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Enhancing the Legitimacy of UN Security Council Sanctions by Strengthening Fair and Clear Procedures

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1. Introduction

Strengthening "fair and clear procedures" for individuals designated for UN sanctions has been a recurring theme for the Security Council ever since litigation in domestic courts around the world, as well as regional courts such as the European Court of Justice, began to challenge the implementation of UN Security Council resolutions in the early 2000s. The call for fair and clear procedures for individuals designated for UN sanctions was articulated by former UN Secretary-General Kofi Annan in 2004 and included in the 2005 General Assembly World Summit outcome document. The issue has also been a recurrent topic in rule of law open thematic debates in the Security Council. Since 2005, the Group of Like-Minded States on Targeted Sanctions,[2] have been at the forefront promoting fair and clear procedures in UN sanctions. The creation of the Focal Point mechanism in 2006 and the Office of the Ombudsperson in 2009 were important institutional developments specific to strengthening due process for individuals subject to UN sanctions. The mandate of the Ombudsperson was limited to designations made by the 1267 committee established to counter terrorism in 1999, however, so individuals designated by all the other sanctions committees of the Security Council must rely on the Focal Point Mechanism. In July 2024, the Council adopted resolution 2744 (19 July 2024), significantly enhancing the role of the Focal Point and establishing an informal working group to examine general issues related to the subject of UN sanctions. Improving sanctions regimes' compliance with rule of law principles and the institutional strengthening of the Ombudsperson for UN sanctions have been among Switzerland's priorities for serving on the UN Security Council. During its 2023-2024 membership in the Security Council Switzerland actively supported the adoption of an

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[2] The Like-minded group comprises today the following States: Austria, Belgium, Chile, Costa Rica, Denmark, Finland, Germany, Ireland, Liechtenstein, The Netherlands, Norway, Sweden and Switzerland.

enhanced focal point procedure and a strengthened institutionalization of the Ombudsperson and engaged with different stakeholders in the Security Council to that end.

The crux of the matter is that while the UN Security Council has the responsibility and authority to apply sanctions on individuals in the pursuit of international peace and security, it cannot do so without consideration of the broad framework of norms and principles inherent in the international rule of law. The rule of law presupposes that the exercise of governmental authority over individuals is accompanied by respect for basic and generally accepted rights and principles, including due process rights. Fundamental rights associated with due process include: notification, access, a fair hearing, independent and impartial review, effective remedy, and periodic assessment. Institutional procedures should adhere to these core principles. As acknowledged by former Secretary-General Kofi Annan, "[t]hose who seek to bestow legitimacy must themselves embody it; and those who invoke international law must themselves submit to it."[3] This strengthens the credibility and legitimacy of the UN's individual targeted sanctions, and hence their effectiveness, since these are mutually reinforcing conditions. In addition, periodic assessment and some form of review of the designations ensure that the sanctions regimes remain relevant and "fit for purpose" given the changing dynamics of the conflicts in which they are applied.

2. Historical Background to the Issue

Individual targeting of sanctions is a relatively recent policy tool for the UN Security Council. Most sanctions in the 1960s and 1970s were broad (or comprehensive) regimes, such as the US sanctions on Cuba and North Korea, or relatively non-discriminating regimes, affecting an entire population, when applied to oil imports and financial sector sanctions. UN sanctions on Southern Rhodesia were comprehensive, although its sanctions on South Africa were sectoral (first on arms and later extended to nuclear material).

UN sanctions in the 1990s, sometimes called "the sanctions decade," were relatively non-discriminating. There were three comprehensive UN sanctions regimes (Iraq, former Yugoslavia, and Haiti) and three oil sector embargoes (Angola, Sierra Leone, and Libya). There were no UN individual designations in the 1990s. The first individual designation was made in 2000, in UNSCR 1333, targeting Osama bin Laden after the US Embassy bombings in East Africa and the refusal of the Taliban to extradite him for prosecution in the US.

The idea of individual targeting was introduced in the aftermath of the comprehensive sanctions imposed on Iraq in the 1990s, and the general recognition of the unacceptably high humanitarian costs associated with those sanctions. There was a strong political push to develop the instrument of targeted sanctions – the "move to targeted sanctions" – including individual targeting. Targeted sanctions were explored in three transnational processes involving senior UN officials, Member States, the private sector, and academics. Switzerland pioneered the effort with the two Interlaken meetings on targeting financial sanctions in 1998 and 1999. Germany followed with the Bonn-Berlin Process meetings in 2000 and 2001, focusing on targeted arms embargoes, travel bans, and aviation sector sanctions. Sweden

[3] Kofi Annan, Address to the General Assembly, 21 September 2004, Available at: https://www.un.org/sg/en/content/sg/statement/2004-09-21/secretary-generals-address-the-general-assembly

concluded the effort with four meetings in 2002 devoted to the challenges of implementing targeted sanctions. There was no formal discussion of individual due process issues at Interlaken, but following the targeting of the so-called "Somali Swedes," the issue was taken up in the Stockholm Process.

