Timely Expansion of the Security-Liberty Balance: Norm Convergence between the UN and EU Counterterrorism Sanctions Regimes

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For assessment leading to the award of **Doctor of Philosophy (PhD)**

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Declaration page

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Acknowledgements

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It takes a village. As with several other milestones in life, a PhD also takes a village. As you will see throughout this project, I tend to be quite verbose in expressing my thoughts. To genuinely share my gratitude for the help, support, and friendship I've received during this journey, I invite you to read the extended acknowledgement section in the appendix, where I can freely ramble without the constraints of a word limit.

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List of abbreviations

2003 European Security Strategy (ESS 2003)
2004 Revised Plan of Action on Combating Terrorism (2004 Roadmap)
2005 EU Counterterrorism Strategy (2005 EU CT)
2016 Global Strategy for the European Union's Foreign and Security Policy (GSEU 2016)
Advocate General (AG)
African Union (AU)
Al Nusrah Front (ANF)
Area of Freedom, Security, and Justice (ASFJ)
Bonn International Centre for Conversion (BICC)
Commission on Human Rights (CHR)
Common Foreign and Security Policy (CFSP)
Common Position (CP)
Committee of Permanent Representatives of the European Union (COREPER)
Council of Europe (CoE)
Council of Europe Committee of Experts on Terrorism (CODEXTER)
Council of Europe's Committee of Legal Advisers on Public International Law (CAHDI)
Council of the European Union (Council of the EU)
Council of the European Union Working Party on Terrorism (COTER)
Counterterrorism Committee (CTC)
Counterterrorism Executive Directorate (CTED)
Counterterrorism Implementation Task Force (CTITF)
Court of First Instance (CFI)
Court of Justice of the European Union (CJEU)
Democratic Unionist Party (DUP)
Disarmament, Demobilisation, and Reintegration (DDR)
EU Agency for Fundamental Rights (FRA)
EU Counter Terrorism Working Group (CTWG)
EU Counterterrorism Coordinator (EU CTC)
EU Internet Forum (EUIF)
European Arrest Warrant (EAW)
European Commission (Commission)
European Convention on Human Rights (ECHR)
European Counter Terrorism Centre (ECTC)
European Court of Human Rights (ECtHR)
European Court of Justice (ECJ)
European External Action Service (EEAS)
European Parliament (EP)
European Political Cooperation (EPC)
European Union (EU)
European Union Member States (EUMS)
Event History Analysis (EHA)
Financial Action Task Force (FATF)
Foreign Affairs Council of the Council of the EU (FAC)
General Affairs Council (GAC)
Global Counterterrorism Strategy (GCTS)
High Representative for Foreign Affairs and Vice President of the European Commission (HR/VP)
Human Rights Committee (HRC)
International Atomic Energy Agency (IAEA)
International Civil Aviation Organisation (ICAO)
International Criminal Police Organisation (INTERPOL)
International Maritime Organisation (IMO)
International Monetary Fund (IMF)

International Relations (IR)
Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD)
Islamic State in Iraq and the Levant (ISIL)
Justice and Home Affairs (JHA)
Lord's Resistance Army (LRA)
Member States (MS)
Middle East and North Africa (MENA)
Monitoring Group (MG)
Monitoring Team (MT)
North Atlantic Treaty Organisation (NATO)
Non-Governmental Organisation (NGO)
Office for the Coordination of Humanitarian Assistance (OCHA)
Office for the High Commissioner for Human Rights (OHCHR)
Office of Legal Affairs (OLA)
Organisation des Modjahedines du Peuple d'Iran (OPMI)
Organisation for Security and Co-operation in Europe (OSCE)
Passenger Name Record (PNR)
Pooled Event History Analysis (PEHA)
Preliminary Implementation Assessments (PIAs)
Schengen Information System (SIS)
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (Special Rapporteur)
Specially designated global terrorist (SDGT)
Targeted Sanctions Consortium (TSC)
Terrorist attacks in London on 7 July 2005 (7/7)
Terrorist attacks in Madrid on 11 March 2004 (11M)
Terrorist attacks in New York on 11 September 2001 (9/11)
Treaty on European Union (TEU)
Under-Secretary-General (USG)
United Nations (UN)
United Nations Assistance Mission in Afghanistan (UNAMA)
United Nations Centre for Counterterrorism (UNCCT)
United Nations Educational, Scientific and Cultural Organisation (UNESCO)
United Nations General Assembly (UNGA)
United Nations Mine Action Service (UNMAS)
United Nations Office for Disarmament Affairs (UNODA)
United Nations Office of Counterterrorism (UNOCT)
United Nations Office on Drugs and Crime (UNODC)
United Nations Secretary-General (UNSG)
United Nations Security Council (UNSC)
UN Security Council Resolution (UNSCR)
Weapons of mass destruction (WMD)
World Customs Organisation (WCO)
World Health Organisation (WHO)

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Abstract

Virag Turcsan

Timely Expansion of the Security-Liberty Balance: Norm Convergence between the UN and EU Counterterrorism Sanctions Regimes

This dissertation examines how the balance between security and liberty developed within the United Nations and European Union counterterrorism sanctions between 1999-2020, viewing the security-liberty relationship as a dynamic, time-dependent process rather than a static trade-off. It investigates whether and how the UN and EU moved towards a shared understanding of safeguarding human rights while addressing terrorism, introducing an updated security-liberty balancing framework with a time qualifier, combined with norms convergence theory, to offer a nuanced account of their interaction on counterterrorism sanctions and human rights protection.

The study argues that an extended timeframe is required to demonstrate that security and liberty norms continually evolve, and that traditional approaches to the balance therefore need revision. While the time qualifier reflects this ongoing evolution of security and liberty, norms convergence theory illustrates how this relationship shifted over the past two decades. By analysing four convergence pathways, politico-strategic, legal, procedural, and organisational, the researcher demonstrates that a variety of motivations, goals, and actions related to UN and EU counterterrorism sanctions must be considered separately. Norms convergence theory highlights the diverse motivations, goals, and actions of UN and EU actors and norms entrepreneurs involved in counterterrorism.

Methodologically, document analysis provides the primary evidence base, combined with semi-structured expert interviews, and complemented by selective use of process tracing, event history and network analysis to identify when, why, and how significant shifts in sanctions regimes occurred. The findings indicate that major terrorist attacks, legal challenges, and institutional reforms repeatedly prompted both organisations to adjust their sanctions regimes and gradually incorporate clearer safeguards, including listing criteria, review mechanisms, and exemptions. Over time, these developments produced a closer, though still incomplete, alignment between UN and EU norms on security and liberty, driven by legal accountability, institutional learning, and multi-level norm entrepreneurship rather than by overarching counterterrorism strategies.

