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## 安全理事会

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## 2015年2月2日监察员给安全理事会主席的信

安全理事会第 2161(2014)号决议附件二第 20(c)段规定,监察员应一年两次向安理会提交报告,概述其活动。依照这一要求,谨随函递交监察员办公室的第九次报告。本报告介绍监察员办公室自上次报告印发以来,在 2014 年 8 月 1 日至 2015 年 1 月 31 日这一期间开展的活动。

请提请安全理事会成员注意本信和报告并将其作为安理会文件印发为荷。

监察员

金伯利•普罗斯特(签名)



# 监察员办公室依照安全理事会第 2161(2014)号决议提交的报告

## 一. 背景

1. 本报告介绍 2014年7月 31 日监察员办公室第八次报告(S/2014/553)印发以来 该办公室开展活动的最新情况。

## 二. 有关除名案件的活动

#### 总体情况

2. 本报告所述期间,监察员办公室的主要活动是处理个人和实体提交的除名申请。

#### 除名案件

- 3. 本报告所述期间,监察员办公室收到 6 宗新案。所有 6 份申请均已受理。截至 2015 年 1 月 31 日,办公室自设立以来收到的除名申请总共 61 份。除非申请人另有 要求,否则在审议期间和在申请被驳回或撤回的情况下,所有姓名均予保密。
- 4. 自办公室设立以来,监察员依照安全理事会关于基地组织及关联个人和实体的第 1904(2009)、1989(2011)、2083(2012)和 2161(2014)号决议,总共向安全理事会委员会提交 52 份综合报告。本报告所述期间,监察员提交了 4 份报告,并 4 次出席委员会会议,就 4 宗案件陈述案情。
- 5. 第八次报告印发以来,通过监察员程序除名 3 人 <sup>1</sup> 和 1 个实体。<sup>2</sup>
- 6. 办公室自设立以来,已通过监察员程序或委员会单独决定<sup>3</sup> 累计解决 51 宗案件,<sup>4</sup> 这些案件涉及个人、实体或两者结合向监察员提出的申请。在通过监察员程序全面了结的 48 宗案件中,37 名个人和 28 个实体被除名,1 个实体作为某一列名实体的别称被除名,6 份除名申请被驳回,1 份申请被撤回。此外,3 名个人在监察员程序完成前已被委员会除名。本报告附件载有截至 2015 年 1 月 31 日 所有案件现状的说明。

<sup>&</sup>lt;sup>1</sup> Wa'el Hamza Abd al-Fatah Julaidan、Aqeel Abdulaziz Aqeel al-Aqeel 和 Ismail Mohamed Ismail Abu Shaweesh。

<sup>2</sup> 哈拉曼基金会(美利坚合众国)。

<sup>3</sup> 这一数字包括监察员程序完成之前委员会已除名的3人。

<sup>&</sup>lt;sup>4</sup> 在1宗案件中,申请在综合报告提交之后被撤回,因此不是通过监察员程序或其他方式对有关问题做出决定。

7. 在编写本报告时,监察员面前有7宗待决案件处于收集信息或对话阶段,委员会面前有2宗由其审议的案件。本报告所述期间向办公室提交的6份申请由个人提出。迄今为止,在总共61宗案件中,53宗由个人提出,2宗由个人与1个或多个实体共同提出,6宗由实体单独提出。在这61宗案件中,32宗的申请人现在或曾经得到法律顾问协助。

#### 从各国收集信息

- 8. 迄今已就 6 宗新案向 14 个国家发出 20 项索取信息的请求。就本报告所述期间向委员会提交综合报告所涉的 4 宗案件而言,有一个国家曾两次不答复提供信息的请求。不过,该国不是居住国/国籍国,也不是指认国。除了从请求其提供信息的具体对象国收到的答复外,委员会一些成员也因看到普遍分发的申请而提供了信息。
- 9. 在本报告所述期间,监察员曾3次在有关国家首都就具体案件会见官员,直接收集信息。
- 10. 第 2161(2014)号决议附件二第 3 段规定监察员可以在征求过意见的所有指认 国都不反对除名的情况下,酌情缩短收集信息的期限。本报告所述期间,监察员 设法在 1 宗案件中这么做。

#### 与申请人对话

11. 在本报告所述的六个月中,监察员在待审案件的对话阶段与所有申请人沟通,包括电子邮件交流、电话讨论和面谈。在本报告所述期间,监察员亲自前往与3名申请人面谈。

#### 向有关国家提供综合报告

12. 如第八次报告指出的那样,第 2161(2014)号决议使得向非安全理事会所设委员会成员的有关国家披露信息成为可能。附件二第 13 段规定,监察员在收到请求并获得委员会批准后,可将综合报告副本提供给有关国家(指认国、国籍国、居住国或公司注册国),同时作出保护机密材料所必要的任何修订。本报告所述期间,监察员收到有关国家提出的 3 份披露信息请求。迄今,委员会批准并转发了其中1 份请求,在编写本报告时,2 份请求有待处理。5

#### 查阅保密或机密信息

13. 本报告所述期间,与爱尔兰达成了查阅保密或机密信息的 1 项新安排。迄今与奥地利达成了一项正式协议,与澳大利亚、比利时、哥斯达黎加、芬兰、法国、德国、爱尔兰、列支敦士登、卢森堡、荷兰、新西兰、葡萄牙、瑞士和大不列颠及北爱尔兰联合王国这 14 个国家达成了相关安排。

