

## EXTENDED SUMMARY

*Terrorism is commonly understood as politically motivated violence. In this context, terrorist organizations employ violence to pursue their political objectives. While governments can promptly define terrorism within their domestic legal frameworks, achieving a universal definition in the international arena remains elusive.*

*International organizations, such as the United Nations (UN), strive to develop effective measures to combat terrorism. One such measure involves listing individuals and entities and imposing sanctions on them. This study examines the impact of these sanctions on criminal procedure in domestic law. It begins by briefly outlining the United Nations Security Council (UNSC) sanctions system and proceeds to evaluate the issue in light of criminal procedure principles.*

*Following World War II, the UN was established, with the Security Council (UNSC) serving as a key body responsible for maintaining international peace and security (Article 24). In this capacity, the UNSC adopts binding measures for member states after identifying a threat to peace, a breach of peace, or an act of aggression (Article 39 and related provisions). Initially, these measures, rooted in Article 41, targeted governments. However, concerns over the adverse effects of such actions on civilians led to the introduction of "smart sanctions" or "targeted sanctions" in the 1990s. These sanctions focus on specific individuals and entities rather than entire nations.*

*The UNSC's listing process has faced longstanding criticism for its lack of transparency, fair trial guarantees, and overall inefficiency, highlighting the need for reform. Today, the "United Nations Security Council Consolidated List" spans 176 pages, comprising hundreds of individuals and entities.*

*The Grand Chamber of the European Court of Human Rights has rendered two notable judgments concerning the UNSC's listing procedures in cases involving Switzerland. In *Nada v. Switzerland* (No. 10593/08, 12 September 2012), the Court determined that Switzerland had some, albeit limited, discretion in implementing binding UNSC resolutions. Switzerland was found to have failed to balance these obligations with its duties under the*

*European Convention on Human Rights (ECHR), leading to a violation of Article 8.*

*Similarly, in Al-Dulimi and Montana Management Inc. v. Switzerland (No. 5809/08, 21 June 2016), the Court asserted its jurisdiction under Article 6 of the ECHR to review cases involving frozen assets. The Court criticized the Swiss Federal Court for only verifying the inclusion of the applicants' names on UNSC sanctions lists without ensuring they were not arbitrarily listed. This failure to guarantee fair proceedings resulted in a violation of Article 6 § 1.*

*The second part of this study focuses on evidentiary rules and the determination of terrorist organizations in criminal cases under Turkish law. According to Turkish Criminal Procedure Law, any type of data can serve as evidence, provided it complies with legal standards and the court's personal conviction. Evidence must be realistic, logical, relevant to the facts, lawful, and common.*

*The Turkish Penal Code outlines the criteria for defining terrorist organizations. Article 220 addresses organized crime groups, while Article 314 specifically targets armed groups aiming to threaten state security. Additionally, the Law on the Fight Against Terrorism (No. 3713) describes such groups as those employing force, violence, intimidation, or threats. Ultimately, Turkish courts have the sole authority to determine whether an organization qualifies as a terrorist group based on available evidence.*

*In several cases, Turkish Court of appeal have accepted the UNSC sanctions lists as evidence, in conjunction with other materials. However, the evidentiary quality of these lists remains contentious due to their political nature and lack of transparency. As a result, some organizations remain perpetually listed, others are removed, and some are never listed at all.*

*Without prejudice to these discussions, although the resolutions of the UNSC are binding on member states, their scope is limited to the implementation of related sanctions, such as asset freezes. It is legally untenable to establish an obligation to determine, in a criminal case, whether an entity is a terrorist organization or to convict individuals solely based on a UNSC list. Consequently, a court must render its judgment by thoroughly examining all factual and material evidence. The binding nature of the UNSC lists alone cannot lead to a direct and conclusive outcome.*