Chapter 1: Introduction

> *"Counterterrorism policy is controversial, and it is almost certain to become more so if governments continue to strengthen their response to terrorism."*[1]

Martha Crenshaw, with a focus on democratic governments, has effectively synthesised the complex issues surrounding counterterrorism and the ramifications of policy implementation across the international landscape. Policy experts and norm entrepreneurs, acting on behalf of domestic governments and international organisations often do not intend to undermine democracy through their counterterrorism strategies; however, they may be overly inclined to accept "the idea of an inevitable trade-off between security and liberty," assuming that the potential exploitation of democratic vulnerabilities by terrorists necessitates the closure of perceived 'loopholes' or the downplaying of the actual costs associated with counterterrorism measures.[2] The terrorist attacks of September 11, 2001, (9/11) profoundly shifted the relationship between security and liberty. In the wake of 9/11, states and international organisations rapidly enacted security-oriented counterterrorism legislation, which has, at times, infringed on fundamental human rights. Post-9/11, counterterrorism has frequently been framed as a delicate balancing act between preserving security and safeguarding liberty norms. This framing has been employed to justify the expansion of UN sanctions and measures, often deemed essential to curb terrorism, even when such measures threatened long-term human rights protections.

In the early 2000s, the UN emerged as the principal site for the development and regulation of international counterterrorism sanctions, often through processes characterised by opacity, limited procedural safeguards, and imprecise listing practices. In the absence of a centralised UN authority, international courts were tasked with arbitrating conflicts between these sanctions and established human rights norms, often concluding that the UN had failed to adequately protect human rights within its sanctions regime. Consequently, regional organisations such as the European Union (EU) and its Member States (EUMS) were compelled to initiate measures to address issues of human rights violations, thereby acting in apparent contradiction to the principles delineated in the UN Charter and the Universal Declaration of Human Rights. Furthermore, the EU and its Member States underscored the importance of safeguarding human rights within the UN counterterrorism sanctions framework.

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[1] Martha Crenshaw, *The Consequences of Counterterrorism* (Russell Sage Foundation, 2010), 2.
[2] Ibid.

This research examines the evolving relationship between security and liberty within targeted counterterrorism sanctions, focusing on cooperation between the UN and EU from 1999 to 2020. It argues that security and liberty should not be understood as fixed and opposing norms, but as a dynamic relationship that must be analysed through an extended temporal lens. To capture that evolution, the study adopts a norms convergence perspective and analyses four pathways of change, politico-strategic, organisational, procedural, and legal, through which the balance between security objectives and liberty protections is shaped, contested, and recalibrated across institutional settings. In doing so, it shows that the security-liberty balance in counterterrorism sanctions is not simply managed within a single institution, but co-produced through interaction between international and regional actors, legal contestation, and the work of norm entrepreneurs over time.

1.1. Research Problem and Question

Imposing targeted sanctions produces both intended and unintended effects, such as undermining the legitimacy of the sanctions and the UNSC as the sanctions authority.[3] Context-specific consequences include potential violations of human rights and international law, particularly in counterterrorism sanctions.[4] The tension between security and liberty, countering terrorism versus protecting human rights, has long been debated within the UNSC sanctions regime, extending to domestic, legal, and scholarly discussions, including this research.[5]

Despite significant scholarship and legal activism, the underlying trade-off, or 'balancing,' between security and liberty norms in sanctions regimes remains unresolved and is subject to constant re-evaluation. UN and EU sanctions regimes are contested not only for their effectiveness in combating terrorism but also for their human rights implications, including due process, right to privacy, property, family life, and freedom of association. Criticisms persist over the clarity, proportionality, and transparency of listing procedures; regional courts have frequently intervened to examine and correct such procedures. These persistent controversies suggest that the security-liberty balance is not a fixed equilibrium but a dynamic relationship that shifts over time in response to crises, legal challenges, and institutional reforms.

[3] Mikael Eriksson, 'Unintended Consequences of Targeted Sanctions', in *Rethinking Security Governance: The Problem of Unintended Consequences*, ed. Christopher Daase and Cornelius Friesendorf (2010), 158.
[4] David Cortright et al., *Human Rights and Targeted Sanctions: An Action Agenda for Strengthening Due Process Procedures*, Policy Brief SSRP 0911-01, Sanctions and Security Research Program (2009), 1.
[5] Thomas J. Biersteker, 'Targeted Sanctions and Individual Human Rights', *International Journal* 65, no. 1 (2009): 104.

The prevalence of these debates underscores the need for longitudinal research tracking the dynamic relationship between these two norms over an extended period by including a time qualifier in the balancing framework. The study not only examines the UN and EU counterterrorism sanctions through the security-liberty balancing framework, thus investigating whether the balance shifted in the two decades since 9/11, 2001, but also utilises a norms convergence framework to identify how this relationship between security and liberty norms has shifted and evolved during this period.

Against this backdrop, the research addresses the following central research question: "*how has cooperation related to counterterrorism sanctions listings between the UN and the EU evolved between 1999 and 2020, and what impact has this had on the evolution of the security-liberty balance?"* The objectives of the research project include:

- Systematically analysing the development of UN and EU counterterrorism sanctions from 1999 to 2020, focusing on how these regimes balance security and liberty;
- Examining the mechanisms of norms diffusion and convergence between the UN and the EU, specifically the politico-strategic, organisational, procedural, and legal convergence pathways;
- Assessing the effectiveness of institutional reforms and legal amendments focusing on human rights protections in harmonising counterterrorism objectives with human rights protections within the UN and EU sanctions regimes;
- Identifying key actors (norms entrepreneurs) who have influenced the evolution of the security-liberty balance within UN and EU counterterrorism sanctions;
- Emphasising the significance of a time qualifier (1999-2020) to illustrate the evolving relationship between these norms;
- Demonstrating the bi-directional nature of the UN-EU relationship regarding counterterrorism sanctions and highlighting instances where the EU acts both as a norm taker of UN-led security measures and as a norm entrepreneur that shapes the UN's approach to balancing security and liberty.

The empirical analysis deliberately allocates a chapter focusing on each convergence pathway: three to the UN and one to the EU. This apparent disparity reflects the chronological development through which the security-liberty balance and human rights protections were initially problematised and subsequently recalibrated within the context of counterterrorism sanctions. The key politico-strategic and organisational shifts originated within the UNSC and its sanctions framework. At the

same time, procedural and legal reforms materialised only after prolonged contestation by MS, experts, and courts, often being channelled through EU practices. Consequently, the 3:1 ratio encapsulates the empirical reality that, from 1999 to 2020, the UN remained the predominant arena for agenda-setting and regime formulation, whereas the EU emerged as a key locus for legal convergence and judicial policymaking, notably exemplified by the Kadi cases.

