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The Law of the List:

UN Counterterrorism Sanctions and the Politics of Global Security Law

Gavin Sullivan

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THE LAW OF THE LIST: UN COUNTERTERRORISM SANCTIONS
AND THE POLITICS OF GLOBAL SECURITY LAW

ACADEMISCH PROEFSCHRIFT

ter verkrijging van de graad van doctor

aan de Universiteit van Amsterdam

op gezag van de Rector Magnificus

prof. dr. ir. K.I.J. Maex

ten overstaan van een door het College

voor Promoties ingestelde commissie,

in het openbaar te verdedigen in de Agnietenkapel

op dinsdag 21 maart 2017, te 12:00 uur

door Gavin Sullivan

geboren te Sydney, Australië

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Abbreviations

AG – Advocate General
ANT – Actor-Network Theory
API – Advanced Passenger Information
AVSEC - Aviation Security Plan of Action
CSIS – Canadian Security Intelligence Service
CTC – Counter Terrorism Committee
ECJ – European Court of Justice
ECtHR – European Court of Human Rights
EGC – European General Court
EU – European Union
EUI – European University Institute
FOIA – Freedom of Information Act
FTF – Foreign Terrorist Fighter
GAL – Global Administrative Law
GDS – Global Distribution Systems
HRC – Human Rights Committee
IATA – International Air Transport Association
ICAO – International Civil Aviation Organisation
ICCPR – International Convention on Civil and Political Rights
IO – International Organisation
IR – International Relations
NGO – Non-Governmental Organisation
OFAC – Office of Foreign Assets Control
PNR – Passenger Name Record
R2P – Responsibility to Protect
SARPS – Standards and Recommended Practices
SCAD – Security Council Affairs Division
SCR – Security Council Resolution
SIAC – UK Special Immigration Appeals Commission
STS – Science and Technology Studies
TPN – Transnational Policy Network
UK – United Kingdom
UN – United Nations
UNSC – United Nations Security Council
US – United States
USAP – Universal Security Audit Programme
WTO – World Trade Organisation

List of Cases

International and Regional

Court of Justice of the European Union

- Case C-155/79 *Australian Mining and Smelting Europe Ltd. v Commission* [1982] ECR 1575 (170)
- Case T-306/01 *Yusuf and Al Barakaat International Foundation v Council and Commission* [2005] ECR II 3533 (90)
- Case T-315/01 *Kadi v Council and Commission* [2005] ECR II 3649 (90)
- Case T-228/02, *Organisation des Modjahedines du peuple d'Iran v Council of European Union* [2006] ECR II 4665 (160)
- Joined Cases C-317/04 and C-318/04, *European Parliament v Council* [2006] ECR I 4721 (71)
- Joined Cases T-125-03 and T-253-03, *Akzo Nobel Chemicals Ltd and Akcros Chemicals Ltd v Commission* [2007] ECR II 3523 (170)
- Joined Cases C-402 P and 415/05 P *Kadi and Al Barakaat v Council and Commission* [2008] ECR I 6351 (5, 90, 161)
- Joined Cases C-402/05 P and C-415/05 P, *Kadi and Al Barakaat v Council and Commission*, [2008] ECR I 6351, Opinion of AG Poiares Maduro (7, 90)
- Case T-85/09, *Kadi v Commission* [2010] ECR II 5177 (90, 157)
- Case C-27-09 P *French Republic v PMOI* [2011] ECR I 13427, Opinion of AG Sharpston (163)
- Joined Cases C-584/10 P, C-593/10 P and C-595/10 P *Commission, Council and United Kingdom v Kadi* [2013] Nyr (17, 91, 158)
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- Case T-306/10, *Yusef v Commission* [2014] Nyr (171)
- Case T-127/09 RENV *Abdulrahim v Council and Commission* [2015] Nyr (180)

European Court of Human Rights

- A and others v United Kingdom* App. No. 3455/05 (ECtHR, 19 February 2009) (166)
- Al-Dulimi and Montana Management Inc. v Switzerland* App. No. 5809/08 (ECtHR, 26 November 2013) (89, 124)
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Canada

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Germany

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Switzerland

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(14 November 2007), 1A.45/2007/daa (88)

United Kingdom

R v Goldstein [1983] 1 WLR 151 (120)
R v Secretary of State for the Home Department, Ex p Simms [2000] 2 AC 115 (87)
Secretary of State for the Home Department v Rehman [2001] UKHL 47 (163, 169)
A and others v Secretary of State for the Home Department (No 2) [2005] UKHL 71 (143, 144, 148, 171)
HM Treasury v Ahmed and Others [2010] UKSC 2 (3, 86)
Youssef v Secretary of State for Foreign and Commonwealth Affairs [2016] UKSC 3 (128)
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- Interview B Interview with current member of the 1267 Monitoring Team
New York, June 2014
- Interview C Interview with former member of the UN1267 Sanctions Committee
New York, June 2014
- Interview D Interview with former member of the UN 1267 Monitoring Team
October 2013 (Location omitted to preserve anonymity)
- Interview E Interview with International Civil Aviation Organization official
Montreal (via Skype), March 2014
- Interview F Interview with former member of the 1267 Monitoring Team
New York (via Skype), June 2014
- Interview G Interview with Watson Institute scholar
Toronto, March 2014
- Interview H Interview with former UN Secretariat official
New York, June 2014
- Interview I Interview with former member of the Monitoring Team
New York (via Skype), August 2014
- Interview J Interview with former UK Foreign and Commonwealth Office (FCO) Director
London, April 2013
- Interview K Interview with the former UN 1267 Ombudsperson, Kimberly Prost
New York, November 2012
- Interview L Interview with the former UN 1267 Ombudsperson, Kimberly Prost
New York, June 2014
- Interview M Interview with member of European Commission Legal Service
Brussels, November 2012
- Interview N Interview with member of the European General Court
Luxembourg, March 2013
- Interview O Interview with member of the European External Action Service (EEAS)
Brussels, March 2013
- Interview P Interview with member of European Court of Justice
Luxembourg, March 2013
- Interview Q Interview with member of Council of the European Union
Brussels, March 2013

Interview R Interview with a member of the Commission Legal Service
Brussels, October 2013

Additional Interviews

Interview with member of the German Mission to the UN
New York, November 2012

Interview with member of the Swiss Mission to the UN
New York, November 2012

Interview with two members of the UK Mission to the UN
New York, November 2012

Interview with member of the US Mission to the UN
New York, November 2012

Interview with lawyer representing targeted individuals
London, March 2013

Interview with former member of the UK Sanctions Unit
London, April 2013

Interview with member of the UK FCO Sanctions Team
London, April 2013

Interview with lawyer representing targeted individuals
London, May 2013

Interview with lawyer representing targeted entities
Washington DC, June 2014

Interview with member of the German Mission to the UN
New York, June 2014

Interview with member of the US Mission to the UN
New York, June 2014

Interview with expert from INTERPOL
New York (via Skype), September 2014

Interview with expert from International Air Transport Association (IATA)
Montreal (via Skype) October 2014