As a senior UN official commented about the early years of individual targeting, "no one thought about individual rights to due process at the outset." It was assumed that the targets for individual sanctions would be politically exposed persons (PEPs) with different standards of individual rights protection. Following the significant expansion of counter-terrorism listings made by the UN's 1267 Committee in late 2001 and in 2002 and 2003, however, legal challenges to 1267 designations emerged in national courts globally, and in particular, at the European Court of Justice (ECJ). Legal scholars began to write about the issue, especially on the case of Saudi Arabian businessman, Yassin Abdullah Kadi, and the litigation associated with his appeals at the ECJ. Kadi's appeal and those of others at the time created a legitimacy crisis for UN sanctions in the second half of the decade of the 2000s, with growing concerns that European states might stop implementing mandatory Chapter VII UNSCRs if ordered to do so by the highest court of the European Union, the ECJ. It was believed at the time that this would weaken the obligation for the mandatory implementation of legally binding UNSCRs throughout the rest of the world.

The United Nations Security Council has incrementally adapted its procedures with regard to individual designations over time in an effort to address many due process concerns.

While there was no mechanism to address requests for a delisting when the first designations were made in 2000, a bilateral process was introduced in 2002 to enable individuals to go to their state of citizenship or residence, asking them to take up the issue of their designation with the state that originally proposed the designation. If the two states agreed to delist the individual, they could ask that the case be reviewed by the relevant sanctions committee or by the Security Council. This procedure did not accommodate the situation of individuals whose state of citizenship or residence was reluctant to take up their case, however, and in the midst of the first Kadi judgements in the ECJ, the Focal Point Mechanism was created through UNSCR 1730 (19 December 2006).

The Focal Point Mechanism provided direct access to the Security Council for individuals unable to make use of the bilateral mechanism. They could contact the Subsidiary Organs Branch of the Security Council Affairs Division of the UN Secretariat directly, which would forward their request to the relevant Sanctions Committee for consideration. The Focal Point did not make any judgment of the merits of the case, but only made a determination as to whether a repeat request contained new information. The Focal Point Mechanism did not meet the standards of due process as being called for by European courts, however, particularly with regard to a fair hearing and effective remedy, and in 2009, the Office of the Ombudsperson was established through UNSCR 1904 (December 2009). The mandate of the Office was limited to the 1267 counter-terrorism sanctions regime, the source of the largest number of individual designations at the time (and to this day), but unlike the Focal Point Mechanism, the Ombudsperson was authorized to make a recommendation in each case reviewed. Prior to the renewal of the Office in 2011, the then Ombudsperson proposed operational adjustments to the regime that resulted in the creation of a reverse consensus

procedure, meaning that a recommendation of the Ombudsperson to delist an individual would be accepted, unless all fifteen members of the Security Council agreed to reject the recommendation. Such a rejection has never taken place.

In the mid-2010s, legal challenges from individuals targeted for UN sanctions by other, non-1267, sanction regimes began to emerge. In 2018, the Center for Policy Research of the UN University published a report, *Fairly Clear Risks,*[4] that identified increased levels of litigation between 2010 and 2017 challenging UN sanctions designations from individuals unable to access the Office of the Ombudsperson. They recommended the creation of what they termed "context-sensitive" review mechanisms for Armed Conflict and Non-Proliferation regimes, that is review mechanisms attuned to the specificities of each type of sanction regime because there are important differences depending on whether the regime deals with non-proliferation of WMD, armed conflicts, or terrorism. The Geneva Graduate Institute published a sequel report in 2021, *Enhancing Due Process in UNSC Targeted Sanctions Regimes,*[5] exploring how an alternative (context-sensitive) review mechanism might work in practice, and suggesting how it might play out in a particular sanction regime (like the DRC and similar armed conflict regimes without a counter-terrorism dimension). The report was discussed at a meeting of a number of UN Security Council members in April 2022, but there were concerns raised about the dangers of creating a two-tiered review mechanism and a broad, but not universal, consensus that the mandate of the Office of the Ombudsperson should be expanded to all UN sanctions committees.

