

EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS



ECCHR succeed in removing client from the UN Security Council 1267 Al-Qaida blacklist.

Berlin, 8 May 2012 - The United Nations Security Council 1267 Sanctions Committee yesterday formally announced the removal of one of ECCHR's clients (Mr Kamel Darraji) from the Al-Qaida terrorism blacklist. He had been kept on the list (at the request of the Italian and US governments) for almost eight years, on the basis that he was allegedly "associated with" an Italian Al-Qaida terrorist cell – an allegation that Mr Darraji has consistently denied.

Today's decision follows detailed applications submitted in June and September 2011 by his lawyers - Gavin Sullivan (Solicitor and Co-operating Lawyer, ECCHR) and Rachel Barnes (Counsel, 3 Raymond Buildings, London).

His delisting brings an ordeal of almost eight years to an end and finally opens the possibility for Mr Darraji and his family to resume an ordinary life. It also raises serious questions about the inherent unfairness of the 1267 listing regime and the illegitimacy of states using pre-emptive sanctions based on classified intelligence as part of the 'war on terror'.

No evidence was ever provided – by either the governments who listed him or the UN Sanctions Committee – to justify their listing decision. In 2005 Italian courts found there was no evidence to support the allegation that he was part of a terrorist cell. Finally, US embassy cables released last year by Wikileaks revealed that in 2009 even the US government itself could find no evidence to justify his continued inclusion on the 1267 list:

After careful and detailed review and analysis of all available information, the USG [US government] has determined that it currently lacks information sufficient to conclude that DARRAJI continues to engage in the activities for which he was originally listed or other activities that would provide a basis for continued listing.¹

Yet he remained blacklisted, effectively kept as a 'prisoner of the state'. From 2004 until today, Mr Darraji has been subjected to severe and prolonged restrictions on his ability to access funds, work and travel. It has been a criminal offence for anyone worldwide to provide him with money or financial support. The impact of the listing – for both Mr Darraji and his family – has been devastating.

In response to today's decision, Mr Darraji stated:

I'm very happy to finally be off this list. It's the best thing that could have happened. All of my family shouted for joy as they came to know the good news. They tried to destroy our lives for almost eight years, but they will never really be held responsible for what they have done and the mistakes they have made. Explain to me: how is that fair?

¹ See: Cable 09STATE109494 of 23 Oct. 2009, para 6. (20).

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Gavin Sullivan, Mr Darraji's solicitor and co-operating lawyer with ECCHR, stated:

Today's decision to remove my client from the list is welcomed and long overdue. But it simply begs the question: why was he even placed on the list in the first place and kept there when there was no evidence connecting him with terrorism? How could he have refuted the allegation that he was "associated with" terrorism when he was never told what the basis for the allegation was? And how can the Security Council seriously maintain that his listing was merely 'temporary' when he was targeted for almost eight years and would undoubtedly have remained listed had ECCHR not agreed to help? Today's decision is a victory for Mr Darraji and his family, but not for due process and the protection of fundamental rights. It reveals the injustices that arise when ordinary legal protections are dismantled and replaced by exceptional security measures based on secret intelligence.

Wolfgang Kaleck, General Secretary of ECCHR, stated:

ECCHR has a strong history of fighting to expose the unfairness of terrorism blacklists. We have assisted listed individuals when others have refused to do so, brought together human rights advocates to engage with this issue and consistently argued that the lists should be abolished for being incompatible with the rule of law. We are glad to have helped Mr Darraji's get off this list and out of the legal 'black hole' which it creates. But if his case is indicative, there must be scores of others who remain unjustifiably blacklisted in this way, victims of the global 'war on terror' who are rarely spoken about.

The decision to delist Mr Darraji comes at a time when the UN 1267 Al-Qaida Sanctions Committee is facing a deepening crisis of legitimacy and is attempting to offset the mounting worldwide judicial criticism of both its powers and the Ombudsperson delisting procedure.²

In 2010 the European General Court found in the case of *Kadi v Commission* that "the Office of the Ombudsperson cannot be equated with the provision of an effective judicial procedure for review of decisions of the Sanctions Committee" and that individuals on the list were still unable to properly exercise their rights of defence.³ The European Commission promptly appealed against this ruling and the decision of the Grand Chamber of the ECJ⁴ - which is again expected to assess the inadequacies of the UN Ombudsperson procedure - is due imminently.

UN Press Release: <http://www.un.org/News/Press/docs/2012/sc10639.doc.htm>

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For information about the terrorism blacklists and ECCHR's ongoing work on this issue, visit: http://www.ecchr.de/index.php/terror_lists.html

² See: ECCHR: Blacklisted: Targeted sanctions, preemptive security and fundamental rights (by Gavin Sullivan and Ben Hayes), Berlin 2010, [download](#)

³ Case T-85/09. *Kadi v Commission* [2010] ECR 0000 (at para. 128)

⁴ Case C-584/10 P (Joined Cases C-584/10 P, C-593/10 P, C-595/10 P) *Commission v Kadi*