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<sup>5</sup> 剩余请求有待委员会或监察员处理。

14. 目前迫切需要在扩大名单方面进一步取得进展,特别是将监察员程序经常涉及的其他国家包括在内。目前正在与一些国家进行这方面的讨论。

## 三. 与监察员办公室发展有关的活动综述

#### 总体情况

15. 本报告所述期间尽可能继续开展进一步发展和加强监察员办公室的活动。

#### 办公室的外联和宣传工作

- 16. 监察员尽量克服时间和资源限制参加一些外联活动。
- 17. 9月,监察员在加拿大温尼伯市马尼托巴大学法学院发表了关于公平程序和基地组织制裁委员会的演讲。该月晚些时候,她参加了亚太反洗钱工作组在雅加达举行的一次区域讲习班,介绍了监察员办公室的情况,并就金融行动任务组关于定向金融制裁的建议6的执行问题与参加者交换了意见。10月,监察员在纽约举行的法律顾问年会上主持了一个专题讨论小组,这次年会的专题是"联合国安全理事会定向制裁和个人权利"。11月,监察员在柏林会晤了议员,与其讨论办公室的工作。在国际和平与安全法研究所、科隆大学和Fritz Thyssen 基金会的联合赞助下,并应科隆大学德国和国际刑法学院主席之邀,监察员于11月13日在科隆发表了一次演讲,题目是"安全理事会制裁和法治:监察员根据安全理事会第2161(2014)号决议发挥的作用"。12月,监察员向安全理事会新成员介绍了情况。
- 18. 2014年下半年,监察员积极参加了制裁问题高级别审查会议。监察员出席了所有三个工作组的会议,并应邀向第1和第2工作组做口头介绍。她还向所有三个工作组提交了书面呈件。

#### 与安全理事会和第 1267 (1999) 号和第 1989 (2011) 号决议所设委员会的互动

- 19. 2014年10月23日, 监察员在关于安全理事会工作方法的公开辩论期间向安全理事会做了口头通报。
- 20. 自 2014 年 8 月 1 日以来,监察员 4 次出席委员会的会议,就 4 宗案件提供案情介绍:8 月 26 日,关于哈拉曼基金会的案件(美利坚合众国)(已除名;以前列名为 QE.A.117.04); 10 月 31 日,关于 Aqeel Abdulaziz Aqeel al-Aqeel 的案件(已除名;以前列名为 QI.A.171.04); 12 月 16 日,关于 Ismail Mohamed Ismail Abu Shaweesh 的案件(已除名,以前列名为 QI.A.224.06); 2015 年 1 月 29 日,关于 1 宗仍然有待决定的案件。此外,监察员还在各案件进展的每一阶段数次向委员会书面介绍案件的最新情况。
- 21. 与以往一样, 监察员及其办公室工作人员继续与协调员和监测组成员定期接触。监测组根据安全理事会第 2161(2014)号决议附件二第 4 段的规定, 继续提供相关信息。在本报告所述期间, 监测组还就具体申请的有关问题提供专家意见。

#### 与国家、政府间组织、联合国机构和非政府组织联络

- 22. 本报告所述期间,监察员及其办公室工作人员继续与各国互动,特别是与待决除名申请所涉国家互动。本报告所述期间,监察员及其办公室工作人员还几次与对其办公室工作感兴趣的国家举行双边会议,讨论一般问题和近期的法律案件。监察员还就查阅机密或保密信息的协议或安排与一些国家举行了讨论。此外,监察员与在定向制裁问题上观点一致的非正式国家集团<sup>6</sup> 保持联系。监察员还在一些国家的首都与国家官员会面,讨论一般问题,并了解有关具体案件的信息。
- 23. 监察员及其办公室工作人员继续与反恐怖主义执行工作队和反恐怖主义委员会执行局代表联络,并与联合国毒品和犯罪问题办公室预防恐怖主义处和联合国人权事务高级专员办事处联络。
- 24. 本报告所述期间,监察员还与非政府组织代表举行会议,包括安全理事会报告和人权监察站。监察员还在 10 月于纽约举行的法律顾问年会期间与法律顾问互动,并与各国司法机构和国际法院成员互动。此外,监察员还数次就其办公室的工作与学术界人士进行交流。

#### 工作方法和研究

- 25. 与以往一样,本报告所述期间的办案工作要求利用开放源码进行研究,并与记者和作者联系,就公开可得的案件相关材料收集信息,并核实来源。
- 26. 监察员继续关注相关国家和地区法律案件的动态,并收集与这些案件有关的信息。监察员与法律事务厅的法律顾问讨论相关的一般法律问题,法律事务厅继续就各种问题向监察员提供援助。

#### 网站

27. 监察员办公室继续修订和更新其网站(www.un.org/en/sc/ombudsperson)。

## 四. 其他活动

#### 列名通知

- 28. 根据安全理事会第 2161(2014)号决议附件二第 20(b)段的规定,如知道地址,在某一个人或实体列入名单并已通知有关国家后,监察员应直接给有关个人或实体发通知。
- 29. 在第八次报告印发后的 6 个月里,基地组织制裁名单上增列了 18 名个人和 4 个实体。每次列名都考虑了通知问题。在 1 宗案件中获得地址,并发出了通知。在剩余案件中,或者没有地址,或者信息无法使其合理预料通知会送达收件人。

