



General Assembly

Distr.: General
26 March 2025

Original: English

Human Rights Council

Fifty-eighth session

24 February–4 April 2025

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Protection of human rights by regional organizations while countering terrorism: civil society engagement, sanctions and military cooperation

Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul*

Summary

In the present report, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, examines the protection of human rights by regional organizations while countering terrorism in relation to: (a) civil society engagement; (b) counter-terrorism sanctions; and (c) military activities and operations. The Special Rapporteur identifies good practices and deficiencies and recommends improvements.

* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.



I. Activities of the Special Rapporteur

1. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, presented his first report¹ to the General Assembly in October 2024, on the protection of human rights by regional organizations while countering terrorism: norms, cooperation, victims of terrorism and accountability. That report detailed his activities from January to July 2024.

2. From August 2024 to February 2025, the Special Rapporteur engaged with States and regional and civil society organizations. He undertook country visits to Benin (18–27 November 2024)² and Côte d'Ivoire (29 November–9 December 2024)³ and academic visits to the United Kingdom of Great Britain and Northern Ireland and the United States of America and attended the annual meeting of the special procedure mandate holders in Geneva in December 2024. He submitted an amicus curiae brief to the Criminal Court of Thailand on non-refoulement,⁴ commented on the draft guidelines on international protection on the expulsion of refugees and was consulted on the moderation policy of Meta.

3. The Special Rapporteur is an active member of the United Nations Global Counter-Terrorism Coordination Compact and its working groups. He met with the leadership of the Office of Counter-Terrorism and of the Counter-Terrorism Committee Executive Directorate. He intervened in high-level meetings, including the eighth meeting of the high-level action group on the prevention of violent extremism, held in New York on 29 October 2024, the International Conference on Victims of Terrorism, held in Spain in October 2024, the High-Level Conference on Strengthening International Counter-Terrorism Cooperation and Building Agile Border Security Mechanisms, held in Kuwait in November 2024, and the eleventh meeting of the Coordination Committee of the United Nations Global Counter-Terrorism Coordination Compact on the Pact for the Future and the United Nations Global Counter-Terrorism Coordination Compact, held in New York in February 2025.

4. The Special Rapporteur delivered numerous presentations, including: (a) at three side events to the General Assembly; and (b) at events on the repatriation of foreigners from north-east Syrian Arab Republic at the Warsaw Human Dimension Conference of the Organization for Security and Cooperation in Europe (OSCE), on challenges in countering terrorism at the Asser Institute and the International Centre for Counter-Terrorism, on artificial intelligence in military targeting at the University of California, Berkeley, on conflicts in the Middle East at the Parliament of Australia and at the universities of Ulster, Macquarie and New England, on the role of the special procedures of the Human Rights Council at the universities of Melbourne and Sydney, on digital privacy (with the Special Rapporteur on the right to privacy) and on refugees at the Refugee Advice and Casework Service.⁵ He also issued communications and press releases, gave interviews to the media and met with representatives of States.

5. The Special Rapporteur appreciates the assistance of the University of Sydney, the Leitner Center for International Law and Justice at Fordham Law School and the Human Rights Clinic at the University of California, Berkeley School of Law. He also appreciates the extrabudgetary contributions of Spain and Switzerland in 2024 and reiterates that greater resources are required from States for the mandate to be carried out effectively⁶ and to enhance protection for victims.

¹ [A/79/324](#).

² See [A/HRC/58/47/Add.1](#).

³ The report will be presented to the Human Rights Council at its sixty-first session.

⁴ See <https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/court-submissions/202408-Amicus-SRCT-Thailand-en.pdf>.

⁵ Many of the Special Rapporteur's remarks are available at <https://www.ohchr.org/en/special-procedures/sr-terrorism/statements-special-rapporteur-terrorism>.

⁶ [A/HRC/55/48](#), paras. 15 and 16.

II. Protection of human rights by regional organizations while countering terrorism

6. The present report is a sequel to the Special Rapporteur's report to the General Assembly⁷ on the protection of human rights by regional organizations while countering terrorism and focuses on three further issues in that regard: (a) civil society engagement; (b) counter-terrorism sanctions; and (c) military activities.

A. Civil society engagement in regional counter-terrorism measures

7. The value of engaging diverse civil society organizations in preventing and countering terrorism, addressing the conditions conducive to it and monitoring and remedying human rights violations while countering terrorism is now widely recognized.⁸ Their engagement further enhances the effectiveness, transparency and legitimacy of counter-terrorism measures. Embedding safe regional civil society participation is crucial to counter shrinking national civic space, particularly due to the misuse of counter-terrorism measures.⁹

8. In many regional organizations, counter-terrorism activity is not only the province of specialized counter-terrorism bodies but is dispersed across many actors, including political organs, intergovernmental entities, secretariats, parliaments, human rights mechanisms and oversight bodies. Opportunities for engagement should be proportionate to the scope of counter-terrorism activities, the institutions involved, the interests affected and civil society priorities. The plurality of counter-terrorism activities makes it essential to provide clear, accessible and centralized information about the entry points for civil society engagement throughout the design, implementation, monitoring and evaluation phases.

9. Some regional organizations have well-developed standards and processes for civil society engagement generally, including the African Union, the Organization of American States (OAS), the European Union, the Council of Europe and OSCE, and particularly in regional human rights mechanisms in Africa, the Americas and Europe. In certain regions, civil society engagement is embedded in legal instruments¹⁰ and policies.¹¹ Some organizations have engagement structures,¹² including through accreditation¹³ and partnerships with civil society forums¹⁴ (although some are not very effective).¹⁵ Good practices include: the European Commission's Better Regulation Guidelines, under which civil society can provide feedback on draft laws, including online, in all official languages, with summaries published by the Commission; manuals on participation;¹⁶ and a right of public access to documents, monitored by an ombudsperson¹⁷ (although access has been heavily restricted in relation to security cooperation with third States). Such engagement has enhanced respect for human rights by organizations, as with the improvements to Regulation (EU) No. 2021/784 on addressing the dissemination of terrorist content online.

⁷ [A/79/324](#).

⁸ See <https://globalcenter.org/resource/scoping-study-on-independent-civil-society-un-counterterrorism-engagement>.

⁹ See [A/78/520](#).

¹⁰ For example, Constitutive Act of the African Union, arts. 4 (c), 17 and 22; Revised Treaty of the Economic Community of West African States (ECOWAS), art. 81; Treaty for the Establishment of the East African Community, art. 5 (3) (g); Treaty on European Union, art. 11; and Treaty on the Functioning of the European Union, art. 24.

¹¹ For example, OAS, Council of Europe, European Union, OSCE and Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights.

¹² For example, African Union, OAS, European Union and OSCE.

¹³ Economic, Social and Cultural Council of the African Union.

¹⁴ For example, Pan-African Parliament, African Commission on Human and Peoples' Rights, Southern African Development Community (SADC), ECOWAS and East African Community.

¹⁵ For example, SADC. See also <https://issafrica.s3.amazonaws.com/site/uploads/mono-208.pdf>, p. 31.

¹⁶ For example, OAS.

¹⁷ Treaty on the Functioning of the European Union, art. 15 (3); and Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001.

10. Even where regional organizations have well-developed processes, room for improvement remains. For example, over 400 civil society organizations have called upon the European Union to adopt a civil society strategy, establish more visible, comprehensive and permanent engagement structures and a reprisals mechanism and provide greater funding for participation.¹⁸ Additional recommendations¹⁹ include: earlier engagement in agenda-setting and developing legislation; prior rights impact assessments (notably absent from Directive (EU) 2017/541 on combating terrorism and the transfer of surveillance capabilities to Africa); greater access to comprehensible information and user-friendly processes; better feedback about the impacts of engagement; and more systematic involvement in the implementation, monitoring and evaluation phases. More engagement with local and grass-roots organizations and vulnerable groups is also needed.

11. Even where regional organizations endorse civil society involvement, their different parts often have varying degrees of openness and different procedures and working methods,²⁰ despite some harmonization efforts.²¹ In the African Union and the Association of Southeast Asian Nations (ASEAN), informal channels may enable participation where formal ones are lacking or there are internal champions of change.²² Discretionary approaches, however, favour repeat players and larger non-governmental organizations (NGOs) and are prone to arbitrariness. All of that increases the complexity and burden of engaging, particularly if there is no clear, public information about the entry points and no central focal point.

