson asks the States in question to submit underlying evidentiary documentation for his analysis. He further asks those States to express whether, in their opinion, the petition should be granted and on what basis.

16. States that are approached with a request to submit relevant information in pending cases include designating States, States of nationality, States of residence or incorporation, and other States that the Ombudsperson identifies as States that could be in possession of information related to the case.

17. In the cases accepted during the reporting period, the Office sent 38 requests for information to Member States. In the cases accepted during the previous reporting

<sup>2</sup> See [www.un.org/securitycouncil/sc/ombudsperson/status-of-cases](http://www.un.org/securitycouncil/sc/ombudsperson/status-of-cases).

period, 5 additional requests for information were sent to Member States since the last report.

18. In the two cases in which the Ombudsperson submitted his comprehensive report to the Committee, the Office received 13 responses to the 16 requests for information addressed to Member States. In 5 of those, States responded to the Ombudsperson that they had no information to share; in 8, States submitted information; and in 5 of those 8 responses, States also expressed their views on the delisting request.

19. The Ombudsperson met with the representatives of various Member States in New York to discuss the pending cases.

20. The Ombudsperson reiterates the message of his predecessor that the submission of updated and relevant information by States is of great importance to the procedures, as the Ombudsperson analyses the situation of the petitioner at the time of consideration of the request, not the time of listing.

21. During the reporting period, the opportunity did not arise for the Ombudsperson to shorten the information-gathering period pursuant to annex II, paragraph 3, of resolution [2610 \(2021\)](#).

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

22. The Ombudsperson and the Office interacted with all current petitioners and their legal representatives, including through written exchanges, telephone calls, videoconferences and in-person meetings.

23. During the reporting period, the Ombudsperson interviewed two petitioners in person.

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

24. On 6 June, the Ombudsperson signed an arrangement for access to classified information with Iraq.

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

26. The Ombudsperson calls upon Member States, in particular States of nationality and residence of listed individuals, to sign an arrangement, thereby solidifying the basis for the submission of classified, declassified or confidential information to the Ombudsperson.

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

#### **A. General**

27. The Ombudsperson had the opportunity to exchange ideas with representatives of a broad range of Member States, including members of the Committee and the Group of Like-Minded States on Targeted Sanctions. These interactions allowed the

---

<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)).

Ombudsperson to express his preliminary expectations with regard to the best ways in which to achieve the goals mandated in resolution [2610 \(2021\)](#).

28. On 27 and 28 April, the Ombudsperson attended a workshop entitled “Enhancing due process in UN Security Council targeted sanctions regimes: ongoing challenges, new approaches”, organized by the Graduate Institute in Geneva and the Permanent Missions of Ireland, Norway and Switzerland to the United Nations.

29. On 5 May, the Ombudsperson participated in a European Union-United Nations seminar on sanctions to present his first impressions of the challenges facing the execution of the Office’s mandated tasks. In his presentation, he emphasized the difficulties in gathering information within the timelines prescribed in resolution [2610 \(2021\)](#), since the Ombudsperson has no power to compel compliance with requests for information. The need to raise awareness of the functions of the Office among some Member States and the provision of legal assistance to petitioners and would-be petitioners was also discussed.

30. The Ombudsperson participated in a video teleconference as part of the fourth international training course on United Nations sanctions, held in Geneva. On 28 July, he gave a presentation on the Ombudsperson’s mandate and its impact on due process within the ISIL (Da’esh) and Al-Qaida sanctions regime.

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

31. The Ombudsperson held several meetings with the Analytical Support and Sanctions Monitoring Team to discuss mutual cooperation, specifically the process of submitting information related to petitioners to the Office. In addition, the Ombudsperson worked closely with several members of the Monitoring Team on pending delisting requests.

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

32. During the reporting period, the Office continued to interact with Member States, in particular members of the Committee and Member States of relevance to pending delisting petitions. In addition, the Ombudsperson liaised with Member States to discuss his mandate more generally.

33. The Office interacted with agencies and bodies of the United Nations system (including the Office of Counter-Terrorism, the Counter-Terrorism Executive Directorate, the Office of Legal Affairs and the United Nations Educational, Scientific and Cultural Organization) and liaised with independent experts, representatives of law enforcement agencies, legal practitioners, counter-terrorism experts, political analysts, international jurists and international and human rights law professionals.

34. The Ombudsperson met with permanent representatives, deputy permanent representatives and other representatives of missions of Member States to the United Nations. During those meetings he explained the functions of the Office and its procedural operation to achieve its mandated goals. The Ombudsperson also discussed cooperation between the States and his Office.

35. The Ombudsperson met with the Focal Point for Delisting to better understand the Focal Point’s function.

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

36. 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.

## **E. Website**

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

# **IV. Other Activities**

## **A. Transition**

38. The Office remained operational during the transition period between the conclusion of the former Ombudsperson's mandate on 18 December 2021 and the start of the current Ombudsperson's mandate on 14 February 2022. During that period, the Legal Officer and Research Assistant supporting the Office took responsibility for the ongoing tasks of the Office. They were administratively involved in the recruitment procedure for the new Ombudsperson and the new Legal Officer.

