Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1597 (2008)[1]

United Nations Security Council and European Union blacklists

Parliamentary Assembly

1. The Parliamentary Assembly reaffirms that terrorism can and must be fought effectively with means that respect and preserve human rights and the rule of law.

2. It considers that international bodies such as the United Nations and the European Union ought to set an example for states in this respect, given the lofty goals laid down in their founding instruments and the credibility they need in order to attain those goals.

3. Targeted sanctions against individuals or specific groups ("blacklists") imposed by the United Nations Security Council (UNSC) and the Council of the European Union are, in principle, preferable to general sanctions imposed on states. General sanctions often have dire consequences for vulnerable population groups in the countries concerned, and generally not for their leadership, whilst targeted sanctions hurt only those alleged to be personally responsible for certain wrongdoings.

4. At the same time, targeted sanctions (such as travel restrictions and freezing of assets) have a direct impact on individual human rights such as freedom of movement and the protection of property. Whilst it is not at all clear and still being debated whether such sanctions have a criminal, administrative or civil character, their imposition must, under the European Convention on Human Rights (ECHR) (ETS No. 5) as well as the United Nations International Covenant on Civil and Political Rights (UNCCPR), respect certain minimum standards of procedural protection and legal certainty.

5. Procedural and substantive standards must also be guaranteed to ensure the credibility and effectiveness of targeted sanctions.

5.1. The minimum procedural standards under the rule of law are the right for everyone:

5.1.1. to be notified promptly and fully informed of the charges held against himself or herself, and of the decision taken and the reasons for that decision;

5.1.2. to enjoy the fundamental right to be heard and to be able to defend himself or herself;

5.1.3. to be able to have the decision affecting his or her rights speedily reviewed by an independent, impartial body with a view to modifying or annulling it;

5.1.4. to be compensated for any violation of his or her rights

5.2. Minimum substantive standards require a clear definition of grounds for the imposition of sanctions and relevant evidence to back up these grounds.

5.3. The "blacklisting" procedure should be limited in time. It is unacceptable that persons remain on the blacklist for years, whilst the prosecuting authorities, even after a long investigation, have not found any evidence against them.

5.4. Equally important is the issue of remedy. The Council of the European Union and the European Union (EU) member states must implement immediately the decisions of competent European and national judicial institutions affecting the status of the listed persons or entities.

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1. *Assembly debate* on 23 January 2008 (5th Sitting) (see Doc. 11454, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Marty). *Text adopted by the Assembly* on 23 January 2008 (5th Sitting).

6. The Assembly finds that the procedural and substantive standards currently applied by the UNSC and by the Council of the European Union, despite some recent improvements, in no way fulfil the minimum standards laid down above and violate the fundamental principles of human rights and the rule of law.

6.1. Concerning procedure, it must be noted and strongly deplored that even the members of the committee deciding on the blacklisting of an individual are not fully informed of the reasons for a request put forward by one member. The person or group concerned is usually neither informed of the request, nor given the possibility to be heard, nor even necessarily informed about the decision taken – until he or she first attempts to cross a border or use a bank account. There are no procedures for an independent review of decisions taken or for compensation for infringements of rights. Such a procedure is totally arbitrary and has no credibility whatsoever.

6.2. Similarly, substantive criteria for the imposition of targeted sanctions are at the same time wide and vague, and sanctions can be imposed on the basis of mere suspicions. This is a deplorable situation, and breaches human rights and fundamental freedoms.

7. The Assembly finds such practices unworthy of international bodies such as the United Nations and the European Union. Considering that it is both possible and necessary for states to implement the various sanctions regimes whilst respecting their international obligations under the European Convention on Human Rights and the UNCCPR, it urges:

7.1. the UNSC and the Council of the European Union to overhaul the procedural and substantive rules governing targeted sanctions, to comply with the requirements presented in paragraph 5 above;

7.2. those member states of the Council of Europe which are permanent or non-permanent members of the UNSC, or members of the EU, to use their influence in these bodies in favour of upholding the values embodied in the European Convention on Human Rights, both by ensuring the necessary improvements in procedural and substantive rules and through the positions they take on individual cases;

7.3. the United Nations (UN) General Assembly and the European Parliament to take up, respectively, UN- and Council of the European Union-targeted sanctions regimes with a view to ensuring the necessary improvements in terms of respect for human rights and the rule of law.

8. The Assembly invites all member states of the Council of Europe as well as the European Union to establish appropriate national and European Community procedures to implement sanctions imposed by the UNSC or the Council of the EU on their nationals or legal residents, in order to remedy the shortcomings of the procedures at the level of the UN or the EU as long as these shortcomings persist.

9. The Assembly reminds all member states of the Council of Europe that they have signed and ratified the European Convention on Human Rights and its protocols and have therefore committed themselves to uphold its principles, and these also apply to the implementation of sanctions imposed by the United Nations and the European Union