12. Civil society engagement is often most restricted in high-level political forums,²³ lawmaking processes²⁴ and cooperation with third states, particularly on sensitive security issues. Few organizations have formalized civil society engagement on countering terrorism, although there are occasional references in laws and policy,²⁵ particularly in regional strategies,²⁶ and in dedicated outreach structures.²⁷ In some regions, inadequate consultation persists despite formal commitments.²⁸

13. In Africa, there is evidence of positive engagement by entities such as the African Union Counter Terrorism Centre and Economic, Social and Cultural Council and the Intergovernmental Authority on Development (IGAD). Regional counter-terrorism entities composed of intergovernmental representatives, however, such as the Inter-American Committee against Terrorism and the Council of Europe Committee on Counter-Terrorism and its three terrorism working parties, tend to be largely closed to civil society,²⁹ aside from

¹⁸ See <https://civilsocietyeurope.eu/wp-content/uploads/2024/09/Open-letter-Ensuring-a-vibrant-civic-space-in-the-EU.pdf>; and <https://civilsocietyforeu.eu/the-manifesto>.

¹⁹ For example, European Union Agency for Fundamental Rights, *Protecting Civic Space in the EU* (Vienna, 2021), opinion 4, p. 10; *Protecting Civil Society: Update 2023* (Vienna, 2023), pp. 8 and 9; Recharging Advocacy for Rights in Europe, “An EU strategy for civil society: recognition, inclusion and protection”, Advocacy Brief (2022), p. 5; and European Center for Not-for-Profit Law, *New Dimensions for Public Participation: Models to Enhance Engagement in the European Union* (The Hague, 2023), p. 52.

²⁰ See, for the African Union, <https://issafrica.s3.amazonaws.com/site/uploads/mono-208.pdf>, pp. 17 and 35.

²¹ For example, Executive Council of the African Union, “Decision on the report of the ECOSOCC”, document EX.CL/Dec.890(XXVII) of 12 June 2015.

²² For example, Theresa Reinold, “Civil society participation in regional integration in Africa: a comparative analysis of ECOWAS, SADC, and the EAC”, *South African Journal of International Affairs*, vol. 26, No. 1 (2019), pp. 63 and 64.

²³ For example, African Union summit or interregional meetings.

²⁴ For example, “trilogue” negotiations between the European Commission, Council and Parliament.

²⁵ For example, Convention of the Shanghai Cooperation Organization on Countering Extremism (2017), art. 7 (1); Council of Europe, Committee of Ministers, document CM(2023)131-addfinal; and Declaration of the States Parties to the Inter-American Convention against Terrorism (2022).

²⁶ For example, ECOWAS, Intergovernmental Authority on Development (IGAD) and ASEAN.

²⁷ IGAD Centre of Excellence for Preventing and Countering Violent Extremism (Civil Society and Community Outreach Unit).

²⁸ For example, SADC Regional Counter-Terrorism Centre. See also https://defendcivicspace.com/wp-content/uploads/2023/06/SRCT_AsiaPacificOutcomeDocument.pdf, p. 5.

²⁹ Submission from the Council of Europe. Submissions to the call for input to the present report are

ad hoc invitations, public events or when views are channelled through a State. Even when drafting a new definition of terrorism in 2023–2025, with far-reaching rights implications, the Committee on Counter-Terrorism did not call for input or engage significantly with civil society. The resulting definition is not human rights compliant,³⁰ despite the Council of Europe’s *raison d’être*, which is to safeguard rights. While closed discussions have a legitimate place, opportunities for civil society engagement must be increased. Expert law enforcement bodies that prize secrecy, such as the European Union Agency for Law Enforcement Cooperation, the European Union Agency for Criminal Justice Cooperation and the European Border and Coast Guard Agency (Frontex), do not have organizational cultures open to civil society.

14. In some regions, accreditation can unjustifiably restrict civil society participation. The well-intentioned rules of the Economic, Social and Cultural Council of the African Union to accredit “African” organizations have excluded many representative African voices, including: groups receiving significant foreign funding, not registered by repressive States or not compliant with burdensome auditing rules; informal social movements; and non-African civil society organizations. It is reported that the stringent accreditation requirements of the African Commission on Human and Peoples’ Rights limit participation by smaller, faith-based, voluntary and grass-roots organizations.³¹ In 2018, the Commission agreed to an African Union request to (discriminatorily) withdraw the observer status of the Coalition of African Lesbians.³² The accreditation requirements of the Economic Community of West African States (ECOWAS) are similarly restrictive.

15. Some organizations provide limited avenues for engagement, including the Shanghai Cooperation Organization, the Commonwealth of Independent States (CIS), the Organization of Islamic Cooperation (OIC), the League of Arab States (LAS), the South Asian Association for Regional Cooperation (SAARC) and the Southern African Development Community (SADC). OIC adopted rules on consultative status for humanitarian NGOs in 2012³³ but does not recognize other civil society organizations, such as those focused on human rights, labour or environmental, political or other interests. For OIC, humanitarian NGOs must be headquartered, registered and accredited in an OIC member State, thus excluding relevant foreign or international civil society organizations. Consultative status must be approved by the Council of Foreign Ministers, politicizing access. Historically, OIC engagement with civil society organizations has been confined to Islamic, apolitical, humanitarian organizations with amicable relationships with OIC member State Governments and OIC has been wary of “civil society” as ideologically “Western”.³⁴ Some organizations have embraced uncritical civil society organizations to legitimize themselves.³⁵ The OIC Independent Permanent Human Rights Commission is required to promote State-accredited national institutions and civil society organizations active in human rights³⁶ but civil society organizations have not been invited to its sessions since its first one, held in 2011. Since OIC lacks a counter-terrorism entity, there is no specialized entry point.

16. Civil society engagement with LAS is similarly confined. Civil society organizations do not enjoy participation rights at summits or within the principal working bodies. Meetings of the Council of Arab Ministers of the Interior are closed, agendas and documents are not public and the Arab Counter-Terrorism Strategy remains confidential. The Council has reportedly been unresponsive to civil society outreach. LAS has consulted with national

available at <https://www.ohchr.org/en/calls-for-input/2024/call-inputs-protection-human-rights-regional-organizations-when-counter-terror>.

³⁰ See communication OTH 133/2024, available at

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29418>.

³¹ See <https://amaniafrica-et.org/wp-content/uploads/2023/12/THE-ROLE-OF-CIVIL-SOCIETY-ORGANIZATIONS-IN-AFRICAN-UNIONS-DECISION-MAKING-PROCESSES.pdf>, p. 6.

³² Executive Council of the African Union, document EX.CL/Dec.1015(XXXIII).

³³ Rules for Granting OIC Consultative Status to Humanitarian NGOs (2012).

³⁴ Marie Juul Petersen, “The OIC and civil society cooperation: prospects for strengthened human rights involvement?”, in *The Organization of Islamic Cooperation and Human Rights*, Marie Juul Petersen and Turan Kayaoglu, eds. (Philadelphia, University of Pennsylvania Press, 2019), pp. 290 and 291.

³⁵ For example, SADC and IGAD.

³⁶ Statute of the OIC Independent Permanent Human Rights Commission, art. 15.

human rights institutions, some of which are not independent under the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Approved civil society organizations can attend the sessions of the Permanent Arab Committee for Human Rights as “observers” but cannot contribute to them. They can, however, submit shadow reports to the Arab Human Rights Committee on the human rights compliance of LAS member States. Engagement is ad hoc and subject to the discretion of officials.³⁷ CIS engagement has reportedly included little more than sponsoring student competitions and cooperating with universities.

17. Even where engagement is possible in principle, if civil society organizations perceive it to be flawed, they may decide not to engage to avoid legitimizing the process or to preserve scarce resources. Processes may be seen as flawed because they are tokenistic and lack impact, for instance where consultation comes too late, a proposal seems to be a *fait accompli*, or the bureaucratic culture is averse to dissent. Some organizations perceive civil society organizations as troublemakers or agents of political opposition, foreign values or Western interference. The failure to publish civil society organization submissions or to clarify how their inputs are used discourages participation.

18. Some stakeholders perceive certain organizations as reflecting the restrictive political cultures of their member States, including a lack of public participation and transparency in lawmaking, and as amplifying State repression.³⁸ Consultation can even endanger civil society organizations. The Islamic Military Counter-Terrorism Coalition, made up of 42 Islamic States and founded in 2015, has a “social/community e-participation policy” allowing for public input into decision-making, but participants must “[a]dhere to the teachings and manners of Islam and national customs, traditions and regulations” of Saudi Arabia as the headquarters State, comply with Saudi publishing laws and “[r]efrain from writing any phrase or word that is offensive, against decency, contains an insulting or defamatory criticism of any person or entity, or religious, sectarian or racially offensive meanings”.³⁹ It reserves the right to censor what it considers to be contrary to its policy or applicable laws. Heightened risks of reprisals are also present in the Shanghai Cooperation Organization, CIS, LAS and OIC.