This idea was incorporated in one of the preambular paragraphs of the Haiti sanctions resolution, UNSCR 2653 (October 2022), suggesting "the intent to consider" authorizing the Ombudsperson to receive delisting requests from individuals designated by the new regime. When the Haiti regime was renewed in October 2023, the Security Council referenced the issue in one of the operative paragraphs of UNSCR 2700 expressing its intention "to support the further development of fair and clear procedures for individuals and entities designated pursuant to resolution 2653 (2022), including through the Focal Point for Delisting established by resolution 1730 (2006)." Following extensive discussions in New York and capitals, the Focal Point Mechanism was significantly enhanced In UNSCR 2744 (July 2024), discussed in more detail in section 5 below.

3. Core Elements of Fair and Clear Procedures

While the focus of discussions on fair process has concentrated on challenges against listings, also called the "delisting process," it is important to underline that a delisting mechanism operates in tandem with the listing process. Hence core elements of fair and clear procedures regard both the listing as well as the delisting and the two processes interact. The key elements of both are:

Listing process

[4] James Cockayne, Rebecca Brubaker and Nadeshda Jayakody, F*airly Clear Risks: Protecting UN Sanctions' Legitimacy and Effectiveness through Fair and Clear Procedures*, UNU: Centre for Policy Research, 2018.
[5] Thomas Biersteker, Larissa van den Herik, and Rebecca Brubaker, *Enhancing Due Process in UN Security Council Targeted Sanctions Regimes,* Geneva: Global Governance Centre, The Graduate Institute of International and Development Studies, 2021.

- Clear and precise designation criteria
- Sufficiently developed narrative summaries / detailed statement of case of reasons for listing
- Clear evidentiary standards
- Notification
- Access to entity responsible for listing
- Periodic assessment by the listing entity

Delisting process

- Access to a separate, reviewing entity, independent of the listing entity
- Fair hearing
- Impartial review of factual basis for maintaining the designation
- Independent review
- Binding decision

The due process elements regarding the listing process, particularly the articulation of ***clear and precise designation criteria***, are important for the entity engaged in making the listing, the UN Security Council. While some designations are made in the texts of UN Security Council resolutions, the vast majority are made by its various sanction committees. It is important that the designating body provide detailed statements of case or narrative summaries articulating the reasons for listing. The UN issues a press release whenever new designations are made, and the names, along with statements of case, are posted on the UN website. The Focal Point has also been tasked with improving the ***notification*** mechanism.

Some legal scholars have argued that ***periodic assessment by the listing entity*** of individual designations should also be considered an element of due process. Periodic assessment serves the purpose of making the lists more transparent, facilitating scrutiny, and it is a crucial vehicle for the giving-of-reasons, a key element of the rule of law. Consequently, it also contributes to the improvement of sanction regimes over time. It has the additional benefit that it can ensure that existing UN sanctions regimes are adapted to the changing conditions of the conflict situations in which they are applied, making these more efficient while favoring their legitimacy.

The due process elements regarding the delisting process, in contrast, regard a separate entity of the designating body (the UN Security Council), in conformity with core due process elements regarding independent review. The core elements for the delisting process are deduced from the right to an effective remedy. This right has various components that can be fulfilled differently in different settings.

One core component is ***access***. It is important that sanctioned persons have access both to the entity that designated them, as well as to a separate reviewing entity independent of the listing entity. Individuals have no legal standing before meetings of the UN Security Council or their subsidiary bodies such as sanctions committees. As a result, they do not have direct access to those responsible for making their designations for restrictive measures, be they travel bans, asset freezes, or occasionally individual arms embargoes. If there is a case of

mistaken identity or a designation made on the basis of false information in the initial statement of case, the individuals involved have to go through their states of citizenship or residence or make an appeal through the Focal Point process. Prior to the enhancement of the Focal Point Mechanism in 2024 (which has yet to be implemented), the Focal Point forwarded the information to the relevant sanctions committee for its consideration (as long as the request contains new information that has not been previously considered by the committee). There was no access to challenge the listing beyond this point, however.

A second core element of due process is a ***fair hearing***. A fair hearing implies the right of an individual to be heard and to present views and arguments. This may include the possibility to provide additional information, to challenge elements of statements of case, to express disagreement about fulfillment of the listing criteria, or to express an intention to change behavior with regard to some proscribed activity. A fair hearing presupposes clear and precise listing requirements, sufficiently developed narrative summaries and/or statement of reasons, clear evidentiary standards, and access to legal assistance.

In principle, the right to an ***effective remedy*** entails the existence of an authority able to make a final determination about the appeal of a designation that is different from the entity that makes the initial decision to apply individual sanctions (i.e., the Security Council or one of its sanctions committees). The Office of the Ombudsperson has the authority to make a recommendation about delisting requests to the 1267 sanction committee, but even with the adoption of the procedure of reverse consensus on its recommendations when the office was first renewed in 2011, it does not have the power to make binding decisions and does therefore not *de jure* comply with the requirements of an effective remedy. The final authority to make a delisting remains with the UN Security Council, which can overturn the Ombudsperson's recommendations if all fifteen members of the Security Council agree to do so. To date, however, as already mentioned above, the UN Security Council has never overturned a recommendation, granting the recommendations of the Ombudsperson a form of *de facto* effective remedy.