Taken together, the research question and objectives position the research to explain not only whether the security-liberty balance changed between 1999 and 2020, but also how and through which convergence pathways those changes occurred across the UN and the EU. Furthermore, the study underscores the significance of specific norm entrepreneurs and institutional actors in influencing this balance, thereby integrating a normative conceptual framework with empirical analyses of sanctions practices and jurisprudence.

1.2. Research Contribution

This dissertation makes three interrelated contributions to debates on counterterrorism, sanctions, and human rights. First, at the theoretical level, it reconceptualises the security-liberty balance by adding an extended temporal qualifier (1999–2020) and combining it with a framework of norms diffusion and convergence. Rather than treating security and liberty as static, mutually exclusive norms, the study understands them as interconnected norm clusters whose relationship shifts over time in response to crises, institutional reforms, and legal contestation. Second, empirically, the research develops a two-decade, multi-method analysis of UN and EU counterterrorism sanctions. It traces how listing and delisting practices, oversight mechanisms, and due process safeguards changed across the period, and how these changes were driven by specific norm entrepreneurs, including Security Council actors, EU institutions, courts, and expert bodies. Third, conceptually and for policy, the dissertation shows that a time-sensitive, norms-based approach to the security-liberty balance can inform the design of rights-conscious security measures in adjacent areas such as migration, refugee protection, and climate-related security. By identifying when and how safeguards such as clearer listing criteria, review mechanisms, and exemptions were introduced, it highlights opportunities for institutional learning and cross-fertilisation between the UN and the EU that may be relevant beyond counterterrorism sanctions.

The analysis rests on three key sets of concepts. The first is the security-liberty balancing framework, which treats security and liberty as evolving norms rather than fixed legal categories. Security encompasses not only physical protection from terrorist violence but also broader concerns for public order and state stability, while liberty

includes civil and political rights, due process, privacy, property, family life, and freedom of association. The research argues that the relationship between these norms can only be adequately captured by a longitudinal perspective that recognises both short-term securitising moves and longer-term rights-oriented recalibration.

The second set of concepts concerns norm dynamics. Drawing on norm diffusion and norm convergence literatures, the study views UN and EU counterterrorism sanctions as sites where norms travel, are contested, and partially align over time. Norm entrepreneurs and antipreneurs, including states, international organisations, courts, and civil society actors, play a central role in promoting or resisting changes to the security-liberty balance. The thesis therefore examines not only the formal content of sanctions instruments but also the actors and processes through which norm change occurs.

The third set of concepts comprises the four norms convergence pathways: politico-strategic, organisational, procedural, and legal. Politico-strategic convergence captures how terrorism and counterterrorism are framed as security problems and how these framings shift the perceived legitimacy of rights restrictions. Organisational convergence focuses on the creation and restructuring of bodies, committees, and expert mechanisms within the UN and the EU. Procedural convergence examines the standardisation of listing, delisting, review, and notification practices, including the role of offices such as the UN Ombudsperson. Legal convergence analyses how judicial decisions and legal instruments, notably the *Kadi* litigation, align or diverge in their standards of due process and human rights in sanctions regimes.

Taken together, these concepts provide the theoretical lens through which the central research question is addressed and explain why the UN and the EU are treated as interconnected sites of norm production and contestation rather than as isolated regimes. The detailed development of these concepts and debates is set out in Chapter 2 (literature review) and Chapter 3 (theory), which elaborate the security-liberty framework, norm dynamics, and convergence pathways, and situate the research within existing scholarship on sanctions and counterterrorism.

1.3. Sanctions as Counterterrorism Instruments

Sanctions are among the policy tools available to the UN Security Council and regional organisations to respond to threats to international peace and security, positioned between diplomacy and the use of force.[6] Historically, comprehensive sanctions targeted states and often relied on a pain-gain model that assumed broad

[6] Monika Heupel, 'With Power Comes Responsibility: Human Rights Protection in United Nations Sanctions Policy', *European Journal of International Relations* 19(4), (2013): 775.

economic pressure would induce political change, but they attracted sustained criticism for limited effectiveness, severe humanitarian impact, and spillover effects on neighbouring and transit states.[7] These problems prompted a gradual shift towards more discriminating, 'targeted' or 'smart' sanctions, aimed at specific individuals, entities, sectors or regions in order to limit collateral damage while constraining those deemed responsible for threats to international peace and security.[8]

In the counterterrorism domain, targeted sanctions, particularly asset freezes and travel bans, have become central instruments for listing terrorist actors and their supporters, often in the absence of an agreed definition of terrorism.[9] The UN's 1267 regime and related measures exemplify this evolution, combining the intended effects of coercion, constraining, and signalling with a range of unintended consequences, including legitimacy concerns, due process deficits, implementation burdens, and long-term civil liberties impacts.[10] Regional organisations such as the EU and the African Union (AU) have increasingly adopted and adapted UN sanctions, and in some cases developed autonomous regimes, making sanctions a key instrument of global and regional governance.[11]

Targeted sanctions are therefore both central to contemporary counterterrorism practice and deeply contested, particularly because their intended and unintended effects accumulate over time and interact with evolving legal safeguards. Their evolution from comprehensive to targeted forms, the growing role of regional organisations, and the persistence of unintended humanitarian, procedural, and temporal effects form the backdrop against which this study analyses the changing security-liberty balance in UN and EU counterterrorism sanctions. The remainder of the research examines this evolution in detail, focusing on how politico-strategic, organisational, procedural, and legal reforms interacted over time to recalibrate the relationship between security objectives and rights protections.

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[7] Johan Galtung, 'On the Effects of International Economic Sanctions: With Examples from the Case of Rhodesia', *World Politics* 19(3), (1967): 390.
[8] Biersteker, 'Targeted Sanctions', 100.
[9] Gavin Sullivan, *The Law of the List: UN Counterterrorism Sanctions and the Politics of Global Security Law*, (Cambridge University Press, 2020), 322.
[10] Thomas J. Biersteker et al., 'Thinking about United Nations Targeted Sanctions', in *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action*, ed. Thomas J. Biersteker et al. (Cambridge University Press, 2016), 21.
[11] Andrea Charron and Clara Portela, 'The Relationship between United Nations Sanctions and Regional Sanctions Regimes', in *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action*, ed. Thomas J. Biersteker et al. (Cambridge University Press, 2016), 101.