19. Most regional organizations exercise no direct power over individuals and thus lack the capacity to commit reprisals, although they may make pejorative public statements. The larger threat comes from aggrieved member States. Some organizations have developed protective procedures,⁴⁰ including through monitoring, investigation, protection, public reporting, advocacy and denunciation by political leaders, but most regions have not implemented them comprehensively.

20. Even where civil society organization engagement is formally available, some regions allow little space for such engagement by independent civil society organizations. Consequently, participation channels do not genuinely reflect diverse perspectives and may be tainted by government-organized NGOs. There are concerns about civic space among the memberships of LAS, the Shanghai Cooperation Organization, CIS, ASEAN and the Alliance of Sahel States.

21. Factors relating to civil society organizations also affect engagement. Many concentrate on States as the primary counter-terrorism actor, while transnational advocacy often has a global focus, for instance addressing the United Nations⁴¹ or the Financial Action Task Force.⁴² Some civil society organizations have reported a lack of knowledge about regional counter-terrorism activities and their priorities are shaped by strategic and resource considerations, including donor preferences. The high profile or sizeable resources of some

³⁷ See <https://www.opensocietyfoundations.org/publications/league-arab-states-human-rights-standards-and-mechanisms>.

³⁸ For example, Shanghai Cooperation Organization, CIS, OIC and LAS.

³⁹ See <https://www.imctc.org/en/eParticipation/eParticipationRules/Pages/default.aspx>.

⁴⁰ For example, African Commission on Human and Peoples’ Rights, Inter-American Commission on Human Rights, European Union, OSCE and ASEAN Intergovernmental Commission on Human Rights. See International Service of Human Rights, “Reprisals handbook”, revised ed. (2018).

⁴¹ For example, Civil Society Coalition on Human Rights and Counter-Terrorism.

⁴² For example, Global NPO Coalition on FATF; and International Center for Not-for-Profit Law.

civil society organizations can reduce the space for smaller organizations.⁴³ Regional organizations and donors should fund diverse civil society organization participation, as in OAS.⁴⁴ Donors must avoid shaping interventions without local ownership.

22. Some regional organizations have noted the challenge of dealing with large numbers of civil society organizations of variable quality and representativeness. Most specialized counter-terrorism bodies are small and underresourced. For example, the counter-terrorism focal point in the secretariat of the Peace and Security Council of the African Union consists of one person who also handles other thematic and country files, while the OSCE Office for Democratic Institutions and Human Rights has only two staff members covering counter-terrorism issues, alongside other responsibilities, across 57 States.

B. Regional counter-terrorism sanctions

23. Apart from the European Union, most regional organizations have not listed individuals or entities involved in terrorism to impose sanctions. While both the Cooperation Council for the Arab States of the Gulf and LAS declared Hizbullah a terrorist organization in 2016, they were ad hoc political designations, not made pursuant to legal procedures carrying legal consequences. The declarations chiefly served to sever communications with Hizbullah and spurred some member States to adopt their own measures. LAS rescinded the designation in 2024 and indicated that it did not maintain terrorist lists.⁴⁵ The OAS General Secretariat declared Hamas a terrorist organization in 2021⁴⁶ but without legal consequences. Proposals to develop terrorist lists in the African Union and ECOWAS have not advanced.

24. The European Union requires member States to implement various European Union-wide sanctions: (a) Security Council sanctions against Al-Qaida and Da'esh and associates under resolutions 1267 (1999), 1989 (2011) and 2253 (2015);⁴⁷ (b) autonomous sanctions against Al-Qaida and Da'esh;⁴⁸ (c) autonomous sanctions implementing Security Council resolution 1373 (2001), based on the European Union definition of terrorism;⁴⁹ (d) bespoke sanctions for participation in or support for Hamas and Palestinian Islamic Jihad, in response to the 7 October 2023 attack on Israel;⁵⁰ and (e) sanctions on three Palestinian armed groups for the 7 October 2023 attack, including sexual and gender-based violence,⁵¹ under the European Union Global Human Rights Sanctions Regime.⁵² Sanctions typically involve an arms embargo, an asset freeze and a travel ban and affect various human rights. Since 2023, a humanitarian exemption has applied to all European Union sanctions, not only those implementing Security Council sanctions as required under resolution 2664 (2022).⁵³ Sanctions are proposed by States and confirmed by the European Council on the basis of published procedures.⁵⁴ The Council must notify listed individuals and entities, provide reasons and inform them of remedies, including the rights to request the Council to reconsider its decision and to challenge it before the General Court of the Court of Justice of the

⁴³ https://defendcivicspace.com/wp-content/uploads/2024/01/SRCT_AsiaPacificOutcomeDocument.pdf; and <https://issafrica.s3.amazonaws.com/site/uploads/mono-208.pdf>.

⁴⁴ See Permanent Council of the Organization of American States, resolution CP/RES 864 (1413/04).

⁴⁵ See <https://www.aa.com.tr/en/middle-east/arab-league-ceases-labeling-hezbollah-terrorist-organization-/3261610>.

⁴⁶ See https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-051/21.

⁴⁷ Council Decision (CFSP) 2016/1693 of 20 September 2016.

⁴⁸ Ibid.

⁴⁹ Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism; and Council Regulation (EC) No. 2580/2001 of 27 December 2001.

⁵⁰ Council Decision (CFSP) 2024/385 of 19 January 2024; and Council Regulation (EU) 2024/386 of 19 January 2024.

⁵¹ Council Decision (CFSP) 2024/1074 of 12 April 2024; and Council Implementing Regulation (EU) 2024/1073 of 12 April 2024.

⁵² Council Decision (CFSP) 2020/1999 of 7 December 2020.

⁵³ See <https://www.consilium.europa.eu/en/press/press-releases/2024/02/19/humanitarian-action-eu-introduces-further-exception-to-sanctions>.

⁵⁴ See <https://data.consilium.europa.eu/doc/document/ST-14612-2016-REV-1/en/pdf>.

European Union. Sanctions are subject to the Charter of Fundamental Rights of the European Union and review by the Court of Justice.⁵⁵

25. Some of these positive features of the European sanctions regime emerged after protracted challenges in European courts. Human rights concerns remain, however. By replicating the definition of terrorism as set out in Directive (EU) 2017/541, the listing criteria as set out in Council Common Position 2001/931/CFSP reproduce the vague and abuse-prone element of “seriously destabilizing or destroying the fundamental ... structures of a country or an international organization”. The vagueness is compounded by ambiguities in the specified types of involvement in terrorism, which enable sanctions where conduct is very remote from violent terrorist harm. European Union sanctions law does not include the “armed conflict” exclusion of the Directive, enabling the listing of militants even if their actions are consistent with humanitarian law. Since listing flows from ad hoc national proposals, there are no coherent European Union-wide criteria, such as the gravity, frequency or likelihood of the threat to civilians, international security or Europe, that address why only some are listed when many others worldwide could also qualify under the broad terrorism definition.

26. The legislative threshold for a State to propose a listing under Council Common Position 2001/931/CFSP is *prima facie* low: (a) the existence of an investigation or prosecution, irrespective of its objective merits; (b) involvement in a terrorist act “based on serious and credible evidence or clues” – albeit not tested by an independent authority; or (c) “condemnation” of such conduct – a very vague and unclear test. The Council has not prescribed a clear standard of proof for reviews of State proposals, although the Court of Justice has indicated that the decision must be “taken on a sufficiently solid factual basis”.⁵⁶ The latter is unclear and reportedly “each member State applies its own standard in the vote in the Council”, while presumptions are also relied upon.⁵⁷ A United Kingdom parliamentary inquiry recommended codifying a more precise standard, such as “reasonable grounds for suspicion”.⁵⁸

27. In practice, the Council’s assessment of information from States is not always sufficiently thorough; there is peer pressure to accede to listings and the information provided to listed persons is not always adequate.⁵⁹ The listing process allows for Council consultation with expert European Union bodies, but it is discretionary and the European Union Agency for Fundamental Rights is not mentioned and has no mandate to address the Common Foreign and Security Policy. Some of the procedural guidance is non-binding and inconsistently followed.⁶⁰ Council communications with listed persons and entities are often slow and cumbersome and may not adequately address substantive issues.⁶¹ Delisting requests go to the same Council responsible for the original listing, raising concerns as to independence and impartiality. There is no European equivalent of the Office of the Ombudsperson established pursuant to Security Council resolution 1904 (2009), the quasi-independent reviewer of United Nations counter-terrorism sanctions. While European Union judicial review is possible, unlike at the United Nations level, it is highly formal, expensive and protracted, unlike a more flexible ombudsperson-style process, and has a high threshold for individual standing and no possibility of third-party intervention.

