

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the independence of judges and lawyers

Ref.: AL ARE 2/2026

(Please use this reference in your reply)

28 April 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 58/14, 52/9, 59/4 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the designation of 11 individuals and eight associated entities as persons and organisations allegedly supporting terrorism pursuant to Cabinet Resolution No. 1 of 2025**. The individuals concerned reportedly include Emirati dissidents living abroad, relatives and associates of individuals prosecuted in the UAE94 and UAE87 proceedings, and companies associated with Emirati nationals residing outside the United Arab Emirates (UAE). We are concerned that the inclusion of these individuals and entities on the national terrorist list raises concerns under international human rights law.

We recall that Special Procedures mandate holders have previously raised concerns regarding the treatment of individuals associated with the UAE5, UAE7 and UAE94 proceedings, including in communications [ARE 7/2012](#) and [ARE 1/2013](#), as well as in subsequent communications [ARE 1/2021](#), [ARE 3/2021](#) and [ARE 1/2022](#), which addressed allegations of arbitrary detention, reprisals and the prosecution of human rights defenders and political activists. The Working Group on Arbitrary Detention also determined in opinion No. 60/2013 that the detention of numerous defendants in the UAE94 case was arbitrary and called for their immediate release and the provision of adequate reparation.

More recently, Special Procedures mandate holders raised serious concerns regarding the prosecution of individuals in the UAE87 proceedings in communication [ARE 1/2024](#), including allegations that numerous defendants previously convicted in the UAE94 case were subjected to new terrorism-related charges. These proceedings resulted in convictions and lengthy sentences issued on 10 July 2024 by the Abu Dhabi Federal Appeal Court. Special Procedures mandate holders also issued a communication concerning the imposition of administrative measures, including citizenship stripping and the denial of national identity document renewal, reportedly in retaliation against peaceful political dissent, as well as concerns about the rejection of all appeals related to the UAE87 trial ([ARE 3/2025](#)). We thank your Excellency's Government for its reply to ARE 1/2024. However, we regret that no information was

provided regarding ARE 3/2025, and that the reply to ARE 1/2024 did not include details on the individual cases.

According to the information received:

On 8 January 2025, the Cabinet of the UAE issued Cabinet Resolution No. 1 of 2025, designating 11 individuals and eight entities as persons and organisations allegedly supporting terrorism.

The designated individuals reportedly include Emirati dissidents who were directly sentenced for alleged terrorism-related offences by the Federal Court in Abu Dhabi, as well as friends and relatives of these dissidents. The list also includes individuals who had never previously been sanctioned, accused of any crime, or featured on any such listings.

Emirati dissidents who were directly sentenced for alleged terrorism-related offenses by the Federal Court in Abu Dhabi:

- **Mr. Jasem Rashed Khalfan Rashed al-Shamsi**, UAE national, A national of the United Arab Emirates, born on 30 December 1968 in Sharjah, UAE, he currently resides in Türkiye. He is one of the individuals prosecuted in the high-profile “UAE 94” case and is the subject of [Opinion No. 60/2013](#) issued by the United Nations Working Group on Arbitrary Detention.
- **Mr. Abderrahman Omar Salim Bajubair al-Hadhrami**, UAE national, born on 27 February 1987 in Sharjah, UAE. He currently resides in Turkey. In 2013, he was accused of supporting individuals charged in the “UAE 94” case through the creation and use of the social media account “uaemot.”

Individuals with personal ties to the relatives of Emirati dissidents, including friends and close associates

- **Mr. Yousef Hassam Ahmad al-Mulla**, Swedish citizen, born on 7 January 1984 in Sharjah, UAE. He is the son-in-law of a political detainee, who is subject of the [WGAD Opinion No. 19/2023](#). According to available information, he has not been formally charged in any case. He left the UAE in 2011, having been born into the marginalized Bidoon community, and sought another nationality.
- **Mr. Khalid Obaid Yousif Buataba al-Zaabi**, UAE national, born on 19 June 1989 in Abu Dhabi, UAE. He currently resides in the United Kingdom. His father was arrested in 2012, and his uncle, a judge, is detained and has been prosecuted in both the “UAE 94” and “UAE 87” cases.
- **Mr. Abdul Rahman Hasan Munif Abdullah al-Jaberi**, UAE national, born on 20 May 1989 in Abu Dhabi, UAE. He was studying in the United Kingdom when his father, who is subject to the [WGAD’s](#)

[Opinion No. 19/2023](#), had his nationality revoked and was subsequently arrested. Fearing arrest or ill-treatment, Mr. al-Jaberi decided not to return to the UAE and continues to reside in the United Kingdom.