4. Litigation Challenging UN Individual Designations

Litigation challenging individual designations made by the UN Security Council has played an important role in raising the profile of the due process issue, its implications for the legitimacy of UN sanctions, and the need for fair and clear procedures with regard to listing and delisting.

There have been 51 legal challenges to UNSC individual sanctions designations since 2000. Between the time of the first UN individual designations in 2000 and the time the Office of the Ombudsperson became operational in 2010, there were 18 formal legal challenges to UN designations. Of that total, all but one (or 95%) were challenges to designations made by the 1267 counter-terrorism sanction regime.

Since 2010, there have been 33 formal legal challenges to UN individual sanctions. Of this number, 14 (or 42%) were counter-terrorism related, while 19 legal challenges (or 58%) came from individuals or corporate entities designated in other UN sanctions regimes (Iraq, Libya, CAR, DRC, DPRK, and Iran). All of the 17 legal challenges to UN sanctions since 2017 have come from non-counter-terrorism sanction regimes, where individuals do not have

access to the Office of the Ombudsperson. This includes the highly visible case of Aisha Qadhafi of Libya. The European Court of Justice annulled the EU implementation of UN travel restrictions on her in April 2021, a decision that was appealed and lost by the European Union. With the support of the Government of Libya, she used the Focal Point process (in its original 2006 design) and her travel ban was lifted by the Libyan Sanctions Committee in October 2023. The freeze on her assets remains in place.

It is important to note that there have been no legal challenges to 1267 designations since 2016, suggesting both the effectiveness of the operations of the Office of the Ombudsperson and its increased recognition as a location for redress by courts worldwide. The Annex to this briefing paper contains a comprehensive list of litigations challenging UN Security Council individual designations from 2003 through 2023.

With regard to the potential scope of the issue going forward, about two-thirds (or 60%) of the total designations for individual sanctions by the UN (520 of 864 designations) in 2024 were non-CT and therefore covered by the Focal Point Mechanism, rather than the procedures of the Office of the Ombudsperson.

5. UNSCR 2744: Enhancement of the Focal Point Mechanism

Resolution 2744 (19 July 2024) significantly enhanced the mandate and tasks of the Focal Point Mechanism. The Focal Point which was originally established in 2006, handled all delisting requests for individuals designated for UN sanctions, except for the designations made by the 1267 sanctions regime which, as described above, is covered by the mandate of the Ombudsperson.

Resolution 1730 (2006) had established the Focal Point with the main task of receiving delisting requests and transmitting them to the relevant sanctions committee. Resolution 2744 (2024) enhances the tasks of the Focal Point with a view to providing better access to targeted individuals, as well as opportunities to engage – via the Focal Point – with the relevant actors involved in the listing process and in the implementation of sanctions, including members of the sanctions committee, designating states and states of nationality or residence, panels of experts and monitoring teams, and relevant UN envoys. The enhanced engagement with the petitioner and relevant actors facilitates important elements of providing for a fair hearing for the petitioner.

Upon submission of a delisting request, the enhanced Focal Point Mechanism will engage in an information gathering period of a maximum of four months with the relevant actors, as well as a dialogue process of two months between the petitioner on the one hand and relevant states and entities on the other – via the Focal Point. This will culminate in the drafting of a confidential and comprehensive report that will be shared with the sanctions committee and relevant states. This report will include the principal arguments in respect of the delisting petition, based on the information gathered. It should also describe the Focal Point's activities regarding the delisting request. Notably, the report may *not* include an explicit recommendation from the Focal Point.

The enhanced Focal Point can be considered a significant step towards the further strengthening of the institutional procedures within the specific setting of the UN Security

Council, while not yet meeting all the core elements of due process as described above. While it offers access and a certain possibility for a listed person to be heard and to present views, the Focal Point does not formally offer redress in relation to the most important elements of core due process rights, in particular the right to access to a separate and independent reviewer, the right to an impartial review of the factual basis for maintaining the listing (due to the fact that the Focal Point is not able to make a recommendation), and the right to an independent review both of which imply that the impartial and independent reviewer has the possibility to take a binding decision, or at the very least to present a public recommendation that is subjected to a reverse consensus procedure similar to the Ombudsperson process.