1.4. Case Selection and Periodisation

This dissertation examines the evolving relationship between security and liberty in counterterrorism sanctions by focusing on cooperation between the UN and the EU from 1999 to 2020. The UN provides the primary international framework, particularly through the 1267 sanctions regime, while the EU acts both as an implementing actor and as a key site of procedural and legal contestation. These two settings are selected because they are principal arenas in which the targeted counterterrorism sanctions studied here were designed, applied, and challenged over the period in question.

The core substantive focus is the UN 1267 regime, established by Resolution 1267 (1999),[12] which constitutes the earliest and most enduring targeted counterterrorism sanctions regime and sits at the centre of UN-EU interaction, including the *Kadi* jurisprudence and the creation of review mechanisms such as the Office of the Ombudsperson. The case selection is theory-driven rather than statistically representative: the aim is to analyse a particularly significant and interconnected sanctions setting in which norms diffusion, contestation, and convergence can be traced in depth. National-level sanctions are not treated as separate cases, but Member State impact is considered where it materially shapes UN or EU sanctions decisions.

The temporal scope, 1999-2020, is chosen to capture the emergence, consolidation, and reform of UN and EU counterterrorism sanctions across two decades. 1999 marks the establishment of the 1267 regime and the adoption of the International Convention for the Suppression of the Financing of Terrorism,[13] providing a baseline before the post-9/11 securitising shift. By 2020, the main cycles of institutional and legal reform central to this study had taken place, making it a clear endpoint before the distinct changes associated with the COVID-19 pandemic. This periodisation is analytical as well as chronological: it allows the thesis to show that security-enhancing measures were typically adopted quickly, while rights-protective adjustments emerged more gradually and unevenly, reinforcing the argument that the security-liberty balance must be examined as a dynamic, time-bound process rather than a single moment of trade-off.

1.5. Methodological Overview

To investigate how the security-liberty balance evolved between the UN and the EU from 1999 to 2020, the dissertation employs a qualitative, multi-method case-

[12] UN Security Council Resolution 1267, S/RES/1267 (1999) 1 (1999), http://unscr.com/en/resolutions/doc/1267.
[13] International Convention for the Suppression of the Financing of Terrorism, No. 38349 (1999).

study design. Documentary analysis of primary UN and EU materials, including Security Council resolutions, Monitoring Team and Ombudsperson reports, EU Council Decisions and Common Positions, and key judicial decisions such as *Kadi*, provides the main evidentiary basis for reconstructing changes in sanctions design, listing and delisting practices, and human rights safeguards over time. This documentary work is complemented by process tracing, event history analysis, network analysis, and semi-structured expert interviews. Process tracing and event history analysis identify critical junctures and sequences in the development of the 1267 regime and related EU measures. Network analysis maps the roles of norm entrepreneurs and antipreneurs within and across the UN and EU systems. Thirteen semi-structured expert interviews with officials, practitioners, and legal professionals were conducted to clarify institutional practices and contextualise documentary findings. The detailed research design and methodological choices are set out in Chapter 3.

1.6. Roadmap of the Study

The structure of the thesis reflects both the temporal scope (1999-2020) and the four convergence pathways that organise the analysis. Chapter 1 introduces the research problem, central question, key concepts, case selection, periodisation, methodological overview, and main claim regarding the dynamic, time-bound nature of the security-liberty balance.

Chapter 2 provides a literature review of the security-liberty balance, tracing philosophical, legal, and political debates about how security and liberty have been conceptualised and balanced in counterterrorism, and identifying the gap concerning temporal dynamics and inter-organisational analysis. Chapter 3 develops the theory chapter on norms, elaborating the updated security-liberty framework with the time qualifier, norm diffusion and convergence theory, the concepts of norm entrepreneurs and antipreneurs, norm clusters, and the four convergence pathways (politico-strategic, organisational, procedural, and legal). Chapter 4 sets out the methodology and research design, detailing the qualitative case-study approach, documentary analysis, semi-structured expert interviews, with selective use of event history and network analysis, and process tracing to complement research findings.

Chapters 5, 6, and 7 provide the empirical analysis of UN counterterrorism sanctions across three convergence pathways. Chapter 5 examines politico-strategic convergence in the UN from 1999 to 2001, showing how framings of terrorism and counterterrorism around the establishment of the 1267 regime and 9/11 reshaped the security-liberty balance. Chapter 6 analyses organisational convergence between 2001 and 2010, focusing on the creation and evolution of committees, expert bodies, and coordination mechanisms within the UN counterterrorism architecture. Chapter 7

investigates procedural convergence from 2010 to 2020, tracing the standardisation of listing and delisting procedures, review mechanisms, and transparency requirements, as well as the role of the Office of the Ombudsperson and related reforms.

Chapter 8 turns to the EU and concentrates on legal convergence from 1999 to 2020, with special attention to the *Kadi* litigation and subsequent jurisprudence. It analyses how EU courts and institutions both internalised and reshaped UN-driven sanctions norms, and how EU practice influenced UN reforms, illustrating the EU's role as both a norm taker and a norm entrepreneur in the global security-liberty balance. Chapter 9 concludes by synthesising findings across all chapters, revisiting the research question and main claim, identifying the main norm entrepreneurs and convergence pathways that shaped the sanctions regimes, and reflecting on broader implications for designing time-sensitive, rights-conscious security policies in other areas.

The resulting 3:1 ratio of UN-centred to EU-centred empirical chapters (Chapters 5-7 on the UN and Chapter 8 on the EU) reflects the empirical reality that, between 1999 and 2020, the UN remained the predominant arena for agenda-setting and sanctions design, whereas the EU emerged as a key locus for legal convergence and judicial policymaking. Organising the empirical chapters by convergence pathway rather than by a single uninterrupted chronology allows the research to show that politico-strategic, organisational, procedural, and legal developments did not unfold at the same speed or in the same institutional locations, and to capture how these pathways interact over time in shaping the security-liberty balance.

Conclusion

This chapter has situated the dissertation's primary research question within the ongoing scholarly debates concerning counterterrorism, sanctions, and human rights. It has outlined the conceptual, empirical, and methodological frameworks employed to examine this issue. It has argued that the security-liberty balance in targeted counterterrorism sanctions is a dynamic, time-bound relationship shaped by norms diffusion and convergence across politico-strategic, organisational, procedural, and legal pathways. Building on this foundation, subsequent chapters review existing scholarship on the security-liberty balance and develop the norms-based theoretical framework that underpins the empirical analysis of UN and EU counterterrorism sanctions from 1999 to 2020.