Emiratis living in exile who had never been accused, convicted, or charged with any criminal offence:

- **Mr. Saeed Khadem Ahmed Bintouq al-Marri** is a dual citizen of Turkey and the UAE, born on 4 January 1960 in Dubai, UAE. According to the available information, he has not been officially charged in any case. He left the UAE in 2012 after facing restrictions, including the suspension of his pension, and subsequently took up residence in Turkey.
- **Mr. Ibrahim Ahmed Ibrahim Ali al-Hammadi** holds both Swedish and Emirati citizenship and was born on 1 January 1958 in Fujairah, UAE. He left the UAE in 2012 due to fears of persecution similar to those faced by other reform advocates and currently resides in Turkey.
- **Ms. Elham Abdulla Ahmad al-Hashemi** is a UAE national, born on 20 December 1963 in Dubai, UAE. She travelled to the United Kingdom in 2012 for medical treatment and later decided not to return. Her decision was influenced by concerns for her children, who reportedly faced restrictions, as well as fears of political targeting. She currently resides in Turkey.
- **Mr. Humaid Abdulla Abdulrahman Jumaa al-Nuaimi** is a UAE national, born on 8 September 1974 in Dubai, UAE. He was visiting Turkey at the time several of his friends were arrested. Although he has not been charged in any known case, he chose not to return to the UAE out of fear that he might be on a wanted list. He currently resides in the United Kingdom.
- **Mr. Ali Hasan Ali Husain al-Hammadi** is a UAE national, born on 1 January 1959 in Sharjah, UAE. He has not been charged in any known case. He left the United Arab Emirates in 2012, fearing persecution similar to that faced by his friends, and currently resides in the United Kingdom.
- **Mr. Mohamed Ali Hasan Ali al-Hammadi** is a UAE national, born on 1 May 1982 in Sharjah, UAE. According to available information, he has not been charged in any case. Like others in similar circumstances, he left the United Arab Emirates in 2012 out of fear of persecution and currently resides in the United Kingdom.

Several of the individuals concerned were previously accused in connection with the UAE94 case, while others are reportedly relatives or acquaintances of individuals prosecuted in that case and in the subsequent UAE87 proceedings. It is further alleged that some of the individuals designated are Emirati activists or dissidents living abroad who have not been charged with any criminal offence.

In addition, several entities were designated, including three UK-registered companies owned by an individual previously designated as a terrorist and who was the subject of AL ARE 1/2022, operating in the education and training, general commercial services, and property-related sectors; one online educational initiative delivered via social-media platforms and focused on teaching Arabic to children; one UK-registered company previously owned (until 2021) by an individual formerly designated as a terrorist and also the subject of AL ARE 1/2022, operating in the education and youth development sector; and three UK-registered companies owned by another individual, active in the real estate, property holding, and investment sectors.

The individuals were reportedly listed under Federal Law No. 7 of 2014, which empowers the UAE Cabinet to designate individuals or groups as terrorists based on proposals from the Minister of Presidential Affairs. Article 63 of the Federal Law No. 7 of 2014 provides for a grievance procedure through which individuals may challenge their inclusion on the national terrorist list. However, none of the individuals concerned has reportedly pursued this procedure, citing concerns regarding its effectiveness and independence.

It is further alleged that individuals listed under the law face immediate asset freezes and property confiscation. Additionally, relatives or friends who communicate with the listed persons risk life imprisonment under related legislation.