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<sup>&</sup>lt;sup>6</sup> 由奥地利、比利时、哥斯达黎加、丹麦、德国、芬兰、列支敦士登、荷兰、挪威、瑞典和瑞士组成。

30. 按照第 20(b)段的意向,监察员已向其办公室设立之前列名、有地址信息的个人和实体发出类似通知,并通知了后来获得地址信息的个人或实体。在本报告所述期间,监察员收到 2 个国家应提供联系人信息的请求提供的关于之前列名的 20 名个人的地址。监察员已向所有这些个人发出通知。在这一期间,办公室收到的 1 份除名申请是其发出的一份通知引发的。

#### 杂项问题

31. 监察员及其办公室继续接收并答复有关委员会和监察员程序的各种询问,包括国家代表、联合国机构、非政府组织、律师、列名个人、媒体、学术界、学生和公众请求提供协助和信息的要求。

## 五. 今后的工作

- 32. 与以往一样,监察员办公室最重要的活动仍将与除名申请有关。本报告所述期间收到 6 份申请,比上一个报告所述期间多。<sup>7</sup> 这一程序继续吸引一定数量的申请。如以往指出的那样,一些列名个人和实体仍然不知道监察员程序,监察员继续努力传播这方面的信息。
- 33. 考虑到有失一贯的趋势和上一次报告中指出的各种因素,目前依然难以肯定地预测今后的案件量。但是,根据最近的活动格局并考虑到种种这些因素,可以合理设想监察员办公室今后 6 个月将收到大约 4 份申请,在下一个报告所述期间结束时会有 5 宗在处理的案件。
- 34. 由于仍然因无法查阅保密材料而面临挑战,监察员办公室下一个期间的第二个优先事项将是达成查阅保密或机密信息的安排或协议。办公室将继续努力向各国提出这一问题,使监察员能够查阅与除名申请相关的重要信息。
- 35. 最后,监察员及其办公室将继续酌情开展外联和联络活动,使可能的申请者和其他相关行为体更好地了解和认识监察员程序。

## 六. 意见和结论

#### 公正程序

36. 如监察员于 10 月在向安全理事会口头通报情况时重点强调的那样,这一领域的国际法继续演进,与此同时,有关国际文书、主管部门和判例发出一致的信息。定向制裁的实施直接影响到个人和实体的权利,如果没有一个可提供有效补救的独立审查机制,就是一种违背基本人权义务的做法。监察员机制一直原则上受到批评,原因在这方面走得不够远,特别是监察员的决定不完全具有约束力。

<sup>7</sup>上一个报告所述期间收到4宗案件。

不过,实际上,如果监察员的建议得到采纳,正如这些建议迄今已经得到采纳那样,该机制就可为各个申请人提供有效的补救,从而促进正当程序和独立审查,在这一点上不存在争议。

37. 通过在四年半的运作中开展广泛实践,监察员机制一贯实现了已提出的除名申请方面的这些目标,以前的报告已经强调这一点。<sup>8</sup> 在本报告所述期间了结的案件中,申请人均被告知列名所依据的案情,而且有机会做出回复并通过监察员的综合报告让决策者获悉其想法。委员会在本报告所述期间就除名申请做出的所有决定完全依据监察员收集的信息,并采纳了她的建议。委员会从未以协商一致的方式对任何案件做出与监察员建议相反的决定,也从未将任何问题提交给安全理事会。因此,每个申请人都从有效而独立的列名依据及其证明资料审查中受益。

38. 此外,对程序公正性的有力保障<sup>9</sup> 出自安全理事会制定的程序,由于经验增加,对这些有力保障做出的积极评论得到强化。委员会成员就综合报告与监察员进行的个人和集体互动范围更大,更加全面。这也加强了该机制的全面性和有效性。监察员程序的严格时限也继续确保由一个强有力、有效的机制对除名申请进行高效审议。

#### 程序的透明度

#### 有关国家

39. 如第八次报告讨论的那样,第 2161(2014)号决议做出了一项重要改变,允许应请求并在征得委员会同意后向具体有关国家发布综合报告。如上所述,本报告所述期间,有 3 个国家要求发布综合报告,这说明对监察员程序和个人除名申请感兴趣。透明度加强对监察员办公室与所涉国家之间的关系有益,更普遍地讲,在证明监察员机制的总体公正性方面有益。今后,应考虑允许各国更加普遍地查阅监察员综合报告。作为最初步骤,可将"有关国家"这一群体从具体案件中的指认国和居住国/国籍国/公司注册国扩充到向其索取信息或由其提供信息的任何国家。这些"有关"国家往往出于各种各样的原因在具体案件中有重大利益,允许其查阅综合报告可能对这些国家的当局有价值和有帮助。

#### 申请人和公众

40. 如在第八次报告中讨论的那样,在程序的透明度方面没有取得其他改善,这仍然是监察员机制中的公正程序的最重大缺陷。申请人无法查阅综合报告。对公众来讲,包括对感兴趣的合法当局、法官和学术界来讲,披露甚至更加有限。虽然申请人通过面谈获悉列名依据并在案件结束时获悉列名理由,但公众能获得的

