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## Parliamentary Assembly Assemblée parlementaire

**Provisional edition****United Nations Security Council and European Union blacklists**Resolution 1597 (2008)<sup>1</sup>

1. The Parliamentary Assembly reaffirms its position 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 (EU) 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 personal liberty 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) as well as the International Covenant on Civil and Political Rights, 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 rights:
      - 5.1.1. to be notified promptly and fully informed of the charges held against oneself, 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 oneself against these charges;
      - 5.1.3. to be able to have the decision affecting one's rights speedily reviewed by an independent, impartial body with a view to modifying or annulling it;
      - 5.1.4. to be compensated for any wrongful violation of one's rights.
    - 5.2. Minimum substantive standards require a clear definition of grounds for the imposition of sanctions and applicable evidentiary requirements.
    - 5.3. The "blacklisting" procedure should be limited in time. It is inadmissible that persons remain on the blacklist for years, whilst even the prosecuting authorities, 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 EU member states must implement immediately the decisions of competent European and national judicial institutions affecting the status of the listed persons or entities.
  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 as 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 and 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 fundamental human rights.

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 ECHR 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 ECHR, both by ensuring the necessary improvements in procedural and substantive rules and through the positions they take on individual cases;

7.3. the UN General Assembly and the European Parliament to take up, respectively, the UN and EU Council 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, respectively, 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 this also applies to the implementation of sanctions imposed by the United Nations and the European Union.

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<sup>1</sup> *Assembly debate* on 23 January 2008 (5<sup>th</sup> 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 (5<sup>th</sup> Sitting).