Without prejudging the accuracy of the information received, we express our serious concern regarding the reported designations, which may have serious consequences for the individuals and entities concerned, including asset freezes, confiscation of property, restrictions on financial services and professional and commercial activities, adverse impacts upon family life and reputation, and impediments to travel and work – there thereby interfering in numerous human rights including non-interference in privacy, the home and the family, freedom of expression, freedom of association, freedom of movement, and the right to work, among others.

Misuse of counter-terrorism measures against political dissent

We are particularly concerned by allegations that some of the individuals appear to have been listed as a result of their peaceful political activities, including advocacy for political reform, engagement in civil society initiatives or other forms of public participation, in the absence of any apparent charges or convictions for terrorist offences. We further note that the Resolution reportedly affects individuals and entities operating outside the UAE, including companies incorporated abroad. In these circumstances, such measures may produce significant consequences beyond the territory of the UAE. If confirmed, such transnational repression may contribute to a climate of silence and self-censorship and may have a chilling effect on the legitimate activities of Emirati activists, human rights defenders and members of civil society, including those residing abroad.

United Nations human rights mechanisms have consistently emphasised that counter-terrorism measures must not be misused to suppress the legitimate exercise of

the rights to freedom of expression and association under articles 19 and 22 of the ICCPR, and the right to take part in public affairs under article 25 of the ICCPR, including political activity and public debate. The Human Rights Committee has affirmed in its general comment No. 34 that the right to freedom of expression protects political discourse, commentary on public affairs and criticism of public institutions, and that “States parties should ensure that counter-terrorism measures are compatible with paragraph 3” of article 19, including by ensuring that any terrorism-related offences are “clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression” (CCPR/C/GC/34, paras 11, 23 and 46).

Freedom of association and family relationships

Some of the listed individuals reside abroad and may rely in part on family or social relationships with persons prosecuted in connection with the UAE94 and UAE87 proceedings. The listing of individuals and organisations abroad may produce consequences for them beyond the territory of the UAE, including through asset freezes, restrictions on financial services and transactions, reputational harm and limitations on the ability to travel and to conduct professional or commercial activities and to maintain family life.

Measures that impose sanctions or restrictions on individuals merely because of their associations with others would unjustifiably interfere with the right to freedom of association under article 22 of the ICCPR and, in the case of family members, with the right to family life under articles 17 and 23 of the ICCPR. The right protects associations with family members, colleagues, civil society organisations and other individuals engaged in public or political life. The application of counter-terrorism measures on the basis of family relationships or social associations also compromises the principle that legal responsibility must be individual and not based solely on connections with others. Such listings may further contribute to a climate of fear and self-censorship and create a chilling effect on the exercise of freedom of association and may discourage individuals from engaging with civil society initiatives or maintaining legitimate social, family and professional relationships.

Concerns regarding the Federal Law No. 7 of 2014 on Combating Terrorist Offences

We are concerned about the reliance on Federal Law No. 7 of 2014 on Combating Terrorist Offences as the legal basis for the terrorist designation of individuals and entities. Article 63 of the Law provides for the establishment of national lists of terrorist persons and organisations and authorises the Cabinet to designate individuals and entities for inclusion on these lists by resolution, with significant legal consequences including asset freezes and other restrictive measures.

We reiterate concerns previously raised by Special Procedures mandate holders regarding the scope and application of this legislation. In communication [ARE 6/2020](#), mandate holders expressed concern that the definition of terrorism contained in Federal Law No. 7 of 2014 is vague and overbroad and it thus criminalizes conduct that is not genuinely terrorist in nature and is prone to arbitrary application and abuse, including against the legitimate exercise of freedoms of expression, association, and peaceful

assembly, the right to take part in public affairs, and the rights of human rights defenders.

According to best practice international standards, the definition of terrorism should be limited to conduct that intentionally causes death or serious injury and involves certain terrorist purpose elements (see Security Council resolution 1566 (2004) and the model definition of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/61/52). Criminal offences relating to terrorism must also comply with the principle of legality and be defined with sufficient precision to enable individuals to regulate their conduct, accordingly, as reflected in article 15 of the ICCPR.