Chapter 2: Literature Review

Introduction

The concepts of security and liberty have long been central to political and philosophical discourse, yet they remain complex and ambiguously defined. Existing scholarship on the security-liberty balance in counterterrorism has generated a substantial body of work on the philosophical foundations of both norms, the models through which their relationship has been conceptualised, and the critiques of how policymakers have invoked and distorted the balancing framework in practice. However, this body of work largely lacks a nuanced examination of *how,* and *through what processes,* the relationship between security and liberty shifts over time, particularly within the specific institutional frameworks of UN and EU counterterrorism sanctions regimes. This chapter critically engages with the scholarly perspectives most directly relevant to the central research question: how has cooperation between the UN and the EU on counterterrorism sanctions evolved between 1999 and 2020, and what impact has this had on the security-liberty balance?

The chapter is organised in four sections. The first examines the concept of security, tracing its philosophical foundations from Hobbesian self-preservation through human security and the public goods framework, and situating it as a distinct policy domain complicated in the EU context. The second examines liberty, covering its philosophical and legal foundations, the taxonomy of absolute, limited, and qualified rights, and its uneven distributional dynamics. The third reviews the main models of the security-liberty balance, the scholarly critiques of each, and proposals for modernising the framework, and identifies a shared limitation: each model treats the balance as static rather than a relationship that evolves over time. That limitation justifies the addition of the temporal qualifier described in this study, which reveals an asymmetry between the rapid implementation of security measures and the slower pace of rights-protective adjustment. The chapter concludes by identifying three interconnected gaps in the existing literature (the absence of a temporal dimension, the lack of institutional specificity at the UN-EU level, and the limited attention to norm entrepreneurs as drivers of rebalancing) and articulates the project's threefold contribution in relation to that literature.

2.1. Security-Liberty Balancing Framework

2.2. Security

The concept of security is complex, multifaceted, and often ambiguously defined in both academic and policy discourse, particularly in the context of counterterrorism. As Gearty insightfully noted: “there are few words more dangerously

confusing in their meaning than 'liberty' and 'security.'"[14] The norm of security stands at the heart of the security-liberty balance and is one of the most discussed, yet ambiguously defined, terms in contemporary counterterrorism scholarship. While politicians and government officials often evoke the security-liberty balance mostly during times of war or states of emergency, introducing measures that tip the scales towards security, the balancing framework has remained at the forefront of philosophical tradition.[15]

2.2.1. Historical and philosophical foundations

Historically, the notion of security predates the post-9/11 era and traces its roots to philosophical debates about state formation, governance, and the protection of both individuals and communities. Hobbes grounded security in physical self-preservation,[16] treating it as the primary justification for sovereign authority: by surrendering the liberty to protect themselves, individuals gain the protection of the commonwealth.[17] For Hobbes, security is the end goal, though his concept of it focuses solely on physical security and survival.[18] Waldron describes this as the pure safety conception of security, in which physical safety is the end goal of one's actions: a conception that, while foundational, captures only part of what security means in the context of counterterrorism sanctions.[19]

2.2.2. Expanding the scope: from state security to human security, and to policy

Subsequent scholarship emphasises the multi-dimensional nature of security. Waldron distinguishes between the depth of personal security and the breadth of community-wide security, arguing that both dimensions are needed to apply an enriched understanding of personal security to a large number of individuals, transforming security from an individual goal to that of a political one.[20] Policy-makers, therefore, bear responsibility for safeguarding numerous individuals across communities through

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[14] Conor Gearty, 'Escaping Hobbes: Liberty and Security for Our Democratic (Not Anti-Terrorist) Age', in *Civil Liberties, National Security and Prospects for Consensus: Legal, Philosophical, and Religious Perspectives*, ed. Esther D. Reed and Michael Dumper, (Cambridge University Press, 2012), 35.
[15] Megan Warshawsky, 'The Balance to Be Found Between Civil Liberties and National Security', *The RUSI Journal* 158(2), (2013): 95.
[16] Thomas Hobbes, *Hobbes: On the Citizen*, ed. Richard Tuck and Michael Silverthorne (Cambridge University Press, 1998), 53.
[17] Deborah Baumgold, ed., *Three-Text Edition of Thomas Hobbes's Political Theory: The Elements of Law, De Cive and Leviathan*, (Cambridge University Press, 2017), 215.
[18] Jeremy Waldron, 'Safety and Security', in *Civil Liberties, National Security and Prospects for Consensus: Legal, Philosophical and Religious Perspectives*, ed. Esther D. Reed and Michael Dumper (Cambridge University Press, 2012), 15.
[19] Ibid.
[20] Waldron, 'Safety and Security 2012', 23–24.

their actions and counterterrorism legislation.[21] Security is increasingly conceived as a public or collective good, one of the "basic and most elementary goods or services provided by government," which cannot feasibly be denied even to those who do not share the burden of financing.[22]

Once security is conceptualised as a public good, distribution becomes central: policies that increase some people's security may reduce that of others.[23] This raises the question "whose security?" across individual, communal, and national levels.[24] While state-centric approaches focus on national security, the human security paradigm emphasises the security of individuals, "their life, livelihood, dignity, and rights – rather than that of the state."[25] Now embedded in organisations such as the UN and EU, human security broadens the concept to include education, healthcare, and dignity, and elevates security beyond the mere "absence of violent conflict,"[26] combining internal and external dimensions in a single framework suited to a globalised world.[27]

Furthermore, as security is increasingly recognised as a public good, it inevitably becomes a distinct policy domain characterised by its own bureaucracies, financial allocations, institutional interests, and inherent path dependencies. Consequently, the design of counterterrorism policies reflects not only threat assessments but also institutional learning processes, organisational inertia, and the legacies of previous policy decisions. The UNSC's gradual pivot from comprehensive to targeted sanctions illustrates this precisely: it was not simply a normative response to humanitarian criticism but a sustained process of institutional adaptation driven by accumulated evidence of unintended consequences, diplomatic pressure, and the development of new monitoring capacity. This reframes the security-liberty balance as a policy process question, not only a normative one, and directly justifies the methodologies employed in this study, tracking how the balance shifted through

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[21] Jeremy Waldron, 'Safety and Security', *Nebraska Law Review* 85(2), (2006): 464.
[22] Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups, Second Printing with a New Preface and Appendix* (Harvard University Press, 1971), 14.
[23] Waldron, 'Safety and Security 2012', 25.
[24] Didier Bigo and Elspeth Guild, 'The Worst-Case Scenario and the Man on the Clapham Omnibus', in *Security and Human Rights*, ed. B. J. Goold and Liora Lazarus (Hart, 2007), 112.
[25] Daniel Moeckli, *Human Rights and Non-Discrimination in the 'War on Terror'* (Oxford University Press, 2008), 7.
[26] Christopher Michaelsen, 'Balancing Civil Liberties Against National Security? A Critique of Counterterrorism Rhetoric', *UNSW Law Journal* 29(2), (2006): 7.
[27] Derek McGhee, 'Building a Consensus on "national Security" in Britain: Terrorism, Human Rights and "Core Values" - the Labour Government (a Retrospective Examination)', in *Civil Liberties, National Security and Prospects for Consensus: Legal, Philosophical, and Religious Perspectives*, ed. Esther D. Reed and Michael Dumper (Cambridge University Press, 2012), 128.

iterative cycles of crisis, institutional response, and legal contestation rather than at any single point in time.