It can also be noted that the mandate, tasks and powers of the Ombudsperson differ, without a clear rationale for the differentiation. In fact, Resolution 2744 (2024) has created a two-tiered system for delisting with the Ombudsperson for one specific sanctions regime, and the Focal Point for the other sanctions regimes. The differentiation does not only have an institutional dimension, but is also substantive in nature, as the nature of the process differs significantly.

A separate issue that has been created with the introduction of a two-tiered system concerns the interrelationship between the Ombudsperson and the Focal Point. In particular, this concerns issues and potential for collaboration as well as the exchange of best practices. The exchange of practices is particularly important with a view to the continuous strengthening and improvement of procedures and to prevent backsliding. Dialogue and cooperation between the two organs would also provide a strong signal to the UN system as a whole and to the outside world that fair and clear procedures remain a consistent and coherent effort with regards to the whole range of UN sanctions.

It is important to note though, that there is a certain risk that the benchmark set by the institution of the Ombudsperson is eroded by the introduction of the enhanced Focal Point. This risk is particularly present given that the Ombudsperson only has a mandate in relation to one sanction regime, whereas the Focal Point has a mandate in relation to all the other sanction regimes. This might, over time, translate into an understanding that the Focal Point presents the standard procedure, while in fact the Focal Point remains sub-standard from a rule of law and procedural integrity perspective.

There is also a risk that the efforts to strengthen the Ombudsperson, as for instance described in the letter of the Group of Like-Minded States on UN Targeted Sanctions of 28 May 2024,[6] are sidelined by a focus on the enhanced Focal Point. It is thus of vital importance that the processes of the Ombudsperson and the Enhanced Focal Point are streamlined right from the start, and that the Focal Point operates in such a way that it meets, or comes closest to, the procedures developed by the Ombudsperson.

6. Future Steps

[6] S/2024/412, Letter to the President of the UN Security Council, 28 May 2024, Accessed at: file:///Users/bierstek/Downloads/S_2024_412-EN.pdf

There are a number of opportunities for future steps and further development and elaboration that would strengthen fair and clear procedures in the wake of the adoption of UNSCR 2744. These include the following:

- In light of the core elements of due process, it is imperative that there are guarantees for the independent functioning of the Focal Point. Such guarantees should also concern the stature and appointment / rank and legal status within the UN system that is needed to fulfill the assigned tasks effectively. The periodic reports of the Ombudsperson provide many lessons-learned in this regard. In addition, the Focal Point, like the Ombudsperson, should be given the necessary financial and staff resources to carry out its mandate effectively.

- Another pertinent issue that remains outstanding concerns the legal assistance that should be given to delisted persons to move beyond their past listing. This is particularly important as the implementation of UN sanctions is also referenced and further developed by powerful global organizations outside the UN (like the Financial Action Task Force) which work closely together with Sanction Committees' expert teams and monitoring bodies; in addition, UN lists are implemented also by private actors. The latter may continue to take prior designations into account in their risk assessments and due diligence policies, thus prolonging the actual effects of a designation even after a formal delisting has occurred. Some states have also notably exceeded the mandate of the restrictive measures through their implementation of the measures, as observed in the case of Guinea-Bissau, where designees were prevented from running for office because of their status as listed persons.

- The strengthening of information-sharing mechanisms between the Focal Point and Sanction Committees' expert teams and monitoring bodies should be promoted, taking into account relevant privacy and data protection requirements.

- A technical amendment (authorized by paragraph 15(c)) could be introduced to assist petitioners with access to *pro bono* legal counsel, by cooperating with the list maintained by the Office of the Ombudsperson.

- As a matter of practice, the Focal Point should structure its comprehensive report in such a way that an impartial reviewer would see the logic of an implicit recommendation, assuming the information gathered merits such an outcome. This will also prove helpful to Sanctions Committee members and their capitals responsible for reviewing the reports and making a decision.

- As an additional matter of practice, invitations to the Focal Point to present the comprehensive report in person should become routine.

- As a further matter of practice, members of the Security Council should individually or collectively ensure as a standard practice that every petition reviewed by the Focal Point is taken up for consideration and a decision by the relevant sanctions committee. This is imperative both to approach the goal of effective remedy and to ensure that existing lists remain relevant.

- In order to promote the cooperation between the Focal Point and the Ombudsperson, while favoring coherence in the efforts towards fair and clear procedures for the whole range of UN sanctions, joint briefings of these two organs to the Security Council (such as those delivered by monitoring bodies) should be encouraged.

- More broadly and beyond the Focal Point / Ombudsperson, an area of improvement of sanctions regimes also concerns the issue of institutionalized periodic assessment of all UN designations in order to maintain the effectiveness of sanctions regimes in the midst of rapidly changing conflict dynamics.