⁵⁵ Treaty on the Functioning of the European Union, arts. 275 and 263; and Charter of Fundamental Rights of the European Union, art. 47.

⁵⁶ *European Commission and Others v. Yassin Abdullah Kadi*, Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, Judgment, 18 July 2013, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62010CJ0584>.

⁵⁷ Parliament of the United Kingdom, European Union Committee, “The legality of EU sanctions” (2017), paras. 99 and 100.

⁵⁸ *Ibid.*, para. 102.

⁵⁹ Monika Heupel, “EU sanctions policy and the protection of due process rights: judicial lawmaking by the Court of Justice of the EU”, in *Protecting the Individual from International Authority: Human Rights in International Organizations*, Monika Heupel and Michael Zürn, eds. (Cambridge, United Kingdom, Cambridge University Press, 2017), pp. 129 and 136.

⁶⁰ *Ibid.*, p. 135.

⁶¹ Parliament of the United Kingdom, European Union Committee, “The legality of EU sanctions”, paras. 112–114.

28. Since 2016, a “closed material” procedure before the General Court of the Court of Justice of the European Union has allowed confidential information to be considered to prevent listings from being annulled where States do not wish to disclose it to the listed party.⁶² The court can take it into account without disclosing it to the listed party, while sharing a non-confidential summary. The procedure is human rights deficient because it requires neither an “irreducible minimum” disclosure to the listed party nor any independent mechanism (such as a United Kingdom-style “special advocate” assisting the court) to challenge the need for confidentiality or the substance of the information admitted as confidential.⁶³

29. In principle, the regional listing of individuals or groups as terrorist may be justifiable to prevent terrorism and protect populations. It is not appropriate, however, for regional organizations to impose their own sanctions where regional definitions do not satisfy the legality requirement or criminalize conduct that is not genuinely terrorist according to best practice standards.⁶⁴ Regional listing is also unacceptable without rigorous due process safeguards. The Special Rapporteur recalls the best practices under his mandate for terrorist listings⁶⁵ as regards the definition of terrorism, the standard of proof, due process (including notification, the disclosure of essential evidence, legal representation and prompt and effective administrative and judicial review), the timely expiry of listings and reparation. Judicial review should be available before national courts to challenge the domestic implementation of regional lists and before a regional court to directly challenge the listing. Furthermore, restrictive measures, such as asset freezes and travel bans, should be strictly necessary and proportionate in each case, not applied on a blanket basis. Protracted listings should be more intensively scrutinized, given their aggravated impacts over time, including the quasi-permanent and de facto punitive confiscatory effects of asset freezes.

C. Regional military activities to counter terrorism

1. Regional military cooperation

30. Since 2001, regional organizations have increasingly cooperated militarily to prevent and counter terrorism, most commonly through non-kinetic activities, such as intelligence-sharing, training, joint exercises and the enhancement of preparedness and response, both among member States and to assist third countries. They include the North Atlantic Treaty Organization (NATO), the European Union, the African Union and some African subregional organizations, the Shanghai Cooperation Organization and CIS. A few organizations have also deployed counter-terrorism military operations, including NATO, the African Union, ECOWAS and SADC. Others have generally not engaged in counter-terrorism military activities.⁶⁶

31. In relation to non-combat activities, NATO, with 32 member States, has the most active and comprehensive counter-terrorism agenda. Since 1999, in its Strategic Concept, including the current 2022 version, NATO has identified terrorism as a threat. Its 2024 updated Policy Guidelines on Counter-Terrorism, initially adopted in 2012, are focused on prevention, protection and denial through three pillars: increasing threat awareness; improving military capabilities and civil response preparedness; and engaging partner countries and international actors. NATO has not, however, adopted a definition of terrorism, due to differences among member States, although it opaquely identifies “terrorist groups” on the basis of confidential intelligence documents. In addition to strengthening training, exercises and protection against terrorism, NATO capacity-building efforts for such countries as Jordan, Mauritania and Tunisia contain counter-terrorism elements.

⁶² Rules of Procedure of the General Court, art. 105.

⁶³ Parliament of the United Kingdom, European Union Committee, “The legality of EU sanctions”, para. 67.

⁶⁴ See [A/79/324](#).

⁶⁵ [A/HRC/16/51](#), para. 35.

⁶⁶ For example, Council of Europe, OSCE, LAS, Cooperation Council for the Arab States of the Gulf, OIC, SAARC and ASEAN.

32. Positively, the Guidelines commit NATO to respect international law, the Charter of the United Nations and the Universal Declaration of Human Rights, promote gender perspectives and integrate the women and peace and security agenda. While there are no human rights personnel in its counter-terrorism architecture, it draws on its Human Security Unit and Legal Adviser. In countering terrorism, NATO also applies its limited “human security agenda”⁶⁷ in armed conflict, including concerning sexual violence, trafficking in persons and the protection of civilians and children and of cultural property. NATO appears hamstrung, however, as a conventional security alliance, in its ability to pursue a more comprehensive approach, particularly in addressing conditions conducive to terrorism.

33. While countering terrorism has not been a focus of its Common Security and Defence Policy, the European Union has established non-combat military training, assistance or advisory missions in the terrorism-affected States of Somalia (2010–), Mali (2013–2024), Iraq (2017–), Mozambique (2021–) and the Niger (2022–2024) and through its Regional Advisory and Coordination Cell for the Sahel in 2019 (covering the Group of Five for the Sahel) and its Security and Defence Initiative in support of four West African countries of the Gulf of Guinea (2023–). Military missions usually operate alongside civilian missions addressing governance and development.

34. Numerous European Union policies provide for missions to promote human rights and humanitarian law.⁶⁸ It is positive that, in 2024, the European Union adopted a human rights and humanitarian law due diligence policy on security sector support to third parties and regional peace operations,⁶⁹ addressing risk identification and mitigation, monitoring and evaluation and accountability and remedies. Refusing, modifying or suspending support in appropriate cases is envisaged in the policy and risk mitigation steps are detailed.⁷⁰ European Union military actions are also seen as part of an integrated approach to conflict.

35. In principle, non-combat efforts by the European Union to support third-country armed forces to combat armed groups can strengthen adherence to humanitarian law and human rights. In practice, elements of its military missions in counter-terrorism contexts have been criticized on human rights grounds.⁷¹ Firstly, assistance, including arms, has continued to be provided to States whose forces have committed violations with impunity. State violations have, in turn, driven terrorist recruitment. The European Union suspended facets of its Mali mission due to fears that the Malian forces that it trained would cooperate with the Russian private military company Wagner Group, but not due to concerns about past violations. The stringent implementation of the 2024 European Union due diligence policy and arms transfer controls are necessary.

36. Secondly, some military missions have not been integrated adequately into the European Union’s “comprehensive approach” to security through its humanitarian, development, political and governance activities. An overly securitized approach may aggravate conditions conducive to violence. Host States’ lack of cooperation with governance, anti-corruption and accountability efforts has not always been met with a sufficiently robust European Union response, such as the suspension or termination of cooperation or funding or strong, high-level political advocacy.

37. Thirdly, there is a lack of transparency around decisions to deploy European Union missions, which are taken at the high political level of the Political and Security Committee of the Foreign Affairs Council, with little opportunity for input or scrutiny by the elected European Parliament or civil society or oversight of financing by the European Peace Facility. Such opacity has heightened suspicions about some member States’ motivations for supporting missions, including preventing African emigration, gaining access to natural resources or maintaining post-colonial influence. European Union military missions may also

⁶⁷ See https://www.nato.int/cps/en/natohq/official_texts_208515.htm.

⁶⁸ For example, policies listed in European External Action Service, document EEAS(2023) 1089.

⁶⁹ Document EEAS(2023) 1089.

⁷⁰ For example, training, screening and vetting, oversight, remedial and accountability mechanisms, monitoring and reporting, complaint mechanisms, capacity-building and codes of conduct.

⁷¹ See, for example, <https://www.tni.org/files/2024-05/Eu%20military%20missions%20report-web.pdf>.

displace better-suited actors that could be deployed with European Union funding, such as African-led operations or less Eurocentric United Nations missions.

38. Finally, the oversight and accountability of European Union missions is further limited because Common Security and Defence Policy activities are not reviewable by the European Court of Justice or the European Court of Human Rights. There is also inadequate public disclosure of detailed information about the conduct of missions. While some missions have undergone strategic reviews, there has been a lack of systematic monitoring and evaluation across all missions to improve future missions.