39. The former Ombudsperson left detailed instructions to the staff of the Office, who continued the work on pending delisting requests. The timelines prescribed by resolution [2610 \(2021\)](#) were honoured in all six pending cases throughout the transition period.

40. During the transition period, the initial information-gathering period in one case ended. As instructed by the former Ombudsperson, the Legal Officer extended the information-gathering period in case 97 by two months, in accordance with resolution [2610 \(2021\)](#).

41. The Office communicated with lawyers assisting in the pending cases before, during and after the transition period to keep them informed of relevant developments.

42. The Ombudsperson worked from Kota Kinabalu, Sabah, Malaysia from 14 February until his arrival at the duty station (New York) on 6 April. He completed the onboarding processes while working remotely and the required induction program upon his arrival at the duty station.

43. On 16 February, upon the invitation of the Ombudsperson, the former Ombudsperson presented two comprehensive reports to the Committee that the former Ombudsperson had finalized prior to his departure. The reports were presented during an in-person meeting of the Committee, which both the former and current Ombudsperson attended by video teleconference from Switzerland and Malaysia, respectively.

## **B. Notifications of Listing**

44. In accordance with paragraph 21 (b) of annex II to resolution [2610 \(2021\)](#), the Ombudsperson sent one notification to a newly-listed individual for whom address details were known.

---

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

## V. Observations and conclusions

### A. Institutional issues

45. The Ombudsperson emphasizes that the institutional issues raised in the reports of all three former Ombudspersons remain valid. This conclusion is reinforced by the Ombudsperson's experience since taking up the mandate, and he will continue to work on improving the institutional independence of the Office and the conditions of the Ombudsperson's appointment by the United Nations.

46. Since taking up his duties in February, the Ombudsperson's experience in the role has served to confirm the need to address the following issues identified by the former Ombudsperson in his twenty-first report to the Council. As a part of the Security Council Affairs Division within the Department of Political and Peacebuilding Affairs, the Office is not an independent entity (this is reflected in the reporting lines of staff supporting the Office and the administration of the Office's budget). Moreover, the Ombudsperson's status as a consultant poses critical challenges: despite a mandate of five years, which is subject to renewal by resolution every 30 months, the actual contracts offered to the Ombudsperson are short-term. This practice injects an element of instability to the Ombudsperson's appointment that poses considerable challenges for the Ombudsperson's independence and the sustainability of the mandate. Further, the absence of entitlements<sup>5</sup> for a headquarters-based post limits the pool of available, eligible candidates (for example, the conditions of service will likely prove untenable for candidates with multiple dependants).

### B. Informal arrangements to reinforce the independence of the Office

47. The Ombudsperson refers to the twenty-second report to the Security Council, in which his predecessor strongly recommends including his successor in the recruitment procedure and the decision-making processes relating to the hiring of the new Legal Officer.

48. In the thirteenth and fourteenth reports ([S/2017/60](#) and [S/2017/685](#)) the Ombudsperson described informal arrangements by the Secretariat related to the strengthening of the independence of the Office. These arrangements included the measure to involve the Ombudsperson in all recruitment processes relating to the staff supporting the Office (see [S/2017/60](#), para. 36). Under this agreement all recruitment processes for the staff supporting the Office will involve the Ombudsperson and her or his views will be taken into account.

49. The Ombudsperson understands that previous Ombudspersons have always been an integral part of the decision-making process regarding the recruitment of staff supporting the office and he emphasizes that this should be the norm.

50. The Ombudsperson is satisfied that the recruitment procedure of a new Legal Officer, which was completed early 2022, followed all applicable United Nations guidelines and that the best candidate was hired. However, the Ombudsperson regrets that he was not given the opportunity to participate in the candidate interviews despite expressing the wish to do so and confirming his availability to the Secretariat,

---

<sup>5</sup> Under the current conditions of service, the Ombudsperson's compensation package does not include, for example, the following: health and dental insurance, life insurance, pension, paid leave (including sick, special, maternity and paternity leave).

including at odd hours due to the existing time difference at the time. As a result, he did not have a say in the recruitment of the Legal Officer.

### **C. Summary of analysis; redacted comprehensive report**

51. In three completed cases, the Ombudsperson shared a redacted version of the applicable comprehensive reports with petitioners. Thus far, four redacted comprehensive reports in total have been shared with petitioners.

52. The Ombudsperson underscores that the Office, together with the Committee, established the recent practice of sharing a redacted version of the comprehensive report rather than a summary of the Ombudsperson's analysis only.

53. The Ombudsperson reiterates the importance of transparency in the Ombudsperson procedures as a crucial component of fairness to petitioners, as well as trustworthiness to judiciaries around the world for whom the procedures are crucial for determining the effectiveness of the sanctions applicable through the ISIL (Da'esh) and Al-Qaida sanctions regime and the implementation of the Committee's decision to retain or delist petitioners.

### **D. Security Council resolution 2610 (2021)**

54. The Ombudsperson finds it regrettable that neither the former Ombudsperson nor the staff supporting the Office were consulted during the drafting process for Security Council resolution 2610 (2021), which was adopted on the day that the former Ombudsperson's mandate concluded.