Jeremy Bentham adds a temporal dimension by framing security as future-oriented: people experience pleasure and pain in anticipation, so law should protect them not only from present loss but also from future harms.[28] Bentham and Waldron therefore present security as a "mode in which other goods are enjoyed," making it the condition that allows individuals, communities, or states to realise other values such as freedom from fear and loss, freedom of religion and association, and protection from arbitrary incarceration.[29] Bentham expands this perspective by proposing that political liberty is "another branch of security," specifically protecting individuals "against the injustice of the members of the Government."[30] Critically for this study, Bentham's insight that security is inherently forward-looking provides a philosophical grounding for the temporal qualifier: if security is by definition about protecting anticipated future goods, then evaluating the security-liberty balance at a single point in time systematically underestimates how far security measures enacted in a crisis moment extend their effects into the future.

The conceptualisation of security as a public good, translated into concrete policy, is further complicated by three structural features inherent in the EU's governance architecture. First, although the UNSC offers a multilateral framework for targeted sanctions, individual MS retain autonomous sanctioning authority at the national level (particularly in areas such as counterterrorism financing, asset freezing, and travel bans), operating in parallel with, and sometimes preceding, collective EU measures under the CFSP. This duality reveals inconsistencies in enforcement, highlighting the limitations of conceptualising EU security governance as a unified system.[31] Second, variation in security governance capacity across MS is a structural reality rather than a temporary inconsistency: differences in the size of national security apparatuses, differing threat perceptions, and diverse constitutional traditions produce uneven participation in EU-level mechanisms, with more security-capable states often influencing joint frameworks to reflect their own institutional preferences while smaller members operate as norm-takers.[32] Third, the increasing privatisation of security

[28] Jeremy Bentham, *The Works of Jeremy Bentham*, vol. 1, ed. John Bowring (Edinburgh: William Tait, 1843), 555.
[29] Waldron, 'Safety and Security 2012', 21.
[30] Bentham, *Bentham*, vol. 1.
[31] Iain Cameron, 'UN Targeted Sanctions, Legal Safeguards and the European Convention on Human Rights', *Nordic Journal of International Law* 72(2), (2003): 161–62.
[32] Monica Den Boer and Irina Wiegand, 'From Convergence to Deep Integration: Evaluating the Impact of EU Counter-Terrorism Strategies on Domestic Arenas', *Intelligence and National Security* 30(2–3), (2015): 380–81.

functions (including private military contracting, commercial surveillance, and outsourced border management) further fragments authority by establishing hybrid public-private arrangements. These arrangements blur the boundaries between state mandates and commercial interests, creating structural ambiguity with direct consequences for how governance norms are generated, attributed, and enforced across the EU.[33] Collectively, these features highlight that the security-liberty balance is not negotiated within a homogeneous institutional environment but across a diverse, multi-level, and partially privatised governance landscape. Having established the multi-dimensional and structurally differentiated character of security as a norm and policy domain, the following section turns to the political processes through which security claims are escalated and legitimated: securitisation.

2.2.3. Psychological dimension, securitisation, and definitional ambiguity

The expanded conception of security, encompassing psychological safety, freedom from fear, and protection of future goods alongside physical safety,[34] creates the conditions for securitisation: the political process through which actors reframe issues as existential threats to justify exceptional, often extra-legal, measures.[35] Successful securitisation involves identifying an existential threat, designating emergency action, and securing institutional acceptance of measures that depart from ordinary legal or democratic procedures.[36] The post-9/11 framing of terrorism as a threat to international peace and security, and the resulting UNSC obligations on counterterrorism, exemplifies this dynamic in the precise institutional context this thesis examines.[37]

Despite repeated efforts to refine it, security remains a "polymorphic, slippery concept," whose vagueness complicates scholarship but also offers policymakers room for manoeuvre when crafting legislation.[38] As Gearty noted, "danger lies not so much in the confusion as such (inelegant though it is), but in the freedom of action for power that vagueness permits."[39] This definitional openness is analytically significant: it

[33] Anna Leander, 'The Power to Construct International Security: On the Significance of Private Military Companies', *Millennium* (London, England) 33(3), (2005): 803–4.
[34] Waldron, 'Safety and Security 2012', 18.
[35] Barry Buzan et al., *Security: A New Framework for Analysis* (Lynne Rienner Pub, 1998), 23.
[36] McGhee, 'Consensus', 120.
[37] Karima Bennoune, 'All Necessary Measures? Reconciling International Legal Regimes Governing Peace and Security, and the Protection of Persons, in the Realm of Counter-Terrorism', in *Counter-Terrorism Strategies in a Fragmented International Legal Order*, ed. Larissa van den Herik and Nico Schrijver (Cambridge University Press, 2013), 673-674.
[38] Vincenzo Pavone et al., 'A Systemic Approach to Security: Beyond the Tradeoff between Security and Liberty', *Democracy and Security* 12(4), (2016): 240.
[39] Gearty, 'Escaping Hobbes', 37.

means that how security is framed in specific counterterrorism instruments, whether as national security, human security, or freedom from fear, is itself a political act, one that shapes which actors are empowered to act, under what conditions, and with what consequences for liberty. Careful attention is therefore needed to how security is defined in specific counterterrorism measures, both to trace shifts in the security-liberty balance and to understand how the term itself has evolved over the past two decades.