39. Elsewhere, the Shanghai Cooperation Organization, CIS and the Collective Rapid Reaction Forces of the Collective Security Treaty Organization have regularly conducted joint military counter-terrorism exercises. Their focus, however, has been operational, and humanitarian law, human rights and civilian protection have not featured prominently. The Islamic Military Counter-Terrorism Coalition coordinates and supports its 42 members to combat terrorism militarily⁷² but does not conduct its own military operations. Human rights and humanitarian law are not among its “core principles” or strategic objectives or vision, although it has engaged with the Saudi Human Rights Commission (not accredited under the Paris Principles). It has also conducted events and training on humanitarian law and cooperates with the government-established Saudi Arabian Standing Committee of International Humanitarian Law and the King Salman Humanitarian Aid and Relief Centre.

2. Regional military operations

North Atlantic Treaty Organization

40. NATO has invoked collective self-defence against an armed attack under article 5 of the North Atlantic Treaty only once: in response to the attack on the United States of America on 11 September 2001. Its military response was initially modest. Operation Eagle Assist provided aerial surveillance over the United States in 2001–2002 and Operation Active Endeavour deployed naval vessels to patrol the Mediterranean Sea from 2001 to 2016 and board suspicious vessels according to the law of the sea. Its successor, Operation Sea Guardian, still includes a counter-terrorism element. NATO also supported the United States with intelligence and logistics.

41. NATO did not legally explain its invocation of collective self-defence other than stating that the attack had been “directed from abroad”.⁷³ NATO has not elaborated on its justification for expanding self-defence beyond the orthodox position affirmed by the International Court of Justice,⁷⁴ namely that self-defence is available against an attack by a State or non-State forces “sent” by a State, but not against an autonomous non-State group abroad. Its failure to articulate its rationale or to support systematic and transparent law reform, if it believed that to be necessary, has contributed to destabilizing the law on the use of force. Putting aside the exception of the 11 September 2001 attack, only a small minority of States support any version of an expanded doctrine and an overwhelming majority do not, including the Movement of Non-Aligned Countries, which includes 120 States.

42. NATO has not undertaken any other counter-terrorism military operation based on self-defence. It is a partner in the international counter-Da’esh coalition, as are the European Union, LAS and the Community of Sahelo-Saharan States. The coalition has a military component, the Combined Joint Task Force – Operation Inherent Resolve, premised on the collective self-defence of Iraq against autonomous attacks by Da’esh from the Syrian Arab Republic. NATO has not participated in the operation, however, and the coalition has a multidimensional role in combating terrorist financing and propaganda and foreign terrorist fighters and in stabilizing and rebuilding liberated areas. The NATO Mission Iraq (2018–), deployed at the request of Iraq, is a non-combat advisory and capacity-building mission, which includes advisers on humanitarian law and human rights.

⁷² See <https://www.imctc.org/en/FocusAreas/Military/Pages/default.aspx>.

⁷³ See <https://www.nato.int/docu/speech/2001/s011002a.htm>.

⁷⁴ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, I.C.J. Reports 1986, p. 14.

43. The most prominent military contribution of NATO was its command of the International Security Assistance Force (ISAF) in Afghanistan from 2003 to 2014, followed by the non-combat Resolute Support Mission to train, advise and assist Afghan forces until 2021. ISAF was authorized by the Security Council in 2001, at the request of Afghanistan, and included up to 130,000 personnel from 51 States. It operated alongside the United States self-defence mission Operation Enduring Freedom. States were authorized “to take all necessary measures” to fulfil the ISAF mandate to assist the Government of Afghanistan to secure the country,⁷⁵ which included counter-insurgency operations and the training and capacity-building of the Afghan army and police force. ISAF also supported stabilization, reconstruction, development and governance, including through the Provincial Reconstruction Teams.

44. ISAF operations had some negative human rights impacts, foremost the high number of civilian casualties, particularly from aggressive air strikes and ground operations resulting in extrajudicial killings and enforced disappearances. There were further concerns about the lawfulness of detentions and transfers of custody to the Afghan authorities involving refoulement and ill-treatment. In some cases, civilian harm may have resulted from a failure to take all feasible precautions and refrain from launching indiscriminate or disproportionate attacks under humanitarian law, including by refraining from using weapons or munitions with wide-area effects in populated areas. Even where civilian harm was proportionate, there was strategic concern that it counter-productively fuelled the insurgency.

45. ISAF belatedly increased civilian protection from 2009 onwards, through directives, operating procedures, rules of engagement and training, to strengthen compliance with humanitarian law and “win civilian hearts and minds”, resulting in fewer civilian casualties. Those measures required: compliance with customary humanitarian law; restricted airstrikes, choice of weapons and night raids; strengthened target verification and assessment of civilian risks; limited permissible casualties; increased protection of civilian objects; and strengthened reporting and response to casualties. Some measures were more restrictive than humanitarian law allowed. ISAF established the Civilian Casualty Tracking Cell in 2008, expanded into the Civilian Casualty Mitigation Team in 2011. Cooperation was enhanced with Afghan leaders and civil society to avoid or minimize harm. ISAF cooperated with the United Nations Assistance Mission in Afghanistan (UNAMA), the latter authorized by Security Council resolution 1806 (2008) to monitor, document and report on civilian casualties caused by the conduct of the parties to the armed conflict in Afghanistan, although there were at times discrepancies between ISAF and UNAMA data.

46. NATO further strengthened its response by requiring immediate investigations and acknowledging civilian harm, although troop-contributing countries retained exclusive criminal jurisdiction and the authority to assist victims. In 2010, NATO adopted non-binding guidelines on monetary payments for civilian casualties in Afghanistan to enhance and harmonize ex gratia payments and assistance by States, although inconsistencies remained between States and guidance was not uniformly adopted in subsequent NATO missions. Where civilian harm results from violations of international law, however, NATO policy does not address States’ international obligation to provide reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁷⁶ There is a real risk that States will merely provide ex gratia payments in lieu of reparation, as when one ISAF troop-contributing State acknowledged murdering 39 unarmed detainees but proposed only discretionary military payments.⁷⁷

47. The experience of NATO in Afghanistan catalysed its more systematic Policy for the Protection of Civilians (2016). Positively, the NATO concept of protection extends beyond harms caused by its forces to cover other actors and it pursues a “safe and secure environment”, including for humanitarians. It does not, however, address accountability for

⁷⁵ Security Council resolution 1386 (2001), para. 3.

⁷⁶ See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

⁷⁷ See communication AUS 1/2024, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29055>.

violations, including investigations, prosecutions and reparations. Its emphasis on protection from physical violence and a safe and secure environment is more restrictive than human rights-based or “human security” approaches, which address other threats to civilians, such as arbitrary detention, lack of basic needs and other human rights violations.

48. The procedures for authorizing and conducting NATO missions can provide opportunities to enhance protection and compliance. The deployment of missions and their operational plans and rules of engagement require consensus among member States. Individual States can thus restrict NATO operations, for instance by requiring more stringent proportionality in targeting.⁷⁸ They may also impose restrictions and caveats on their own participation, such as by following a law enforcement approach, not a conduct of hostilities one, applying human rights law to detention or exercising a “red card” to refuse a NATO order.

49. Key challenges remain. Firstly, NATO member States apply their own doctrines, operating procedures and interpretations of humanitarian law and human rights law, and NATO does not provide legal opinions on States’ obligations.⁷⁹ This could result in violations, where members’ subjective interpretations are not objectively consistent with international law. Differences have arisen⁸⁰ over the rules on the conduct of hostilities, the definition of military objectives (including “war sustaining” economic activities), the scope of “direct participation in hostilities” and proportionality. Further differences exist over applying human rights law, including extraterritorially, which affect the lawfulness of detention and the availability of judicial review, transfers of custody and refoulement and the duty to investigate killings and provide effective individual remedies. While NATO can use “standardization agreements” to harmonize implementation, they are aimed chiefly at promoting interoperability and have been adopted only in limited areas, such as detention and training.

50. Secondly, accountability mechanisms remain underdeveloped. Under the ISAF status of forces agreement with Afghanistan, ISAF personnel were under the exclusive criminal and disciplinary jurisdiction of their contributing countries. In practice, some national investigations were not independent, impartial or effective, with few prosecutions and a preference for weaker disciplinary measures. NATO exerted insufficient pressure to promote accountability where member States failed to fulfil obligations. While NATO had command of ISAF, the jurisdiction reserved to troop-contributing countries limited its capacity to act effectively against violations, as it could only investigate and report findings to the contributing country; it had to refrain from tasking units with further duties or requesting their withdrawal. Public access to information from NATO or member States has also been challenging.