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<sup>&</sup>lt;sup>8</sup> 尤其见第六次报告中的详细讨论(<u>S/2013/452</u>),第 28-32 段。另见第八次报告(<u>S/2014/553</u>),第 34 段;第七次报告(<u>S/2014/73</u>),第 32 段;第五次报告(<u>S/2013/71</u>),第 28-30 段。

<sup>&</sup>lt;sup>9</sup> 见第四次报告(S/2012/590), 第 30-32 段。

关于各列名的唯一信息是基地组织制裁委员会网站上的理由简述。得不到任何说明除名申请实质、已审议问题以及保留列名或除名决定依据的资料。监察员无法披露在具体除名案件中收集的信息,也无法披露综合报告的任何部分。在保护机密信息的需要中,这些制约透明度的因素毫无根据。综合报告很容易调整,以删除任何敏感或机密的材料。

- 41. 因此,监察员程序仍然披着神秘的面纱,这是毫无必要的。遗憾的是,这意味着,虽然存在可说明程序合理性的详细文件,但并未提供这些文件。此外,尽管制裁的目的是防止支持恐怖分子和防止恐怖活动,并改变行为,但除了安全理事会、一些有关国家和监察员外,任何方都无法获得明确说明制裁制度针对的行动种类的信息。
- 42. 本报告所述期间,缺乏透明度的问题在保留列名和除名理由方面最显著。

#### 提供除名和保留列名的理由

- 43. 自第 2083(2012)号决议通过以来,安全理事会一直规定,在通过监察员程序做出除名或保留列名决定的同时必须说明理由。以往的报告曾指出,对于除名案件,委员会告知理由的时间很不及时,发出的信件中提供的事实和分析资料相对有限。 10 安全理事会第 2161(2014)号决议部分解决了这一问题,规定委员会必须在 60 天内向监察员提交理由这一截止日期。这一变化确保某种形式的沟通现在可在合理时限内进行,但没有涉及除名案件中的信函内容问题。实际上,规定截止日期加重了事实和分析资料有限的困难,至少在对积压案件适用时是这种情况。具体而言,本报告所述期间,监察员根据第 2161(2014)号决议附件二第 16 段的规定向申请人转递的一些委员会信件未包括任何事实和分析资料。监察员认为,这些信件不符合按照第 2161(2014)号决议的规定提供理由的要求。
- 44. 这一结果令人失望,因为说明理由是向申请人和更广泛地公开说明导致除名的决策过程的合理性的唯一机会。这一做法会使安全理事会设立的一个本来可以证明达到公正性要求的程序长期看起来很随意。因此,缺乏透明度损害了程序的总体公正性,更严重的是,损害了对其合理性的看法。
- 45. 如第七和第八次报告讨论的那样,<sup>11</sup> 保留列名案件的理由也仍然令人关切。由于保留列名依据的是监察员的建议,而监察员的建议出自综合报告中的分析,提供的理由与监察员的意见、分析和调查结果一致对程序的公正性至关重要。理由还必须反映出安全理事会规定提交的报告的综合性,以及程序确保监察员和委员会充分听取申请人的想法。为此,理由必须回应申请人提出的论点及其提供的任何证明资料。经验表明,只要保留目前将说明理由的责任交给委员会的结构,在保留列名理由的充分性和准确性方面出现的问题就会继续长期存在。

<sup>10</sup> 例如,见第七次报告(<u>S/2014/73</u>),第 38 和 39 段。

<sup>11</sup> 见第七次报告(S/2014/73), 第 43 至 45 段; 第八次报告(S/2014/553), 第 39 至 42 段。

46. 如我的第八次报告中指出的那样,解决在理由方面存在的严峻挑战的最佳办法是将提供理由的责任交给监察员,在除名案件和保留列名案件中都是如此,并对披露机密资料规定适当的保障措施。唯一例外的将是委员会推翻或安全理事会有决定的情况,这时将分别由委员会和安理会适当负责提供理由。如此安排将妥当地反映整个程序,并将显著增进程序的公正性、透明度和效率。

#### 国家合作/国家对监察员办公室的支持

47. 在本报告所述期间,国家继续在答复方面给予有力的合作。已了案件中的所有指认国和居住国/国籍国都作了答复。此外,监察员会见了各个案件所涉国家的有关人士并与这些国家协作,这促使有关国家就未决案件采取了具体行动。另外,在安全理事会和其他论坛近期举行的关于制裁和反恐的辩论中,各区域集团的多个国家已表示支持监察员办公室的工作。<sup>12</sup>

#### 查阅机密或保密材料

48. 如以往那样,查阅机密或保密材料仍然是合作方面的主要挑战,并使监察员程序的成效受到最严重的限制。近期通过监察员程序审议的除名申请说明,日益迫切需要监察员能够审查机密材料。此类信息对全面、准确地评估列名很关键,而且对全面分析提出的申请极为重要。

49. 尽管本报告所述期间再接再厉,但仅商定了一项新的安排,使查阅此类信息的协议/安排数目达到 15 个。为了确保监察员程序适当平衡制裁进程背后的所有利益,亟需达成更多协议/安排,特别是与往往拥有对列名很关键的信息的国家这么做。在这方面继续做出努力。