2.3. Liberty

Similar to 'security,' 'liberty' is also a dangerous term that has acquired various new meanings over time.[40] Liberty has played a central role in political theory, legal philosophy, and international human rights discourse for centuries, yet remains a complex and contested concept. Its meaning and practical application have varied across historical eras, philosophical traditions, and legal systems, especially in the context of counterterrorism, where threats to security often prompt states to reconsider the boundaries of freedom. Because of its vague and ambiguous definition, liberty can be seen as a list of human rights and civil liberties, or as a key part of security, where freedom from fear and danger underpins other liberties.[41] Furthermore, human rights and civil liberties are not "necessarily a homogeneous class of rights, principles, or guarantees."[42] For this overview of the concept of liberty, civil liberties refer to the "freedom to exercise one's rights," which are provided and protected by the state.[43] Human rights, by contrast, are considered a set of "universal norms that limit the legitimate force in order to preserve human dignity."[44]

2.3.1. Historical and philosophical foundations

The idea that civil liberties and human rights do not form a homogeneous set of rights predates the post-9/11 era. From seventeenth-century England through the French Revolution and into the twentieth century, rights claims expanded from elite privileges to constitutional entitlements, culminating in international instruments such as the

[40] Simon Bronitt, 'Balancing Security and Liberty: Critical Perspectives on Terrorism Law Reform', in *Fresh Perspectives on the "War on Terror"*, ed. Miriam Gani and Penelope Mathew (ANU Press, 2008), 69.
[41] Gearty, 'Escaping Hobbes', 35.
[42] Jeremy Waldron, 'Security and Liberty: The Image of Balance', *The Journal of Political Philosophy* 11(2), (2003): 195.
[43] Warshawsky, 'Balance to Be Found', 94.
[44] Alison Brysk, 'Human Rights and National Insecurity', in *National Insecurity and Human Rights: Democracies Debate Counterterrorism*, ed. Alison Brysk and Gershon Shafir, Global, Area, and International Archive (University of California Press, 2007), 8.

Universal Declaration of Human Rights (UDHR) (1948) and the European Convention on Human Rights (ECHR) (1950) affirming their universal applicability.[45]

Liberty's enduring importance in political thought stems from its grounding in freedom from arbitrary authority: Locke argued that "where there is no law, there is no freedom"[46]; Montesquieu linked it to the institutional architecture of governance;[47] and Rousseau recognised that sustaining it requires constraining governmental power.[48] Together, these contributions situate liberty on a continuum from personal freedom to political order and foreground its inescapable interaction with security. Building on this tradition, Isaiah Berlin's distinction between negative liberty, freedom from interference, and positive liberty, freedom to lead one's chosen life, brings distribution to the forefront:[49] liberty, like security, is not evenly held across a society, and sacrifices of liberty that do not expand others' freedom represent, in Berlin's terms, an "absolute loss of liberty."[50] Berlin's conceptualisation of positive and negative freedom brings the issue of distribution to the forefront, where liberty, similarly to security, is not a homogeneous norm equally distributed among members of society.

2.3.2. Expanding the scope: Legal dimensions

Over the centuries, the conceptualisation of liberty evolved from a narrowly held privilege of property-owning elites to a broad matrix of human rights and civil liberties considered to be essential building blocks to a functioning governing structure; the right to vote, freedom of expression, and association, among many others, ensure the proper functioning of society.[51] The post-World War II era marked a watershed moment, with international instruments such as the UDHR (1948) and the ECHR (1950) affirming the universal applicability of civil and political liberties.[52] These legal systems codified liberty's multiple facets, distinguishing between absolute, limited, and qualified rights to differentiate between the various degrees to which human rights may be limited or contested.[53] Absolute rights constitute those rights that can never be

[45] Conor Gearty, 'Reflections on Civil Liberties in an Age of Counterterrorism', *Osgoode Hall Law Journal* 41(2/3), (2003): 191–200.
[46] John Locke, *Two Treatises of Government and a Letter Concerning Toleration*, ed. Ian Shapiro (2003), 123–24.
[47] David Spitz, 'Some Animadversions on Montesquieu's Theory of Freedom', *Ethics* 63(3), (1953): 210.
[48] David Lay Williams, *Rousseau's Social Contract: An Introduction* (Cambridge University Press, 2014), 67 & 114.
[49] Isaiah Berlin, 'Two Concepts of Liberty', in *Four Essays on Liberty* (Oxford University Press, 1969), 125.
[50] Ibid, 122.
[51] Gearty, 'Civil Liberties', 194.
[52] Ibid.
[53] Andrew Ashworth, 'Security, Terrorism and the Value of Human Rights', in *Security and Human Rights*, ed. B. J. Goold and Liora Lazarus (Hart, 2007), 204.

derogated from, regardless of crises: these include the right to life, freedom from torture, and inhuman and degrading treatment.[54] Limited rights are rights that may be restricted in scope, such as during public emergencies; for example, they include the right to liberty and the right to a fair hearing.[55] There are the so-called qualified rights, such as freedom of expression and freedom of assembly, which are subject to a list of specific circumstances in which the government may interfere.[56] This taxonomy is analytically critical for this research: counterterrorism sanctions listing procedures directly implicate limited and qualified rights (including the right to a fair hearing, the right to property, and freedom of association), making the legal architecture of liberty not merely a background condition but an active constraint on how states may legitimately restrict individual freedoms in the name of security. Therefore, civil liberties and human rights are "not just abstract values, but a set of particular social practices to realise those values."[57] Hence, the legal architecture of liberty balances the protection of human rights and civil liberties against security considerations, and it opens up the debate regarding the precise conditions and justifications for limitations, leading to another dimension of liberty: fragmentation and distribution.

2.3.3. Other dimensions: Fragmentation and distribution

As the spectrum of qualified, limited, and absolute rights shows, liberty is neither homogeneous nor uniformly distributed in practice. It comprises a patchwork of civil liberties and human rights with varying levels of vulnerability and protection, and scholars have offered diverse ways of defining and representing liberty for individuals and governments. While liberty is widely regarded as an essential human goal, its realisation is constrained by other values and conditions, including security, so the level of freedom people enjoy shifts over time and across contexts. To avoid reinforcing this fragmentation, this research adopts a unified norm of liberty and human rights rather than focusing on a single rights issue within counterterrorism sanctions, which would obscure the broader dynamics of the security-liberty balance. Following Bigo, liberty is treated as an umbrella norm that encompasses civil liberties and human rights, countering the tendency for discourse to cast security as a collective good and liberty as an individual concern that can be overridden when "security needs to trump liberty."[58]

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[54] Eric Metcalfe, 'Terror, Reason and Rights', in *Civil Liberties, National Security and Prospects for Consensus: Legal, Philosophical, and Religious Perspectives*, ed. Esther D. Reed and Michael Dumper (Cambridge University Press, 2012), 158.
[55] Ibid, 157.
[56] Ibid, 156–57.
[57] Jack Donnelly, 'The Social Construction of International Human Rights', *Relaciones Internacionales*, GERI-UAM, vol.17 (June 2011): 12.
[58] Didier Bigo, 'Delivering Liberty and Security? The Reframing of Freedom When Associated with Security', in *Europe's 21st Century Challenge: Delivering Liberty*, ed. Didier Bigo et al. (Ashgate, 2011), 270.