Further, the designation of “terrorist” individuals or organisations must satisfy the grounds for listing consistent with international human rights law, as set out by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/80/284, paras. 17-39; see annex). In particular, there must be credible evidence that the individual or entity has intentionally engaged in terrorism as property defined in accordance with international standards; an organization must have the substantial purpose of engaging in terrorist offences; and listing must be necessary and proportionate in the circumstances, including by demonstrating that less invasive means, such as surveillance and criminal investigation, would be ineffective. Any restriction of rights resulting from listing, including financial and criminal law measures, must be necessary and proportionate in pursuit of the counter-terrorism aim in the individual case.

Due process

We are concerned that the affected individuals and entities may not receive sufficient due process in relation to terrorist listings, including adequate notice, effective opportunities to challenge listing decisions, independent judicial review, and remedies for violations, including compensation. We are concerned by allegations that listed individuals may face practical obstacles in challenging their listing, including due to the lack of clarity and adequacy of the grievance procedures under article 63 of Federal Law No. 7 of 2014. None of the individuals has pursued the grievance procedure provided due to concerns regarding its independence and ability to provide meaningful review. In the absence of robust safeguards and review mechanisms, administrative listing measures risk resulting in arbitrary interference with the rights of the individuals concerned, including the right to a fair hearing and the right to an effective remedy reflected in articles 14 and 2(3) of the ICCPR.

The procedure for terrorist listings must comply with international human rights law, as set out in the report on administrative measures of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/51, para. 35 and A/80/284; see annex), including prompt notice, adequate disclosure of allegations, evidence and reasons, effective administrative appeal and judicial review, automatic periodic review, time expiry, and reparation in the case of violations.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the allegations described above.
2. Please provide detailed information on the legal and factual bases for the designation of the individuals and entities listed under Cabinet Resolution No. 1 of 2025.
3. Please clarify the procedures followed in adopting Cabinet Resolution No. 1 of 2025, including the competent authorities involved in the decision-making process and the criteria applied in listing.
4. Please indicate whether the listed individuals were notified of the reasons for their designation and informed of the procedures available to challenge their listing.
5. Please clarify what mechanisms are available to individuals and entities to challenge their listing, including any procedures for judicial review or delisting.
6. Please provide information on the measures imposed as a consequence of listing, including any asset freezes, restrictions on financial transactions or other limitations affecting the individuals and entities concerned.
7. Please clarify whether any of the listed individuals have been charged with or convicted of criminal offences related to terrorism.
8. Please provide information on the steps taken to ensure that the implementation of Federal Law No. 7 of 2014 and the related listing procedures are consistent with international human rights standards.
9. Please provide information on any measures adopted to ensure that counter-terrorism legislation and administrative listing regimes are not applied in ways that may restrict the exercise of fundamental freedoms, including freedom of expression, freedom of association and participation in public affairs.
10. Please indicate whether the UAE will stop the misuse of terrorist listings as a means of transnationally repressing individuals and entities located abroad.

This communication, and any response received from your Excellency's Government, will be made public via the communications reporting [website](#) at the 60-day mark. Should Your Excellency's Government respond within 60 days, both the communication and the response, may be published before the 60 days mark. The communications and responses will also be made available in the subsequent periodic report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Irene Khan

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Gina Romero

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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the following human rights standards and obligations binding on Belarus under international human rights law.

Freedom of expression and opinion

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right "to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media". This right applies online as well as offline and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

In general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including "political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse" (para. 11). The Committee further noted that States parties to the ICCPR "shall put in place effective measures to protect against attacks aimed at silencing those who exercise their right to freedom of expression" (para. 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) of the ICCPR. Restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. To be provided by law, a restriction must be formulated with sufficient precision to enable individuals to regulate their conduct, accordingly, must not confer unfettered discretion, and must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not (para. 25). The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving "in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat" (general comment No. 34, para. 35). The relation between right and restriction and between norm and exception must not be reversed. A restriction must be "the least intrusive instrument among those which might achieve their protective function" (para. 34). Any restriction on expression or information that a government seeks to justify on grounds of national security and counter-terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (general comment No. 34).

The Committee also states that "States parties should ensure that counter-terrorism measures are compatible with paragraph 3. Such offences as "encouragement of terrorism" and "extremist activity" as well as offences of "praising", "glorifying", or

“justifying” terrorism, should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression” (para. 46).