#### 人道主义豁免

50. 本报告所述期间的经验增强了在第八次报告中表达的看法,即应把转递在基地组织制裁制度内提出的人道主义豁免请求的责任交给监察员。此外,本报告所述期间与申请人的互动印证了这一说法,即由不同主管部门和不同程序来处理与同一列名有关请求的过程非常令人迷茫,无法使人信任其中任何一个程序。迄今,这个过程唯一的作用是使个人不敢提出可能具有良好动机的诉求,并为人道主义豁免请求提供了正当理由。虽然在其他制度中为此目的接触协调人显然对列入名单的个人和实体有益(并没有规定监察员这么做),但在基地组织制裁制度中却没有达到鼓励利用安全理事会规定的豁免的预期目的。

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<sup>12</sup> 例如,见 2014年10月23日举行的关于工作方法的安全理事会第7285次会议;2014年11月19日举行的关于恐怖主义行为对国际和平与安全造成的威胁的第7316次会议;2014年11月25日举行的关于与制裁有关的一般性问题的第7323次会议;2014年10月27日在纽约举行的法律顾问会议;2014年10月31日联合国制裁高级别审查报告;2014年6月11日在纽约进行的联合国全球反恐战略第四次审查。

#### 监察员办公室的独立性

- 51. 安全理事会在第 1904(2009)号决议中决定,在审议除名请求时,委员会应由监察员办公室协助。然而,如第八次报告所指出的那样,鉴于执行该决议规定的合同、行政和人员安排,没有设立单独的办公室。
- 52. 此外,安全理事会已要求加强监察员办公室的能力,确保它能够继续独立、有效和及时地执行任务。在四年半的运作中,监察员办公室一直在独立完成安全理事会交给的任务。该办公室独立自主地开展工作,每个已了案件所涉的个人或实体均得益于公正和不偏不倚的程序,其中包括客观地审查列名的事实依据。然而,这并不是任何结构能力或保护独立性的结果。相反,为监察员制订的适用行政安排,特别是在预算、人员配置、工作人员管理和资源使用方面,都缺乏独立自主的重要特征。而且,监察员的合同安排也不符合安全理事会交给的任务,没有为独立性提供足够的保障。由于选用的合同中有一项强制性规定,有可能干扰监察员执行任务,因此,本报告所述期间再次出现紧张局面。实际上,监察员及其办公室的独立性之所以得到保障,原因在于监察员本人、政治事务部有关官员和分配到该办公室的工作人员的个人努力。不过,显然安全理事会在交给该办公室的任务中并没有预计到这一点,对于确保监察员办公室独立性而言,这是极为脆弱的基础,特别是在该办公室今后正常过渡时。
- 53. 如以往所指出的那样,鉴于从2015年7月起,监察员办公室的任务期限又延长了30个月,迫切需要考虑制定执行安全理事会为监察员办公室规定的任务和能够使监察员和监察员办公室保持机构独立的合同安排和结构。

#### 结论

- 54. 监察员办公室自设立以来,一直向基地组织制裁委员会列名的个人和实体提供公正、便利的求助渠道,其中包括独立审查事实资料,符合公正性的基本规定。因此,在安全理事会的工作中,该办公室显然发挥了保护个人权利和保障基本公正性的作用。同时,该机制加强了基地组织制裁制度的成效和公信力。由于可在国际一级获得求助渠道,个人和实体可通过这个渠道质疑他们为何被列入名单,因此减少了诉诸国内或区域法院的需要。此外,保护措施由于是国际制度所固有的,因此可适当反映统一做法,而不管申请人所在地点如何,并确保为一个与安全理事会制裁措施有关的程序适用适当标准。此外,在国际一级提供这些保护和有效的补救可使各国应对和克服政治、政策和法律方面的关切,这些关切妨碍在国内和区域有效执行制裁措施。
- 55. 因此,监察员办公室仍然是支持基地组织制裁制度的公正性和公信力的机制,这反过来又加强了制裁措施的成效。
- 56. 虽然监察员程序仍然是一个强有力的程序,但其公正性和成效有限,这主要 是程序缺乏透明造成的,在程序后期阶段尤其如此。目前尤其令人关切的是,在

除名案件中不愿意为所作决定提供实质性理由,尽管决议中有相关规定。这只会使人长期认为该程序是随意的。同样,除非把保留列名案件中提供理由的责任交给监察员,否则,与综合报告相比,理由的一致性和充分性仍将令人关切。

- 57. 如上文所述,程序透明度方面仍存在严重缺陷,从申请人的角度来看,在向 公众传播信息方面由其如此。
- 58. 就实际挑战而言,查阅机密或保密材料仍然最令人关切。近期的案件突出说明,此类材料可能对监察员全面、准确地审查支持列名的资料并提出正确、适当的建议至关重要。迫切需要制定更多安排/协议,将继续推进这项工作。
- 59. 最后,鉴于第 2161(2014)号决议延长了监察员的任务期限,因此应审查监察员的合同状况及监察员办公室的行政安排,以便使该办公室机构化,并为其独立性提供适当保障。
- **60**. 不过,尽管存在剩余挑战,安全理事会所设监察员机制继续提供一个公正程序,为加强基地组织制裁制度的成效和公信力做出贡献。

