

Excellencies, ladies and gentlemen,

Thank you for inviting me to participate in this seminar here at this most prestigious court. It is an honour and a privilege to join you today to discuss EU and UN sanctions, and to mark the Office of the Ombudsperson's ten-year anniversary. I look forward to today's discussions, here at the Palais de la Cour de Justice, the court that played such a vital role in the development of my office. I am sure that we will talk about this and many other important issues, during our discussions regarding the European Union's perspective on Sanctions and Due Process.

I have no doubts that these discussions will give us food for thought, hopefully leading to concrete ideas for the further development of the Ombudsperson's Office. Being the current Ombudsperson to the Security Council's ISIL and Al-Qaida Sanctions Committee, I have to handle delisting requests from petitioners who want their name to be removed from the sanctions list (and not complaints against the initial listing decision). I must be thorough and seek fairness in each single case. You will obviously understand my focus and emphasis leans towards the enhancement and advancement of human rights. This is particularly true in the context of a global environment – based on my humble opinion – where increasingly expanding and deepening counterterrorism policies are the norm.

The United Nations Security Council adopted resolution 1904 on 17 December 2009, by which the Office of the Ombudsperson to the Committee established pursuant to resolution 1267 was created. The Security Council said in resolution 1904 that it is:

*“Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations and international law, including applicable international human rights, refugee and humanitarian law, threats to international peace and security caused by terrorist acts...”*

And the Council decided that *“When considering delisting requests, the Committee shall be assisted by an Office of the Ombudsperson, to be established for an initial period of 18 months from the date of adoption of this resolution, ...”*

Since that crucial moment in late 2009 when the resolution was adopted, the Office of the Ombudsperson has advanced tremendously. My predecessor, Judge Kimberly Prost, set up the office in a dynamic and complex environment which hadn't previously focused a great deal on issues of human rights while implementing targeted sanctions measures. Currently, we continue to build on the strong foundations she was able to create back then. One of them, being the actual mandate of the Ombudsperson.

The Ombudsperson's mandate is stronger today than some States may have anticipated on that December day in 2009, when they adopted the Security Council resolution. How does it work in practice? The Ombudsperson's recommendation to the Council's ISIL and Al-Qaida Sanctions Committee to retain a name on the list is basically a decision – if the Ombudsperson recommends retention, then the listing continues. The Ombudsperson's recommendation to take a name off the list can prove decisive as well. A delisting recommendation is subject to Committee consideration. However, uniquely, there is a reversed veto system which means that the support of only

one member of the Committee is necessary for the Ombudsperson's recommendation to stand. As you can understand, this makes it difficult to reject a delisting recommendation, because all 15 Sanctions Committee members would have to actively object to the Ombudsperson's recommendation.

In short: The Committee may overturn the recommendation of the Ombudsperson and it may refer a case to the Security Council. Neither have happened thus far.

Of course, States can and do object to delisting recommendations. Sometimes there is one objection, sometimes there are more. Sometimes the objections are related to substantive reasons while other times they can be a matter of principle.

I have learned this much during the last 1,5 years since I started in this position: fundamental human rights are sometimes subject to political discourse, and due process can sometimes be considered a challenge for States' national sovereignty, a crack in their national security strategies...

It is not at all surprising that the Ombudsperson often must navigate carefully on heavily fluctuating political tides in order to further improve fairness, the mandate itself, and, crucially, the independence of the Office.

The role of the Ombudsperson and the review procedure are, fascinating, unique and multi-faceted. It's different to working as a judge in a court – just like I was used to, prior to my appointment as Ombudsperson. My current work includes tasks of a judge, a diplomat, a researcher and an investigator, it even has elements of tasks that naturally belong to prosecutors or defence

lawyers. I operate in a political environment, sometimes also discussing cases with Member States' representatives in New York. Before conducting in-depth interviews with petitioners, I must communicate with government representatives about information relevant to the case, representatives who speak sometimes more the language of politics and not necessarily the language of international justice and due process.

Many delisting requests were handled by my predecessors Kimberly Prost and Catherine Marchi-Uhel. In ten years, 89 cases have been accepted by the office. I have worked on 11 of them, and I expect that another five cases will arrive in the near future. The Ombudsperson's quasi-judicial procedures have to be executed meticulously, and they are quite lengthy – it takes 8 to 16 months to review and conclude a case. Approximately 70 percent of petitioners who submit a request are delisted.

The Ombudsperson's position in the world of targeted sanctions is unique. It fulfils a much-needed role of balancing security and fairness, guaranteeing the rights of individuals and entities. There is still a lot to be achieved. I look forward to discussing the options and alternatives with you in more detail today.

Thank you.

Luxembourg, 3 December 2019