Freedom of peaceful assembly and association

Article 21 of the ICCPR states that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”.

Article 22 of the ICCPR protects the right to freedom of association with others. States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards (A/HRC/17/27, para. 66 and A/HRC/29/25/Add.1). Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies. These rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized by international standards and are necessary and proportionate for achieving that purpose.

The Human Rights Committee stated that “the imposition of any restrictions should be guided by the objective of facilitating the right, rather than seeking unnecessary and disproportionate limitations on it. Restrictions must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect” (general comment No. 37, para. 36). In addition, the Special Rapporteur on the rights to freedom of peaceful assembly and of association highlighted that “negative and hostile narratives increasingly used to vilify and criminalize civil society, and activists deepen the stigmatization of those exercising their rights to peaceful assembly and association. Stigmatization, whether intentional or not, especially when propagated by authorities, effectively denies these fundamental rights. It misrepresents legitimate exercises of freedom as illegal and those involved as criminals or threats to national security, public order or morals. This fuels harmful stereotypes, fosters hostility, justifies punitive measures and triggers undue restrictions on these rights” (A/79/263, para. 11). The Special Rapporteur emphasized the weaponization of unjustified accusations of terrorism, facilitated by broad anti-terrorism laws, to stifle civic activism and civil society critical of government policies (paras. 32-35).

Right to take part in public affairs

Article 25(a) of the ICCPR provides that: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions... [t]o take part in the conduct of public affairs”. The Human Rights Committee noted that “[c]itizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by

ensuring freedom of expression, assembly and association” (general comment No. 25, para. 8).

Freedom of movement

Article 12 of the ICCPR guarantees the right of liberty of movement, providing that “[e]veryone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement” and that any restriction on this right must be provided by law, be necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and be consistent with the other rights recognized in the ICCPR.

Right to privacy

Article 17(1) of the ICCPR prohibits arbitrary or unlawful interferences with a person’s privacy, family, home or correspondence, and unlawful attacks on a person’s honour and reputation. Article 17(2) provides that “[e]veryone has the right to the protection of the law against such interference or attacks.” Any interference with the right protected under article 17 must be strictly necessary and proportionate in pursuit of a legitimate aim. The Human Rights Committee has emphasized the duty of States “not to engage in interferences inconsistent with article 17 of the Covenant and to provide the legislative framework prohibiting such acts by natural or legal persons” (general comment No. 16, para. 9).

Human rights defenders

We refer your Excellency’s Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, articles 1 and 2 of the Declaration state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. In addition:

- article 5 (a) provides for the right to meet or assemble peacefully.
- article 5 (b) provides for the right to form, join and participate in non-governmental organizations, associations or groups.
- article 6 (a) provides for the right, individually and in association with others, to “know, seek, obtain, receive and hold information about all human rights and fundamental freedoms”;
- article 6 (b) provides for the right “to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”;

- article 9(1) provides for the right to benefit from an effective remedy and to be protected in the event of the violation of those rights; and
- article 12 (2)-(3) provide that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

Right to an effective remedy

Article 2(3) of the ICCPR enshrines the right to an effective remedy. It provides that States parties have the obligations to ensure that: (a) any person whose rights or freedoms are violated have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) any person claiming such a remedy has such right determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; and (c) the competent authorities enforce such remedies. The right to an effective remedy is a key element of the full enjoyment of human rights. Without access to an effective remedy, human rights violations go unpunished, and victims may be deprived of justice, compensation and their human dignity.

Definition of terrorism

The principle of legality under article 15(1) of the ICCPR requires that criminal laws are sufficiently precise so that it is clear what types of behaviour constitute a criminal offence and what would be the legal consequences. This principle recognizes and seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse, including to target civil society on political or other unjustified grounds (A/70/371, para. 46(b)) and suppress the exercise of fundamental rights and freedoms (A/HRC/40/52).

Although no universal treaty generally defines “terrorism”, States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism instruments,¹ the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004). Based on these authoritative sources, the revised model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism provides clear, “best practice” guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements (A/HRC/61/52).