51. NATO contends that it does not have obligations under humanitarian law or human rights law since it is not a State party to treaties.⁸¹ The better view is that NATO is bound by customary international law and responsible for its own violations,⁸² namely for the wrongful conduct of its organs and agents,⁸³ which include national military personnel fully seconded⁸⁴ to NATO, and of a State organ placed at its disposal if it exercises effective control over the conduct.⁸⁵ The latter would normally⁸⁶ include national military contingents under NATO command, notwithstanding that the contributing State retains disciplinary and criminal jurisdiction and even if the conduct exceeds authority or contravenes instructions.⁸⁷ The

⁷⁸ See <https://international-review.icrc.org/sites/default/files/irrc-893-abbott.pdf>.

⁷⁹ See <https://utrechtjournal.org/articles/10.5334/ujiel.461>, pp. 146 and 150.

⁸⁰ See <https://lieber.westpoint.edu/united-states-most-rest-legal-interoperability-primer>.

⁸¹ See <https://utrechtjournal.org/articles/10.5334/ujiel.461>, p. 150.

⁸² David Nauta, *The International Responsibility of NATO and Its Personnel during Military Operations* (Leiden, Brill Nijhoff, 2017).

⁸³ International Law Commission, Draft articles on the responsibility of international organizations, 2011, art. 6, *Yearbook of the International Law Commission, 2011*, vol. II, Part Two.

⁸⁴ *Ibid.*, commentary to art. 7.

⁸⁵ *Ibid.*, art. 7.

⁸⁶ Except, for example, where a troop-contributing country imposes restrictions or caveats removing its conduct from NATO command or otherwise interrupts such command.

⁸⁷ Draft articles on the responsibility of international organizations, art. 8.

immunities of NATO before national courts do not preclude international claims, including the diplomatic protection of injured nationals or an individual claims procedure that NATO could establish.

52. Thirdly, while ISAF military-civilian stabilization and reconstruction efforts were promoted by NATO and its partners, many humanitarian and development agencies warned of negative effects.⁸⁸ The Provincial Reconstruction Teams militarized and politicized aid and directed it towards the most insecure areas, often with the strategic goal of inducing civilian cooperation. That compromised the humanitarian principles of impartiality, neutrality and independence, including the needs-based allocation of aid, and undermined the safety of aid workers and civilian beneficiaries perceived to be aligned with ISAF or the Government. While dialogue with humanitarian actors and civil-military guidance was developed, counter-insurgency priorities tended to prevail. Many projects were short-term or of poor quality and coordination could be inadequate between ISAF States.

African-led military operations

53. As the table below illustrates, African regional and subregional organizations have been among the most heavily involved in counter-terrorism military operations. The African Union has led three missions in Somalia; two regional economic communities have led missions (ECOWAS in the Gambia and SADC in Mozambique) and three missions have been led by subregional coalitions (Multinational Joint Task Force of the Lake Chad Basin Commission, Joint Force of the Group of Five for the Sahel and Accra Initiative). The latter two have been inhibited by government changes in three countries, which formed their own Alliance of Sahel States in 2023. The Nouakchott Process has not deployed military forces but is a forum for military, intelligence and border security cooperation among 11 States. Many African missions were authorized by the 15-member Peace and Security Council of the African Union and the Security Council. Some mandates explicitly refer to countering terrorism and violent extremism, alongside other aims, such as addressing organized crime, enabling humanitarian relief and stabilization. Military activities have included early warning and preparedness, intelligence sharing, training and active operations, including “hot pursuit” across borders and detention.

<i>Operation</i>	<i>Location</i>	<i>Main armed groups (when founded)</i>	<i>Authority</i>	<i>Duration</i>	<i>Personnel</i>
African Union Mission in Somalia	Somalia	Al-Shabaab	African Union, United Nations	2007–2022	22 000
African Union Transition Mission in Somalia				2022–2024	14 620
African Union Support and Stabilization Mission in Somalia				2025–	12 626
African-led International Support Mission in Mali	Mali	Ansar Eddine, The Organization of Al-Qaida in the Islamic Maghreb	ECOWAS, African Union, United Nations	2012–13	9 620
Nouakchott Process	Algeria, Burkina Faso, Chad, Côte d’Ivoire, Guinea, Libya, Mali, Mauritania, Niger, Nigeria, Senegal	Various	Participating States, African Union	2013–	n/a

⁸⁸ See <https://stabilityjournal.org/articles/10.5334/sta.by>.

<i>Operation</i>	<i>Location</i>	<i>Main armed groups (when founded)</i>	<i>Authority</i>	<i>Duration</i>	<i>Personnel</i>
Multinational Joint Task Force	Cameroon, Chad, Niger, Nigeria	Boko Haram	Lake Chad Basin Commission, African Union, United Nations	2015–	10 000
Joint Force of the Group of Five for the Sahel	Burkina Faso,* Chad, Mali,* Mauritania, Niger*(*withdrew in 2023)	The Organization of Al-Qaida in the Islamic Maghreb, Mouvement pour l'unification et le jihad en Afrique de l'Ouest, Al Mourabitoun, Boko Haram	Participating States, African Union, United Nations	2017– (defunct in practice since 2023)	5 000
Accra Initiative (including the Multinational Joint Task Force since 2022)	Benin, Burkina Faso, Côte d'Ivoire, Ghana, Togo. Observers: Mali, Niger	The Organization of Al-Qaida in the Islamic Maghreb, Islamic State in the Greater Sahara	Accra Initiative	2017–	10 000
SADC Mission in Mozambique	Mozambique	Ansar al-Sunna/ ISIS-Mozambique	SADC, African Union	2021–2024	2 210
Alliance of Sahel States	Burkina Faso, Mali, Niger	Jama'a Nusrat ul-Islam wa al-Muslimin, Islamic State – Sahel Province	Participating States	2023–	5 000 (proposed in 2025)

54. Non-African regional organizations have supported some missions, such as the NATO airlift support to the African Union Mission in Somalia (AMISOM) and the European Union non-combat support to the Group of Five for the Sahel. Some African-led missions have operated alongside United Nations peace operations, as in Mali and Somalia. Other coalitions have also been present, such as Task Force Takuba (2020–2022) of French-led European military forces to support Mali, the more comprehensive security and development-based Coalition for the Sahel since 2020 and the similarly multidimensional Africa Focus Group of the international counter-Da'esh coalition, which includes 18 African States plus the 25-member Community of Sahelo-Saharan States among its 87 partners. Various States have also provided bilateral assistance where African-led missions operate. The proliferation of activities by African organizations, external regional actors, the United Nations, multilateral coalitions and bilateral partners makes greater coordination on human rights protection essential.

55. African-led and -owned missions in African States potentially enjoy greater political legitimacy and sensitivity to context than those led by other entities. They can more readily undertake “peace enforcement” against armed groups than the United Nations, which is not suited for militarily countering terrorism⁸⁹ and would risk undermining its credibility, impartiality and peacemaking function.⁹⁰ Such risks may nonetheless be shifted to the regional organization and its partners. The authorization of African-led missions by the Security Council and their financing by the United Nations require careful consideration of their impacts on human rights.⁹¹ Risks include: the exacerbation of conflicts and violence against civilians; the empowerment of unrepresentative and rights-violating Governments,

⁸⁹ A/70/95-S/2015/446, para. 119; and A/77/345, para. 25.

⁹⁰ A/77/345, para. 27. See also <https://www.saferworld-global.org/resources/publications/1183-united-nations-peace-operations-in-complex-environments-charting-the-right-course>, p. 29.

⁹¹ See <https://www.justsecurity.org/90688/counterterrorism-in-disguise-does-a-shift-towards-peace-enforcement-spell-a-death-knell-for-un-peacekeeping>.

fuelling grievances underpinning conflicts;⁹² impunity for violations; the misapplication of a counter-terrorism paradigm to conventional armed conflict; and failures to address rights violations that are conducive to terrorism, including socioeconomic deprivation, political exclusion and poor governance. The United Nations should condition funding for regional missions on human rights compliance, including through its human rights due diligence policy on United Nations support to non-United Nations security forces.

56. Some African-led missions have raised serious human rights concerns. Firstly, some African forces have reportedly violated humanitarian law or human rights law. The lack of redress for AMISOM violations in Somalia became a grievance exploited by Al-Shabaab. Positively, it stimulated the African Union to strengthen the implementation of humanitarian law. In 2011, AMISOM introduced an “indirect fire policy” to restrict the use of weapons and munitions with wide-area effects in populated areas.⁹³ The policy also provided for collateral damage estimates, improved target verification, enhanced training and warnings to civilians, post-incident reporting, attribution of responsibility and redress for civilian harm by AMISOM. The latter established “no fire zones” around sensitive civilian areas and a “force fire direction centre”, revised its rules of engagement and sought improved weapons and targeting technologies. It deployed legal advisers from 2010.