- Finally, the Informal Working Group of the Security Council on General United Nations Security Council Sanctions Issue should include in its mandate as a new general issue efforts to strengthen due process and to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as granting exemptions.

7. Conclusion

While the UN Security Council has the responsibility and authority to apply individual sanctions in the pursuit of international peace and security, it cannot do so without consideration of the broad framework of norms and principles of the international rule of law.

The move from comprehensive embargoes to targeted sanctions was a welcome move in many respects, but it created serious new challenges by affecting individual rights. It became soon clear that the Security Council cannot simply remain “the master of its own decisions,” if those decisions affect fundamental rights and liberties. The long and ongoing struggle for fair and clear procedures in relation to UN sanctions is about the promotion of the rule of law inside the Council and the UN, as well as about the rule of international law understood as a modern legal system capable of creating balances between core values, such as international security and human rights.

Resolution 2744 and the significant improvement of the Focal Point shows that sometimes the incremental improvements of hard diplomatic work are duly rewarded). Thus, there is momentum for the ongoing struggle for fair and clear procedures in UN sanctions. This is in the interest both of affected individuals and entities as well as of the UN and the Security Council in particular. In order to ensure a coherent application of sanctions on a universal

level, delisting requests should be handled with the appropriate and necessary due process guarantees before an independent and effective reviewing entity at the level of the UN. If regional and national courts have to secure international due process standards, the risk of fragmentation of sanctions persists. Promoting the international rule of law through fair and clear procedures is not only desirable, but arguably existential for the collective security system and universal good governance today.

Over the course of the past 25 years, the Security Council has moved incrementally, but progressively, to address fair and clear procedures for individuals designated for sanctions. The table below, summarizes the extent to which different institutional mechanisms introduced over time have addressed core elements of due process. As suggested in this briefing paper, while there is progress, there is still work to be done. It should be noted that three of the elements included in the rows of the table – notification, access, and periodic review – address the responsibility of the body making the listing, as discussed in section 3 above. The other elements – access for delisting, fair hearing, and effective remedy – are the responsibility of an independent and impartial review mechanism associated with the delisting process.

Table 1: Summary comparison of different institutional mechanisms to address due process and ensure fair and clear procedures for individuals subject to UN sanction designations

	No Process (2000)	**Bilateral Process (2002)**	**Focal Point Mechanism (2006)**	**Enhanced Focal Point Mechanism (2024)**	**Office of the Ombudsperson (2009, 2011)**	**Judicial Review (No date)**
Notification	No	No	No	Yes	Yes	Yes
Access to UNSC	No	Yes, if states initiate	Yes	Yes	Yes	Yes
Periodic Review	No	No	No	No	No	No
Access for delisting	No	Only if states agree	No	No	Yes	Yes
Fair hearing	No	No	No	Yes	Yes	Yes
Effective remedy	No	No	No	No	Yes, *de facto*	Yes

To the extent possible, individuals should have recourse to institutional procedures that grant them fundamental rights associated with due process: notification, access, a fair hearing, and impartial and independent effective remedy.

Adherence to these principles strengthens the legitimacy of the UN's individual targeted sanctions at a time when sanctions in general are under increased scrutiny. Periodic assessment of the designations can also ensure that the sanctions regimes remain relevant and "fit for purpose" for the changing dynamics of the conflicts in which they are applied.

ANNEX

Overview of relevant cases challenging UN listings

YEAR CONCLUDED	PROCEEDINGS	JURISDICTION	UN SANCTIONS REGIME
2023	Case C-413/21 P, *Council of the European Union v. Aisha Muammer Mohamed El-Qaddafi* (20 April 2023) (Court of Justice, Sixth Chamber)	EU	Libya
2022	Case T-627/20, Libyan African Investment Company (LAICO) v. Council of the European Union (28 September 2022) (General Court of the EU, Fifth Chamber)	EU	Libya
2021	Case T-322/19, *Aisha Muammer Mohamed El-Qaddafi v. Council of the European Union* (21 April 2021) (General Court of the EU, Fifth Chamber)	EU	Libya
2020	Case C-134/19 P, *Bank Refah Kargaran v. Council of the European Union* (6 October 2020) (CJEU, Grand Chamber)	EU	Iran
2020	Case T-490/18, *Neda Industrial Group v. Council of the European Union* (8 July 2020) (General Court of the EU, Fourth Chamber)	EU	Iran
2020	Case T-332/15, *Ocean Capital Administration v. Council of the European Union* (8 July 2020) (General Court of the EU, First Chamber)	EU	Iran
2020	Case T-172/18, *Muhindo Akili Mundos v. Council* (12 February 2020) (CJEU, Ninth Chamber)	EU	DRC
2019	Case brought by François Bozizé before the Bangui's Administrative Court of the Central African Republic (11 December 2019)	Central African Republic	Central African Republic
2019	Case C-225/17 P, *Islamic Republic of Iran Shipping Lines and Others v. Council of the European Union* (31 January 2019) (CJEU, Fourth Chamber)	EU	Iran
2018	Case C-600/16 P, *National Iranian Tanker Company v. Council of the European Union* (29 November 2018) (CJEU, Fourth Chamber)	EU	Iran
2018	Case C-248/17 P, *Bank Tejarat v. Council of the European Union* (29 November 2018) (CJEU, Fourth Chamber)	EU	Iran
2018	Case C-430/16 P, *Bank Mellat v. Council of the European Union* (6 September 2018) (CJEU, Second Chamber)	EU	Iran
2018	Joined Cases T-533/15 and T-264/16, *Il-Su Kim and Korea National Insurance Corporation v. Council of the European*	EU	North Korea