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## **Annex**

## **Status of cases**

## Case 1, one individual (Status: denied)

Date	Description
28 July 2010	Transmission of case 1 to the Committee
28 February 2011	Comprehensive report submitted to the Committee
10 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision
1 September 2011	Formal notification to petitioner with reasons

#### Case 2, Safet Ekrem Durguti (Status: delisted)

Date	Description
30 September 2010	Transmission of case 2 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

#### Case 3, one entity (Status: delisting request withdrawn by petitioner)

Date	Description
3 November 2010	Transmission of case 3 to the Committee
14 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 August 2011	Withdrawal of petition

## Case 4, Shafiq Ben Mohammed Al Ayadi (Status: delisted)

Date	Description
6 December 2010	Transmission of case 4 to the Committee
29 June 2011	Comprehensive report submitted to the Committee

Date	Description
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 October 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

#### Case 5, Tarek Ben Al-Bechir Ben Amara Al-Charaabi (Status: delisted)

Date	Description
30 December 2010	Transmission of case 5 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

## Case 6, Abdul Latif Saleh (Status: delisted)

Date	Description
14 January 2011	Transmission of case 6 to the Committee
17 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 August 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

## Case 7, Abu Sufian Al-Salamabi Muhammed Ahmed Abd Al-Razziq (Status: delisted)

Date	Description
28 January 2011	Transmission of case 7 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
15 November 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 November 2011	Committee decision to delist
13 February 2012	Formal notification to petitioner with reasons

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Case 8, Ahmed Ali Nur Jim'ale and 23 entitiesa (Status: delisted)

Date	Description
17 March 2011	Transmission of case 8 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
13 December 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 December 2011	Committee decision to delist six entities
21 February 2012	Committee decision to delist one individual and 17 entities
8 June 2012	Formal notification to petitioner with reasons

a Barakaat North America, Inc., Barakat Computer Consulting, Barakat Consulting Group, Barakat Global Telephone Company, Barakat Post Express, Barakat Refreshment Company, Al Baraka Exchange, LLC, Barakaat Telecommunications Co. Somalia, Ltd., Barakaat Bank of Somalia, Barako Trading Company, LLC, Al-Barakaat, Al-Barakaat Bank, Al-Barakaat Bank of Somalia, Al-Barakat Finance Group, Al-Barakat Financial Holding Co., Al-Barakat Global Telecommunications, Al-Barakat Group of Companies Somalia Limited, Al-Barakat International, Al-Barakat Investments, Barakaat Group of Companies, Barakaat Red Sea Telecommunications, Barakat International Companies and Barakat Telecommunications Company Limited.

Case 9, Saad Rashed Mohammed Al-Faqih and Movement for Reform in Arabia (Status: delisted)

Date	Description
19 April 2011	Transmission of case 9 to the Committee
21 February 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 July 2012	Committee decision to delist
13 November 2012	Formal notification to petitioner with reasons

#### Case 10, Ibrahim Abdul Salam Mohamed Boyasseer (Status: delisted)

Date	Description
6 May 2011	Transmission of case 10 to the Committee
9 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 11, Mondher ben Mohsen ben Ali al-Baazaoui (Status: delisted)

Date	Description
1 June 2011	Transmission of case 11 to the Committee
19 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 March 2012	Committee decision to delist
10 July 2012	Formal notification to petitioner with reasons

## Case 12, Kamal ben Mohamed ben Ahmed Darraji (Status: delisted)

Date	Description
30 June 2011	Transmission of case 12 to the Committee
28 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
4 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

## Case 13, Fondation Secours Mondial (Status: amendedb)

Date	Description
7 July 2011	Transmission of case 13 to the Committee
14 December 2011	Comprehensive report submitted to the Committee
24 January 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 February 2012	Committee decision to amend
9 July 2012	Formal notification to petitioner with reasons

 $<sup>^{\</sup>it b}$  Amended to be removed as an alias of Global Relief Foundation (QE.G.91.02.).

#### Case 14, Sa'd Abdullah Hussein al-Sharif (Status: delisted)

Date	Description
20 July 2011	Transmission of case 14 to the Committee
29 February 2012	Comprehensive report submitted to the Committee

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Date	Description
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 April 2012	Committee decision to delist
5 June 2012	Formal notification to petitioner with reasons

## Case 15, Fethi ben al-Rebei Absha Mnasri (Status: delisted)

Date	Description
4 August 2011	Transmission of case 15 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

## Case 16, Mounir Ben Habib Ben al-Taher Jarraya (Status: delisted)

Date	Description
15 August 2011	Transmission of case 16 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

## Case 17, Rachid Fettar (Status: delisted)

Date	Description
26 September 2011	Transmission of case 17 to the Committee
27 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

## Case 18, Ali Mohamed El Heit (Status: delisted)

Date	Description
5 October 2011	Transmission of case 18 to the Committee
2 May 2012	Comprehensive report submitted to the Committee
3 July 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 July 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

## Case 19, Yassin Abdullah Kadi (listed as Yasin Abdullah Ezzedine Qadi) (Status: delisted)

Date	Description
16 November 2011	Transmission of case 19 to the Committee
11 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
5 October 2012	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

