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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

**Promotiecommissie:**

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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)
- Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, *Commission, Council and United Kingdom v Kadi* [2013] Nyr, Opinion of AG Bot (138, 168)
- 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)
- Al-Khawaja and Tahery v United Kingdom* App. Nos. 26766/05 and 22228/06 (ECtHR, 15 December 2011) (156)
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#### Germany

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#### 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)  
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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