YEAR CONCLUDED	PROCEEDINGS	JURISDICTION	UN SANCTIONS REGIME
	Union and European Commission (14 March 2018) (General Court of the EU, Third Chamber)		
2017	Joined Cases T-107/15 and T-347/15, *Uganda Commercial Impex Ltd v. Council of the European Union* (18 September 2017) (General Court of the EU, Sixth Chamber)	EU	DRC
2017	Case T-619/15, *Central African Republic Diamond Purchasing Office (Bardica) and Kardiam v. Council* (20 July 2017) (General Court of the EU, Ninth Chamber)	EU	CAR
2017	Case C-19/16 P, *Al-Bashir Mohammed Al-Faqih and Others v. European Commission* (15 June 2017) (CJEU, Eighth Chamber)	EU	ISIL (Da'esh) and Al-Qaida
2017	Case T 681/14, *El-Qaddafi v. Council of the European Union* (28 March 2017) (General Court of the EU, Third Chamber)	EU	Libya
2016	Case T-248/13, *Mohammed Al-Ghabra v. European Commission* (13 December 2016) (General Court of the EU, Third Chamber)	EU	ISIL (Da'esh) and Al-Qaida
2016	*Youssef v. Secretary of State for Foreign and Commonwealth Affairs* [2016] UKSC 3	United Kingdom	ISIL (Da'esh) and Al-Qaida
2016	*Al Dulimi and Montana Management Inc. v. Switzerland* (2016) (ECtHR, Grand Chamber)	ECtHR	Iraq
2015	Case T-134/11, *Al-Faqih and Others v. European Commission* (15 June 2017) (General Court of the EU, Seventh Chamber)	EU	ISIL (Da'esh) and Al-Qaida
2015	Case T-527/09 RENV, *Chafiq Ayadi v. European Commission* (14 January 2015) (General Court of the EU, Third Chamber)	EU	ISIL (Da'esh) and Al-Qaida
2014	Case T-306/10, *Hani El Sayyed Elsebai Yusef v. European Commission* (21 March 2014) (General Court of the EU, Second Chamber)	EU	ISIL (Da'esh) and Al-Qaida
2013	Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, *European Commission and Others v. Yassin Abdullah Kadi* (*Kadi II*) (18 July 2013) (CJEU, Grand Chamber)	EU	ISIL (Da'esh) and Al-Qaida
2013	Case C-183/12 P, *Chafiq Ayadi v. European Commission* (6 June 2013) (CJEU, Tenth Chamber)	EU	ISIL (Da'esh) and Al-Qaida
2013	Case C-239/12 P, *Abdulbasit Abdulrahim v. Council of the European*	EU	ISIL (Da'esh) and Al-Qaida