¹ See https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml.

The model definition is as follows:

1. Any person commits a terrorist offence if that person, by any serious criminal act, intentionally causes death, serious bodily injury, or hostage-taking, where:
 - (a) The purpose of the conduct, by its nature or context, is:
 - (i) To provoke a state of terror in the public or a group of persons; or
 - (ii) To unduly compel a Government or an international organization to do or to abstain from doing any act;
 - (b) The conduct is intended to advance a political or ideological purpose, which must be a substantial purpose; and
 - (c) The conduct, given its nature or context, intentionally causes serious damage to a country or an international organization.
2. A terrorist offence does not include:
 - (a) An act of advocacy, protest, dissent or industrial action that does not intentionally cause death or serious bodily injury;
 - (b) Conduct committed in armed conflict that does not violate international humanitarian law;
 - (c) The provision of humanitarian activities by impartial humanitarian organizations in accordance with international humanitarian law;
 - (d) The activities of State military forces in the exercise of their official duties, inasmuch as they are accordance with international law; and
 - (e) An act intended to establish or re-establish democracy, constitutional Government or the rule of law, or to exercise or safeguard human rights.

Terrorist listings

The designation of “terrorist” individuals or organizations must satisfy the grounds for listing, and ensure due process and judicial protection, under international human rights law, as set out by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/51, para. 35 and A/80/284, paras. 17-39). The criteria for listing must be clearly established by law and publicized. There must be reasonable grounds to believe, based on credible and convincing evidence, that the individual or entity: (a) has knowingly carried out, participated in or facilitated a terrorist act; (b) intends to engage further in terrorism; and (c) is capable of so engaging. A higher standard of proof, such as the balance of

probabilities, is recommended. The definition of terrorism must be limited to conduct that is genuinely terrorist in accordance with best practice international standards. To list an organization, it must have the substantial purpose of engaging in terrorist offences. Even where an individual or entity meets the formal criteria, listing must still be necessary and proportionate in the circumstances, including by demonstrating that less invasive means, such as surveillance and criminal investigation, would be ineffective.

Any restriction of rights resulting from listing, including financial and criminal law measures, must be necessary and proportionate in pursuit of the counter-terrorism aim and be non-discriminatory. Measures must be applied individually and not automatically or en masse. The protracted or indefinite maintenance of restrictive measures, including asset freezes and travel bans, may become disproportionate and quasi-punitive over time. Protracted listings should be more intensively scrutinized because they will likely have reduced the threat over time.

The following minimum due process rights should apply to listings: (a) A right to be promptly informed of the listing (ordinarily ex ante, exceptionally ex post facto) and its factual grounds, the consequences of listing and the procedural rights. There must be sufficient disclosure of the information supporting the listing to enable the person to effectively challenge it, instruct their lawyer and enjoy equality of arms in proceedings; (b) A right to apply to the decision maker for delisting or non-implementation of the measures, and a subsequent right to re-apply for such relief where there is a material change of circumstances or new evidence; (c) A right to judicial review of the listing, affording due process, legal assistance and legal aid as required. The court must have the power to suspend the listing pending final decision. Judicial review should be prompt and automatic, not only on application; (d) The listing should be regularly reviewed, at least every six months, to determine whether the listing and the measures are still lawful, necessary and proportionate; (e) The listing should lapse automatically after 12 months, unless renewed afresh; (f) Reparation, including compensation, must be available for wrongful listing, including for affected third parties.

Respect for human rights while countering terrorism

Many resolutions of the United Nations General Assembly, Security Council and Human Rights Council reaffirm that any measures taken to combat terrorism and violent extremism must comply with the obligations of States under international law, in particular international human rights law, refugee law and international humanitarian law.² Counter-terrorism measures must conform to fundamental requirements of legality, proportionality, necessity and non-discrimination. Disregard for these principles can have exceptionally harmful effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities, and civil society. States must ensure that measures to combat terrorism do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights (A/HRC/RES/22/6, para. 10(a)).

² Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); Human Rights Council resolution 35/34; and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180, among others