

Once a terrorist, always a terrorist? Study examines the UN's terrorist list

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At the United Nations, an ombudsperson reviews who is on the list of terrorists from Al Qaeda and the Islamic State. If someone feels that they have been wrongly placed on the list and should be removed, they can request that their case should be reviewed.

Since the establishment of the office in 2010, 63 people have been struck off the list on the basis of recommendations made by the ombudsperson. Those on the list are subjected to far-reaching sanctions, for example travel bans and the freezing of bank accounts. Dr. Andrej Lang, a legal scholar from Martin Luther University Halle-Wittenberg (MLU), takes stock of this issue in the *American Journal of International Law*.

The Office of the Ombudsperson for the United Nations 1267 Sanctions Regime was introduced in 2010—under pressure from the European Court of Justice. The regime was established by the UN Security Council in 1999 to combat terrorism by the Taliban and Al-Qaeda. Its aim was to target members and supporters of terrorist organizations. The Taliban were later removed from the regime and the so-called Islamic State (ISIL) was added.

"International law has long permitted the Security Council to take economic sanctions against [individual countries](#) in order to maintain or restore international peace and security. However, these measures always affect an entire nation and its population. The sanctions regime was designed to allow taking targeted actions against individuals," explains legal scholar Dr. Andrej Lang from MLU.

The Security Council can decide whether individuals should be subjected to far-reaching sanctions. "When a person is placed on this list, all United Nations Member States are obliged to freeze that person's accounts and restrict their freedom of movement by banning them from leaving the country," Lang adds. The measures aim to curb the financing of terrorism and thus prevent terrorist attacks.

However, according to Lang, the process for putting people on this list is problematic. The decisions are made by a UN Security Council committee that is staffed by diplomats. Sometimes a Member State will

allude to confidential documents created by their secret service without submitting these to the other Member States.

Even more problematic is that not everyone who is sanctioned has been notified directly that their name is on the list. "There have been cases where a person suddenly could no longer pay his rent because his account had been frozen. That can derail his entire life," explains Lang.

For his new study, the scholar examined the importance of the office of the ombudsperson and its work. It is an institution that persons can turn to if they believe they have been wrongly placed on the list. In addition to conducting an extensive review of the literature and publicly available UN documents, Lang also performed numerous interviews with diplomats, lawyers representing people on the list, and the three former ombudspersons.

He used this material to produce the most comprehensive assessment of the ombudsperson's role to date and placed its work within the current legal discourse on international dispute settlement and security politics.

When a person on the list approaches the ombudsperson, he/she will start an investigation. At the end of these proceedings, the ombudsperson recommends whether the person should remain on or be removed from the list. This recommendation can be overruled only if all 15 members of the Sanctions Committee vote against it, or if the case is referred to the Security Council—neither of which has happened yet. "This gives the ombudsperson a strong recommendation power," says Lang.

About 450 people have been placed on the terrorist list since it was first introduced, and 105 of these people have initiated proceedings with the ombudsperson. According to Lang, most of these cases have been resolved. In most instances, a recommendation is made to remove the person from the list and the UN member states have so far always

complied with this recommendation except in one case.

"This is surprising since, in many cases, a number of states are convinced that the people deserved to remain on the list," says Lang. The researcher notes that the sheer amount of people removed from the list does not necessarily point to a serious flaw in the sanctions regime. "In the first few years, some people were wrongly placed on the terrorist list. However, if you look at the list now, for most people it seems justifiable that they were originally put on the list because they were or are active for al-Qaida or the ISIL."

However, after a certain amount of time, this status has to be scrutinized. This applies, for example, to people who were convicted by a national court and have served their prison sentences—but remain on the list.

Lang believes the work of the ombudsperson embodies a new trend in [international law](#). "In the coming decades, it is likely that fewer international courts will be established than in the era following the Cold War. While the West's influence wains, states like China and India are gaining in geopolitical influence, yet these states are not keen on creating such institutions.

"Under these conditions of a changing world order, dispute settlement bodies such as an ombudsperson constitute a compromise that may provide a better solution than it would initially appear—even if they do not always meet our Western standards for the rule of law," concludes Lang.

More information: Andrej Lang, Alternatives to Adjudication in International Law: A Case Study of the Ombudsperson to the ISIL and Al-Qaida Sanctions Regime of the UN Security Council, *American Journal of International Law* (2022). [DOI: 10.1017/ajil.2022.81](https://doi.org/10.1017/ajil.2022.81)

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