YEAR CONCLUDED	PROCEEDINGS	JURISDICTION	UN SANCTIONS REGIME
	Union and European Commission (28 May 2013) (CJEU, Grand Chamber)		
2012	*Nada v. Switzerland* (2012) (ECtHR, Grand Chamber)	ECtHR	ISIL (Da'esh) and Al-Qaida
2012	*Yassin Abdullah Kadi v. Geithner, Civil Action No. 09-0108* (JDB) (D.D.C. Mar. 19, 2012)	USA	ISIL (Da'esh) and Al-Qaida
2012	*Al-Haramain Islamic Foundation Inc. v. Obama,* 690 F. 3d 1089 - Court of Appeals, 9th Circuit (2012)	USA	ISIL (Da'esh) and Al-Qaida
2011	*Case T-102/09, Abdulrazag Elosta v. Council and Commission* (1 September 2011) (General Court of the EU)	EU	ISIL (Da'esh) and Al-Qaida
2011	*Case T-101/09, Elmabruk Maftah v. Council and Commission* (1 September 2011) (General Court of the EU)	EU	ISIL (Da'esh) and Al-Qaida
2010	Joined Cases T-135/06, *Al-Faqih v. Council; T-136/06, Sanabel Relief Agency Ltd v. Council;* T-137/06, *Abdrabbah v. Council;* T-138/06, *Nasuf v.Council* (29 September 2010) (General Court of the EU)	EU	ISIL (Da'esh) and Al-Qaida
2010	Case UKSC 2009/0016, *Her Majesty's Treasury (Respondent) v. Mohammed Jabar Ahmed and others (FC) (Appellants) Her Majesty's Treasury (Respondent) v. Mohammed al-Ghabra (FC) (Appellant) R (on the application of Hani El Sayed Sabaei Youssef) (Respondent) v. Her Majesty's Treasury (Appellant)* (27 January 2010) (Supreme Court of the United Kingdom)	United Kingdom	ISIL (Da'esh) and Al-Qaida
2009	Joined Cases C-399/06 P and C-403/06 P, *Faraj Hassan v. Council of the European Union and European Commission*; and *Chafiq Ayadi v. Council of the European Union* (3 December 2009) (CJEU, Second Chamber)	EU	ISIL (Da'esh) and Al-Qaida
2009	Case No: CO/1200/2009, *Hay v. HM Treasury* (10 July 2009) (England and Wales High Court of Justice - EWHC)	United Kingdom	ISIL (Da'esh) and Al-Qaida
2009	Case T-318/01, *Othman v. Council and Commission* (11 June 2009) (General Court of the EU)	EU	ISIL (Da'esh) and Al-Qaida
2009	Case T-727-08, *Abousfian Abdelrazik v. Canada (Minister of Foreign Affairs) et al.* (4 June 2009)	Canada	ISIL (Da'esh) and Al-Qaida
2008	*Nabil Sayadi and Patricia Vinck v. Belgium* (22 October 2008) (Communication No. 1472/2006, issued under Optional Protocol to the	UN Human Rights Committee	ISIL (Da'esh) and Al-Qaida

YEAR CONCLUDED	PROCEEDINGS	JURISDICTION	UN SANCTIONS REGIME
	International Covenant on Civil and Political Rights) (UN Human Rights Committee)		
2008	Joined Cases C-402/05 P and C-415/05 P, *Yassin Abdullah Kadi and Al Barakaat International Foundation v. Council of the European Union and Commission of the European Communities (Kadi I)* (3 September 2008) (CJEU, Grand Chamber)	EU	ISIL (Da'esh) and Al-Qaida
2008	Case 1A.48/2007, *Ali Ghaleb Himmat v. Switzerland* (22 April 2008) (Federal Tribunal in Lausanne)	Switzerland	ISIL (Da'esh) and Al-Qaida
2008	*Al Dulimi and Montana Management Inc* (23 January 2008) (Swiss Federal Court)	Switzerland	Iraq
2008	*A, K, M, Q and G v. HM Treasury* [2008] EWCA Civ 1187	United Kingdom	ISIL (Da'esh) and Al-Qaida
2008	*Al-Aqeel v. Paulson,* 568 F. Supp. 2d 64 (D.D.C. 2008)	USA	ISIL (Da'esh) and Al-Qaida
2007	Case No 1A 45/2007, *Youssef Moustafa Nada v. State Secretariat for Economic Affairs and Federal Department of Economic Affairs* (14 November 2007) (Swiss Federal Court)	Switzerland	ISIL (Da'esh) and Al-Qaida
2007	*Al-Qadi v. the State* (TK 2007) ILDC 311 (Administrative Appeals Board of the Turkish Council of State)	Turkey	ISIL (Da'esh) and Al-Qaida
2006	*Stichting Al Haramain Humanitarian Aid* (2006)	Netherlands	ISIL (Da'esh) and Al-Qaida
2005	*Nabil Sayadi and Patricia Vinck v. Belgium* (11 February 2005) (Tribunal de Première Instance de Bruxelles)	Belgium	ISIL (Da'esh) and Al-Qaida
2003	*Global Relief Foundation v. O'Neill* 207 F. Supp. 2d 779 (N.D. Ill. 2002), aff'd, 315 F.3d 748 (7th Cir.), cert. denied, 540 U.S. 1003 (2003) (United States)	USA	ISIL (Da'esh) and Al-Qaida
2003	*Nasco Business Residence Center SAS v. Italian Ministry of the Economy and Finance* (2003) (Tribunal of Milan)	Italy	ISIL (Da'esh) and Al-Qaida
2003	*R (on the application of Othman) v. Secretary of State for Work and Pensions* [2001] EWCH Admin 1022	United Kingdom	ISIL (Da'esh) and Al-Qaida