55. Further, the Ombudsperson notes that a number of proposals to improve the Ombudsperson procedure were shared by the Office through relevant channels in a timely manner, yet none of the proposals were implemented, and no reasoning or response on this topic was provided to the Office.

56. Paragraph 13 of annex II to resolution 2610 (2021) contains new language that was not included in previous resolutions. It provides that, upon 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 proved impossible for the Ombudsperson to comply with this provision in two cases without finding himself in breach of paragraph 14 of annex II, which stipulates that the comprehensive report is released only to a State of nationality and residence upon request and with the approval of the Committee. Given the impossibility of complying with both provisions concurrently, the Ombudsperson has opted to take the pragmatic approach, that is, to continue the practice that was in place prior to the adoption of resolution 2610 (2021) until the Committee advises otherwise.

57. As was mentioned in the previous report to the Security Council, the institutional weakness of the Ombudsperson's function becomes particularly visible at the end of a mandate before the resolution is renewed, and after the resignation of the post holder. Nothing can be taken for granted, not even the reverse consensus decision mechanism that is crucial to the mandate: the renewal and substance of the mandate are potentially subject to political negotiations, as is the appointment of a successor. These circumstances are damaging to a semi-judicial procedure which should not be susceptible to political negotiations but rather provide a stable and consistent framework in the long term.



## Annex

**Status of recent cases<sup>1</sup>****Case 105, one individual (Status: information-gathering phase)**

<i>Date</i>	<i>Description</i>
31 May 2022	Transmission of case 105 to the Committee
1 October 2022	Deadline for completion of the four-month information-gathering period

**Case 104, one individual (Status: information-gathering phase)**

<i>Date</i>	<i>Description</i>
27 May 2022	Transmission of case 104 to the Committee
27 September 2022	Deadline for completion of the four-month information-gathering period

**Case 103, one individual (Status: information-gathering phase)**

<i>Date</i>	<i>Description</i>
23 May 2022	Transmission of case 103 to the Committee
23 September 2022	Deadline for completion of the four-month information-gathering period

**Case 102, one individual (Status: information-gathering phase)**

<i>Date</i>	<i>Description</i>
10 May 2022	Transmission of case 102 to the Committee
10 September 2022	Deadline for completion of the four-month information-gathering period

**Case 101, one individual (Status: information-gathering phase)**

<i>Date</i>	<i>Description</i>
4 May 2022	Transmission of case 101 to the Committee
4 September 2022	Deadline for completion of the four-month information-gathering period

**Case 100, one individual (Status: dialogue phase)**

<i>Date</i>	<i>Description</i>
17 December 2021	Transmission of case 100 to the Committee
17 June 2022	Information-gathering period completed
17 August 2022	Deadline for completion of the two-month dialogue period

<sup>1</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>.

**Case 99, one individual (Status: dialogue phase)**

<i>Date</i>	<i>Description</i>
16 December 2021	Transmission of case 99 to the Committee
16 June 2022	Information-gathering period completed
16 August 2022	Deadline for completion of the two-month dialogue period

**Case 98, one individual (Status: Committee consideration)**

<i>Date</i>	<i>Description</i>
29 November 2021	Transmission of case 98 to the Committee
29 May 2022	Information-gathering period completed
29 July 2022	Comprehensive report submitted to the Committee

**Case 97, one individual (Status: Committee consideration)**

<i>Date</i>	<i>Description</i>
27 September 2021	Transmission of case 97 to the Committee
27 March 2022	Information-gathering period completed
27 July 2022	Comprehensive report submitted to the Committee

**Case 96, 'Abd al-Malik Muhammad Yusuf 'Uthman 'Abd al-Salam (status: delisted)**

<i>Date</i>	<i>Description</i>
1 July 2021	Transmission of case 96 to the Committee
1 November 2021	Information-gathering period completed
29 November 2021	Comprehensive report submitted to the Committee
16 February 2022	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 March 2022	Committee decision to delist
15 March 2022	Formal notification to the petitioner with redacted version of the comprehensive report (in lieu of the summary of analysis)

**Case 95, Nayif Salih Salim al-Qaysi (status: delisted)**

<i>Date</i>	<i>Description</i>
9 June 2021	Transmission of case 95 to the Committee
25 October 2021	Information-gathering period completed
16 December 2021	Comprehensive report submitted to the Committee
16 February 2022	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 March 2022	Committee decision to delist
1 April 2022	Formal notification to the petitioner with redacted version of the comprehensive report (in lieu of the summary of analysis)

**Case 94, Khalil ben Ahmed ben Mohamed Jarraya (status: delisted)**

<i>Date</i>	<i>Description</i>
1 April 2021	Transmission of case 94 to the Committee
1 August 2021	Information-gathering period completed
1 October 2021	Comprehensive report submitted to the Committee
24 November 2021	Presentation of the comprehensive report by the Ombudsperson to the Committee
24 January 2022	Committee decision to delist
3 February 2022	Formal notification to the petitioner with redacted version of the comprehensive report (in lieu of the summary of analysis)