#### Case 20, Chabaane ben Mohamed ben Mohamed al-Trabelsi (Status: delisted)

Date	Description
21 November 2011	Transmission of case 20 to the Committee
23 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

## Case 21, Adel Abdul Jalil Ibrahim Batterjee (Status: delisted)

Date	Description
3 January 2012	Transmission of case 21 to the Committee
10 October 2012	Comprehensive report submitted to the Committee
6 November 2012	Presentation of the comprehensive report by the

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Date	Description
	Ombudsperson to the Committee
14 January 2013	Committee decision to delist
5 September 2013	Formal notification to petitioner with reasons

## Case 22, Ibrahim ben Hedhili ben Mohamed al-Hamami (Status: delisted)

Date	Description
6 February 2012	Transmission of case 22 to the Committee
25 September 2012	Comprehensive report submitted to the Committee
6 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
21 November 2012	Committee decision to delist
7 February 2013	Formal notification to petitioner with reasons

## Case 23, Suliman Hamd Suleiman Al-Buthe (Status: delisted) (Repeated request)

Date	Description
23 February 2012	Transmission of case 23 to the Committee
30 August 2012	Comprehensive report submitted to the Committee
27 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
10 February 2013	Committee decision to delist
30 August 2013	Formal notification to petitioner with reasons

## Case 24, Mamoun Darkazanli (Status: delisted)

Date	Description
28 February 2012	Transmission of case 24 to the Committee
12 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
11 March 2013	Committee decision to delist
30 August 2013	Formal notification to petitioner with reasons

Case 25, Abdullahi Hussein Kahie (Status: delisted)

Date	Description
28 February 2012	Transmission of case 25 to the Committee
26 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
26 September 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

## Case 26, Usama Muhammed Awad Bin Laden (Status: delisted) Ombudsperson case became moot following the Committee's decision of 21 February 2013

Date	Description
23 April 2012	Transmission of case 26 to the Committee
15 February 2013	Comprehensive report submitted to the Committee
21 February 2013	Committee decision to delist

#### Case 27, one individual (Status: denied)

Date	Description
7 May 2012	Transmission of case 27 to the Committee
11 February 2013	Comprehensive report submitted to the Committee
7 May 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
7 May 2013	Committee decision to retain listing
12 June 2013	Formal notification to petitioner with reasons

#### Case 28, one individual (Status: denied)

Date	Description
7 June 2012	Transmission of case 28 to the Committee
20 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 January 2013	Committee decision to retain listing
29 January 2013	Formal notification to petitioner with reasons

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Case 29, Muhammad 'Abdallah Salih Sughayr (Status: delisted)

Date	Description
25 July 2012	Transmission of case 29 to the Committee
9 April 2013	Comprehensive report submitted to the Committee
21 May 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 July 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

## Case 30, Lajnat Al Daawa Al Islamiya (LDI) (Status: delisted)

Date	Description
25 July 2012	Transmission of case 30 to the Committee
15 April 2013	Comprehensive report submitted to the Committee
2 July 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 September 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

## Case 31, Abd al Hamid Sulaiman Muhammed al-Mujil (Status: delisted)

Date	Description
1 August 2012	Transmission of case 31 to the Committee
13 March 2013	Comprehensive report submitted to the Committee
30 April 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 June 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

#### Case 32, Mohamed ben Mohamed ben Khalifa Abdelhedi (Status: delisted)

Date	Description
19 September 2012	Transmission of case 32 to the Committee
5 March 2013	Comprehensive report submitted to the Committee

Date	Description
16 April 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 May 2013	Committee decision to delist

## Case 33, Mohammed Daki (Status: delisted)

Date	Description
12 October 2012	Transmission of case 33 to the Committee
28 May 2013	Comprehensive report submitted to the Committee
30 July 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
16 August 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

#### Case 34, Abdelghani Mzoudi (Status: delisted) Ombudsperson case became moot following the Committee's decision of 18 March 2013

Date	Description
8 November 2012	Transmission of case 34 to the Committee
18 March 2013	Committee decision to delist

## Case 35, International Islamic Relief Organization, Philippines, Branch Offices (Status: delisted)

Date	Description
13 December 2012	Transmission of case 35 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

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Case 36, International Islamic Relief Organization, Indonesia, Branch Offices (Status: delisted)

Date	Description
13 December 2012	Transmission of case 36 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

#### Case 37, Jaber Abdullah Jaber Ahmed Al-Jalahmah (Status: delisted)c

Date	Description
4 February 2013	Transmission of case 37 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

<sup>&</sup>lt;sup>c</sup> Jaber Abdullah Jaber Ahmed Al-Jalahmah was relisted on the same date by a separate Committee decision.