57. In its resolution 2036 (2012), the Security Council mandated AMISOM to create the Civilian Casualty Tracking, Analysis and Response Cell, which commenced in 2015, albeit with insufficient staff. It collected data on civilian harm caused by AMISOM (but not other actors) to improve its operations (through better planning, policies, procedures and training) and respond to civilian losses (through apology, ex gratia payments or in-kind assistance). A formal policy on ex gratia payments was not approved until 2017 and funding was inadequate.⁹⁴ Serious allegations were submitted to “boards of inquiry”, although cooperation by troop-contributing countries was not always forthcoming. Disciplinary and criminal jurisdiction was retained by contributing countries, which seldom exercised it over violations of humanitarian law. The measures taken appeared to reduce alleged violations but incidents still occurred.

58. Secondly, attacks on civilians by Al-Shabaab and violations by Somali partners provoked the African Union to develop its policy on the protection of civilians. The AMISOM rules of engagement already authorized forces to protect civilians under imminent threat of physical violence but with no wider strategy. In practice, civilian expectations of protection were often unmet and AMISOM was reluctant to intervene due to resource constraints.⁹⁵ In 2009, the Peace and Security Council of the African Union initiated a process that produced the 2012 draft guidelines on civilian protection, envisaging protection through the political process, protection from violence, human rights protection and the establishment of a protective environment.

59. In Somalia, despite efforts to improve civilian protection through policy, structures (including civil-military coordination officers), training and coordination, implementation remained inadequate.⁹⁶ AMISOM was constrained by resources, a weak national Government and security forces, inadequate dissemination to Somali forces, the fragmentation of actors and constraints on information about threats. Violations by host State forces that AMISOM supported alienated victim communities and suggested that the African Union was not respecting the commitment in its Constitutive Act to “non-indifference” where member States committed international crimes.

⁹² A/77/345, para. 31.

⁹³ See <https://international-review.icrc.org/articles/minimizing-civilian-harm-populated-areas-lessons-examining-isaf-and-amisom-policies>.

⁹⁴ See https://nupi.brage.unit.no/nupi-xmlui/bitstream/handle/11250/2582457/NUPI_Policy_Brief_3_2019_Rupesinghe.pdf?sequence=2&isAllowed=y, p. 2.

⁹⁵ Paul D. Williams, “The ambiguous place of civilian protection in the African Union Mission in Somalia (AMISOM)”, in *Protecting Civilians in African Union Peace Support Operations: Key Cases and Lessons Learned*, Jide Martyns Okeke and Paul D. Williams, eds. (Durban, South Africa, ACCORD, 2017), p. 48.

⁹⁶ See <https://www.ajol.info/index.php/ajcr/article/view/255574>, pp. 19 and 20.

60. The decade from 2012 saw a flurry of new policies for peace operations. They addressed sexual exploitation and abuse (2018) and child protection (2022), while a harmonized training curriculum on the protection of civilians was adopted in 2018. The African Union Policy on Conduct and Discipline for Peace Support Operations 2018 applies to all African Union peace operations and their military and civilian personnel. It identifies violations of humanitarian law and human rights law and other harms to civilians as “serious misconduct” and grounds for disciplinary and penal measures. The African Union has authority over its own personnel, while troop-contributing countries retain disciplinary and criminal jurisdiction. The policy addresses prevention, enforcement and remedies. Where the African Union determines that a troop-contributing country has not acted, it must inform the Peace and Security Council for possible action. In practice, stronger African Union advocacy is needed where States fail to ensure accountability.⁹⁷

61. Since 2022, the African Union has consolidated its efforts by developing, with United Nations and European Union support, the African Union Strategic Framework for Compliance and Accountability in Peace Support Operations, aimed at enhancing African Union peace support operations’ compliance with humanitarian law, human rights law and conduct and discipline. In its resolution 2719 (2023) on the United Nations financing of African peace operations, the Security Council emphasized the need for United Nations-funded African Union operations to comply with the Framework and the human rights due diligence policy. In 2023, under the Framework, the African Union expedited the adoption of the more comprehensive African Union Policy on the Protection of Civilians in Peace Support Operations and the African Union Policy on the Selection and Screening of Personnel for Peace Support Operations. An African Union curriculum on compliance and accountability was incorporated into the training of the African Union Transition Mission in Somalia (ATMIS), the Multinational Joint Task Force, the SADC Mission in Mozambique and ECOWAS. Current Framework priorities include: developing case management to address violations; reporting misconduct; providing victims with assistance and remedies; and implementing the human rights due diligence policy. Strengthening training and data collection should also be emphasized. The African Union still does not, however, have a human rights due diligence policy of its own for the support it provides to non-African Union African-led missions.

62. Key challenges are the consistent implementation of the Framework across disparate missions and regional and national actors, particularly those led by African regional economic communities under the African Union’s subsidiarity principle, which have different institutional capacities, and operationalizing the African Standby Force for future counter-terrorism missions. The Framework does not apply to ad hoc African-led missions that are not African Union operations but are authorized or supported by it. The Joint Force of the Group of Five for the Sahel implemented its own compliance framework, prompted by Security Council resolution 2391 (2017), with support from the Office of the United Nations High Commissioner for Human Rights and the European Union. The Multinational Joint Task Force has also committed to institutionalizing compliance, but its human rights component has few staff, inadequate funding and insufficient access to information and has faced resistance to investigations from some national contingents, given its weak central command. Reportedly, no personnel of the Multinational Joint Task Force have been prosecuted, it publishes no detailed information and its areas of operation are often inaccessible to independent monitors. Human rights are apparently less systematized within the Accra Initiative, including for lack of resources, and details about its operations and investigations are scarce.

63. Thirdly, many African-led missions have been criticized for pursuing an overly militarized approach rather than a comprehensive, multidimensional strategy. African Union civilian policing was belated and insufficient in Somalia, while the Multinational Joint Task Force and the Joint Force of the Group of Five for the Sahel were solely military missions.⁹⁸ That left communities insecure, exposed to organized crime and lacking trust in missions.

⁹⁷ See <https://africacenter.org/spotlight/african-led-peace-operations-a-crucial-tool-for-peace-and-security>.

⁹⁸ See <https://issafrica.org/iss-today/community-oriented-policing-missing-link-in-au-counter-terrorism-operations>.

The characterization of armed groups as “terrorist” has restricted the space to tactically negotiate with them, including on humanitarian access and the treatment of prisoners⁹⁹ and for strategic dialogue and peacemaking, including regarding disarmament, demobilization, reintegration and reconciliation.¹⁰⁰ In its 2018 operational guidance note on disarmament, demobilization and reintegration and countering violent extremism, the African Union attempted to reconcile the controversial overlap between traditional disarmament, demobilization and reintegration, where a peace agreement with armed groups existed, and the Security Council’s promotion of the “prosecution, rehabilitation and reintegration” of suspected terrorists amid continuing conflicts. The Security Council has encouraged disarmament, demobilization and reintegration and prosecution, rehabilitation and reintegration to be applied harmoniously in relation to Boko Haram and to avoid impunity,¹⁰¹ yet the Regional Stabilization, Recovery and Resilience Strategy for Areas Affected by Boko Haram in the Lake Chad Basin Region of the Lake Chad Basin Commission suggests that disarmament, demobilization and reintegration does not apply to groups listed by the Security Council where there is no peace agreement.¹⁰²

64. Furthermore, some African-led missions have inadequately addressed the conditions conducive to terrorism,¹⁰³ which extend beyond religious or ideological determinants to include State violations, socioeconomic marginalization, political exclusion and unresolved conflict, as set out in pillar 1 of the United Nations Global Counter-Terrorism Strategy. Sometimes that is driven by donor preferences, reducing African control over missions. Humanitarian and development activities risk being labelled as measures to prevent or counter violent extremism, given donor interests, distorting the impartial, needs-based objectives of those activities. AMISOM and ATMIS had components on humanitarian assistance, political processes, stabilization and recovery and engagement with civilian leaders and communities. Their restoration of security provided space for humanitarian assistance and the rebuilding of infrastructure, elections and political transition but the security component predominated. AMISOM lacked the resources to adequately address the disarmament, demobilization and reintegration of Al-Shabaab fighters, while dispute settlement and accountability were not prioritized, potentially fuelling grievances. Wider objectives were impeded by a lack of funding and the host State’s political conditions.