Case 38, Moustafa Abbas (listed as Moustafa Abbes) (Status: delisted)

Date	Description
13 February 2013	Transmission of case 38 to the Committee
12 August 2013	Comprehensive report submitted to the Committee
13 September 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 September 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 39, Atilla Selek (Status: delisted)

Date	Description
13 February 2013	Transmission of case 39 to the Committee
2 October 2013	Comprehensive report submitted to the Committee
13 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
31 December 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

## Case 40, Youssef ben Abdul Baki Ben Youcef Abdaoui (Status: delisted)

Date	Description
4 March 2013	Transmission of case 40 to the Committee
14 November 2013	Comprehensive report submitted to the Committee
11 February 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 April 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

## Case 41, L'hadi Bendebka (listed as Abdelhadi Ben Debka) (Status: delisted)

Date	Description
12 March 2013	Transmission of case 41 to the Committee
14 October 2013	Comprehensive report submitted to the Committee
3 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
18 December 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

## Case 42, Youcef Abbas (listed as Youcef Abbes) (Status: delisted)

Date	Description
4 March 2013	Transmission of case 42 to the Committee
2 October 2013	Comprehensive report submitted to the Committee

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Date	Description
15 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 December 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

## Case 43, Said Yousef AbouAziz (listed as Said Youssef Ali Abu Aziza) (Status: delisted)

## Ombudsperson case became moot following the Committee's decision of 26 August 2013

Date	Description
27 March 2013	Transmission of case 43 to the Committee
26 August 2013	Committee decision to delist

## Case 44, one individual (Status: denied)

Date	Description
2 May 2013	Transmission of case 44 to the Committee
4 February 2014	Comprehensive report submitted to the Committee
21 April 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
21 April 2014	Committee decision to retain listing
30 July 2014	Formal notification to petitioner with reasons

#### Case 45, one individual (Status: denied)

Date	Description
6 May 2013	Transmission of case 45 to the Committee
9 December 2013	Comprehensive report submitted to the Committee
11 February 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
11 February 2014	Committee decision to retain listing
17 March 2014	Formal notification to petitioner with reasons

Case 46, Yacine Ahmed Nacer (Status: delisted)

Date	Description
10 May 2013	Transmission of case 46 to the Committee
30 December 2013	Comprehensive report submitted to the Committee
25 February 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
13 March 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

## Case 47, Nabil Benatia (listed as Nabil ben Mohamed ben Ali ben Attia) (Status: delisted)

Date	Description
3 June 2013	Transmission of case 47 to the Committee
12 November 2013	Comprehensive report submitted to the Committee
13 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
31 December 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

## Case 48, Wael Hamzah Jelaidan (listed as Wa'el Hamza Abd al-Fatah Julaidan) (Status: delisted)

Date	Description
17 June 2013	Transmission of case 48 to the Committee
19 March 2014	Comprehensive report submitted to the Committee
24 June 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
25 August 2014	Committee decision to delist
29 October 2014	Formal notification to petitioner with reasons

#### Case 49, one individual (Status: denied)

Date	Description
24 June 2013	Transmission of case 49 to the Committee
3 April 2014	Comprehensive report submitted to the Committee

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Date	Description
24 June 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
24 June 2014	Committee decision to retain listing
10 September 2014	Formal notification to petitioner with reasons

## Case 50, Al-Haramain Foundation (USA) (Status: delisted)

Date	Description
5 September 2013	Transmission of case 50 to the Committee
30 June 2014	Comprehensive report submitted to the Committee
26 August 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
25 October 2014	Committee decision to delist
29 December 2014	Formal notification to petitioner with reasons

## Case 51, Aqeel Abdulaziz Aqeel Al-Aqeel (Status: delisted)

Date	Description
28 October 2013	Transmission of case 51 to the Committee
18 August 2014	Comprehensive report submitted to the Committee
31 October 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 January 2015	Committee decision to delist

## Case 52, one individual (Status: dialogue phase)

Date	Description
27 May 2014	Transmission of case 52 to the Committee
27 February 2015	Extended deadline for completion of the information-gathering phase

## Case 53, one individual (Status: Committee phase)

Date	Description
13 June 2014	Transmission of case 53 to the Committee
9 December 2014	Comprehensive report submitted to the Committee
29 January 2015	Presentation of the comprehensive report by the Ombudsperson to the Committee

#### Case 54, one individual (Status: dialogue phase)

Date	Description
19 June 2014	Transmission of case 54 to the Committee
5 March 2015	Extended deadline for completion of the dialogue phase

## Case 55, Ismail Mohamed Ismail Abu Shaweesh (Status: delisted)

Date	Description
23 June 2014	Transmission of case 55 to the Committee
10 November 2014	Comprehensive report submitted to the Committee
16 December 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 January 2015	Committee decision to delist

## Case 56, one individual (Status: dialogue phase)

Date	Description
5 September 2014	Transmission of case 56 to the Committee
5 March 2015	Deadline for completion of the dialogue phase

## Case 57, one individual (Status: information-gathering phase)

Date	Description
9 September 2014	Transmission of case 57 to the Committee
9 February 2015	Extended deadline for completion of the information-gathering phase

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## Case 58, one individual (Status: information-gathering phase)

Date	Description
30 August 2014	Transmission of case 58 to the Committee
12 March 2015	Extended deadline for completion of the information-gathering phase

## Case 59, one individual (Status: information-gathering phase)

Date	Description
30 September 2014	Transmission of case 59 to the Committee
26 February 2015	Extended deadline for completion of the information-gathering phase

## Case 60, one individual (Status: information-gathering phase)

Date	Description
10 November 2014	Transmission of case 60 to the Committee
10 March 2015	Deadline for completion of the information-gathering phase

## Case 61, one individual (Status: information-gathering phase)

Date	Description
19 January 2015	Transmission of case 61 to the Committee
19 May 2015	Deadline for completion of the information-gathering phase