65. The SADC Mission in Mozambique also promoted humanitarian assistance in that country. Its partial improvement of security enabled many displaced people to return home and it was belatedly empowered to pursue peacebuilding and governance activities. It was a short-lived, underfunded military mission, however, and the causes of conflict were left largely unaddressed. Under the Accra Initiative, efforts have been made to prevent youth radicalization, but it is foremost an intelligence, military and border security alliance, as is the Nouakchott Process. The Joint Force of the Group of Five for the Sahel was established in 2017 with only a military mandate, but its progenitor, the Group of Five for the Sahel, was founded in 2014 to strengthen cooperation in both development and security. Its activities addressed humanitarian assistance, rural development, infrastructure, employment, education, climate adaptation, governance and the rule of law. Positively, the Multinational Joint Task Force is part of a more comprehensive approach through the 2018 Regional Stabilization, Recovery and Resilience Strategy for Areas Affected by Boko Haram in the Lake Chad Basin Region. Its nine pillars address: political cooperation; security and human rights; disarmament, demobilization and reintegration; humanitarian assistance; governance; socioeconomic recovery and environmental sustainability; education; the prevention of violent extremism and building peace; and the empowerment and inclusion of women and youth. Achievements include facilitating humanitarian assistance, the return of refugees, the resumption of trade and economic activities and demobilization.

⁹⁹ A/77/345, para. 39.

¹⁰⁰ See <https://amaniafrica-et.org/wp-content/uploads/2023/06/The-growing-threat-of-terrorism-in-Africa.pdf>, p. 8.

¹⁰¹ Security Council resolution 2349 (2017), paras. 29 and 31.

¹⁰² See <https://cblt.org/download/rss-strategy>, p. 29.

¹⁰³ See <https://amaniafrica-et.org/wp-content/uploads/2023/06/The-growing-threat-of-terrorism-in-Africa.pdf>, p. 7.

66. Fourthly, other forms of oversight and accountability would enhance human rights compliance in African regional and subregional military activities. The African Commission on Human and Peoples' Rights should be given a stronger monitoring role in the field and be more involved in the Peace and Security Council of the African Union. Civil society organizations and local communities should be engaged more fully in decision-making about military activities,¹⁰⁴ the humanitarian-development-governance nexus and monitoring and evaluation. Finally, some African regional military activities are insufficiently transparent and more detailed public information should be provided on operations, violations, investigations and accountability.

III. Recommendations

A. Civil society engagement

67. Recommendations to regional organizations:

(a) **Provide avenues, at all levels, for regular, accessible, inclusive and meaningful engagement by diverse civil society organizations in the design, implementation, monitoring and evaluation of all measures to prevent and counter terrorism and violent extremism, including military activities and operations;**

(b) **Publicize clear and accessible information, including in multiple languages and in a disability-inclusive way, on the different entry points and processes for engagement;**

(c) **Avoid unduly restrictive or formalistic accreditation criteria for civil society organizations, including regarding registration, auditing and funding, and ensure that procedures are publicized and accessible;**

(d) **Provide adequate funding and administrative assistance to support civil society organization participation, including sponsoring travel based on need, facilitating visas and funding internal procedures and personnel;**

(e) **Protect individuals and groups from reprisals and intimidation by member States or by actors within regional organizations for engaging with such organizations.**

68. Recommendations to member States of regional organizations:

(a) **Ensure that their counter-terrorism laws and practices do not limit the activities of civil society organizations, civic space or humanitarian action in any manner that is unlawful, unnecessary, disproportionate or discriminatory;**

(b) **Exercise their influence to formally and informally expand civil society organization participation in regional organizations, including through funding;**

(c) **Take meaningful individual and collective action against any member State that commits or threatens reprisals against civil society organizations for engaging with regional organizations.**

69. The United Nations should condition cooperation with regional organizations on sufficient civil society participation.

70. Civil society organizations should deepen their knowledge of and engagement with regional organizations, improve coordination and promote the participation of local organizations and vulnerable groups.

¹⁰⁴ See <https://spacesforchange.org/wp-content/uploads/2025/01/DOC-20250122-WA0020..pdf>.

B. Sanctions

71. Recommendations to regional organizations:

- (a) Base listings and sanctions only on definitions of terrorism consistent with international human rights law and best practice international standards,¹⁰⁵ including by excluding acts of advocacy, protest, dissent or industrial action that do not intentionally cause death or serious injury, independent and impartial humanitarian assistance and the activities of armed forces in armed conflicts governed by or in conformity with humanitarian law;
- (b) Adopt legislative criteria identifying the factors relevant to terrorist listings, such as the gravity, frequency and likelihood of the threat to civilians or international or regional security;
- (c) Rigorously apply due process safeguards consistent with international law and best practices, including regarding notification, apolitical decision-making, independent and judicial review, the disclosure of essential evidence, access to a lawyer, the timely expiry of listings and prompt and effective remedies;
- (d) Prescribe a clear and high standard of proof for listings, such as “reasonable grounds for suspicion”, and avoid listing on the basis of the mere existence of an investigation, prosecution or condemnation;
- (e) Consult independent regional human rights bodies on proposed listings;
- (f) Ensure that any proposed restrictive measures are necessary and proportionate in individual circumstances;
- (g) Scrutinize more intensively sanctions in place for prolonged periods.

C. Military cooperation and operations

72. Recommendations to regional organizations:

- (a) Refrain from authorizing or conducting military operations that are inconsistent with the strict prohibition on the use of military force under international law;
- (b) Assess thoroughly the human rights and humanitarian law impacts of any proposed military activities and operations and avoid or mitigate risks;
- (c) Adopt and stringently apply a human rights due diligence policy to any regional security sector support to third parties, including through conditioning funding and suspending cooperation, as needed;
- (d) Commit politically and legally to respect and ensure respect for customary international humanitarian law and customary human rights law, including extraterritorially;
- (e) Adopt a comprehensive, binding framework on compliance with international law and the protection of civilians, with necessary policies, procedures, guidance, mechanisms and human and financial resources;
- (f) Ensure that all mission mandates, agreements with troop-contributing countries, operational orders and directives, rules of engagement, standard operating procedures and other guidance are consistent and require compliance with international humanitarian law and human rights law;
- (g) Take all measures feasible to harmonize interpretations of international humanitarian law and human rights law among troop-contributing countries, consistent with international law;

¹⁰⁵ [A/HRC/16/51](#), paras. 26–28.

- (h) Provide predeployment training to military forces on humanitarian law and human rights law;
- (i) Ensure that legal advisers are available to advise military forces on international law;
- (j) Ensure that any supply of arms or munitions meets best practice international standards on arms trade regulation, including the Arms Trade Treaty and the duty to ensure respect for humanitarian law;
- (k) Mandate regional forces to protect civilians, including from physical harm by State and non-State actors and through humanitarian assistance and human rights-based protection activities;
- (l) Establish policies, procedures and mechanisms to prevent, mitigate and remedy civilian harm, including through a civilian harm-tracking cell, human rights and legal officers, post-incident reviews, the ensuring of cooperation by troop-contributing countries and coordination with the United Nations and other monitoring bodies;
- (m) Ensure thorough, independent and impartial investigations of all incidents of civilian harm and all credible allegations of violations of international humanitarian law and human rights law;
- (n) Provide ex gratia payments and comprehensive in-kind assistance to civilians harmed by operations;
- (o) Stringently monitor the response by the troop-contributing country to credible allegations of violations to ensure that allegations are genuinely investigated, the necessary disciplinary or penal measures are taken and reparation is made to victims;
- (p) Where troop-contributing countries fail to take necessary action in response to violations, refer the matter to the responsible regional political organ to consider remedial action, including repatriating forces, withholding funding or suspending privileges;
- (q) Promote and secure the effective control of the regional organization's force commander over national contingents placed at the mission's disposal;
- (r) Where the organs or agents of a regional organization are responsible for causing unlawful injury or the organization exercises effective control over conduct that causes such injury, ensure that the organization has accessible mechanisms to provide effective remedies, including compensation;
- (s) Ensure that military missions are accompanied by a comprehensive counter-terrorism response that integrates policing, humanitarian development, human rights, justice and accountability, governance and civil society components, as part of the mission or in close coordination with complementary actors, and establish protocols for managing relationships with humanitarian, development and human rights actors to avoid compromising their independence, impartiality and neutrality;
- (t) Enable space for tactical and strategic negotiation and dialogue with armed groups and, where feasible, for disarmament, demobilization and reintegration or for prosecution, rehabilitation and reintegration, where consistent with international law;
- (u) Institutionalize the role of regional human rights bodies in monitoring military activities and provide adequate resources for such bodies;
- (v) Provide detailed public information on military activities, including operations, allegations of violations, investigations and accountability measures.

73. The United Nations should ensure that the authorization of and funding for regional missions are conditional on human rights compliance, including the strict application of the human rights due diligence policy.