Bigo's critique goes further: this fragmentation is not incidental but structural, embedded in the way counterterrorism discourse casts security as a shared collective good while treating liberty as an individual concern that can be subordinated when security demands it. This study therefore treats liberty as an umbrella norm encompassing civil liberties and human rights, not merely as a methodological convenience but as a corrective to a discursive asymmetry that otherwise tilts the balance before any formal weighing has begun.

Beyond fragmentation, liberty also embodies distributional complexities long explored by scholars such as Berlin and Montesquieu. Liberty has rarely been evenly shared; in crises, policy choices often impose unequal burdens, exemplified by measures such as Lincoln's suspension of habeas corpus and the internment of Japanese-Americans during the Second World War.[59] Justice Brennan characterises this pattern as episodic: after each emergency, the United States recognises that civil liberties were unnecessarily curtailed, yet still repeats similar errors in subsequent crises.[60] This episodic security culture is not confined to the US; globally, civil liberties and human rights have repeatedly been sacrificed in the name of security, to the point that some human rights instruments define rights partly in terms of the conditions under which they may be restricted in emergencies.

2.3.4. Liberty within counterterrorism

The United States is not the only country where the question of curtailing human rights and civil liberties has emerged and re-emerged repeatedly. In 1970s Northern Ireland, when the United Kingdom claimed direct territorial control, the Secretary of State for Northern Ireland, William Whitelaw, contended that while measures enacted in response to terrorism infringe the:

> "shared concept of civil liberties […]that is the price which the House has always accepted must be paid for protecting the most fundamental liberty of all – the liberty not to be killed or maimed when going about one's lawful business."[61]

Prior to Whitelaw's statement, in 1977, Reverend Ian Paisley, leader of Northern Ireland's Democratic Unionist Party (DUP), claimed that "where there is a terrorist situation in any country, the rights of the individual in the community have to be surrendered to a degree in order that his real rights may be defended and eventually

[59] William J. Brennan Jr, 'The Quest to Develop a Jurisprudence of Civil Liberties in Times of Security Crises', *Brennan Center for Justice at New York University School of Law*, 22 December 1987, 1.
[60] Ibid.
[61] "William Whitelaw, HC Debs, Mar. 18, 1981, Vol.1, Col.341. Hansard 1803-2005, Prevention of Terrorism," March 18, 1981.

maintained."[62] Prioritising security, at the expense of liberty, is not a novel strategy in the international community; however, following the attacks of 9/11, it has quickly been deployed at an increased level with long-term consequences. As this approach focuses solely on ensuring people's safety and security, it often results in negative consequences for human rights and civil liberties. Bigo and Guild describe this by claiming that "in the political realm, human rights are not considered as a useful weapon against the enemy but as a dangerous constraint against effective action."[63] The 'security first' approach that was embraced by policy-makers worldwide post-9/11 depicts that exact scenario where the balancing between the norms of security and liberty is claimed to be problematic and creates an image of inherently conflicting norms.[64]

2.4. Security-Liberty Balance

2.4.1. Historical and philosophical foundations

The concepts of security and liberty have been integral parts of philosophical and political tradition not only as self-standing ideas but also as part of a larger, interconnected tapestry of norms and societal building blocks. While politicians and government officials often evoke the topic of the security-liberty balance mostly during times of war or states of emergency, introducing measures that tip the scales towards security, the balancing framework has continued to be at the forefront of philosophical tradition.[65] Contemporary political thought is sometimes described as the "clash of positions" represented by Hobbes, the absolutist, and Locke, the liberal.[66] Neocleous frames this conflict as a debate over sovereignty, where the argument is either grounded in liberty or in security, and consequently, the stance a person adopts influences the perceived balance, shifting it toward that norm.[67]

Hobbes posits that the values of liberty and security are inherently in tension, arguing that when individuals have uncontrolled freedom to lead their lives, there is no security for anyone in the community, thus no one can enjoy their liberty.[68] In such a

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[62] "Ian Paisley, HC Debs, Dec. 8, 1977, Vol.940, Col.1737. Hansard 1803-2005, Northern Ireland (Emergency Provisions)," December 8, 1977.
[63] Didier Bigo and Espelth Guild, 'The Worst-Case Scenario and the Man on the Clapham Omnibus', in *Security and Human Rights*, ed. B. J. Goold and Liora Lazarus (Hart Publishing, 2019), 99.
[64] Myriam Feinberg, 'International Counterterrorism – National Security and Human Rights: Conflicts of Norms or Checks and Balances?', *The International Journal of Human Rights* 19(4), (2015): 389.
[65] Warshawsky, 'Balance to Be Found', 95.
[66] Mark Neocleous, 'Security, Liberty and the Myth of Balance: Towards a Critique of Security Politics', *Contemporary Political Theory* 6(2) (2007): 134.
[67] Ibid.
[68] Sari Kisilevsky, 'Balancing Security and Liberty: Trying Foreign Enemy Combatants in Military Commissions', *Public Affairs Quarterly* 31(1), (2017): 24.

state of insecurity, Hobbes discusses the idea of social contracts as a means for communities and societies to attain security and avoid the possibility of unending war.[69] For people to enjoy their freedom, they shall submit to a sovereign authority responsible for establishing the boundaries of rights and duties and become a government capable of balancing both liberty and security.[70] For Hobbes, therefore, the main motivation behind advocating for absolute sovereignty is the pursuit of security.[71] The establishment of a sovereign power shifts the community away from a state of insecurity and, through social contracts, can achieve peace.[72] Essentially, Hobbes argues that prioritising security in the security-liberty balance is necessary to establish a semblance of safety in society.[73] This Hobbesian perspective is grounded in the view that individuals should be willing to relinquish certain civil liberties and human rights to the state if doing so enhances security.[74]

Locke sees the state of nature as characterised by liberty and equality, with individuals holding two rights: to survive and to punish those who threaten their right to survive.[75] While the potential of perpetual war threatens Hobbesian security, the Lockean state of liberty can erode if individuals violate community laws, necessitating the establishment of a government to enforce them and ensure safety and security.[76] People's reason for supporting the establishment of such authorities is their desire to mutually preserve "their lives, liberties, and estates."[77] While Hobbes advocates for a sovereign power in absolute terms, Locke allows for the right to dissolve their government "should it be thought to be undermining liberty," thus prioritising the norm of liberty within the security-liberty balance.[78]

Locke's characterisation of liberty as a fundamental prerequisite for public security has been subsequently reinterpreted by numerous philosophers from the Enlightenment and post-Enlightenment periods.[79] Rousseau, identifying with the doctrine of a political system grounded in free will, famously declared that "man is born free, and everywhere he is in chains."[80] According to Rousseau, the right to use force to ensure security, exclusively within the government's purview, is subject to the people's

[69] Neocleous, 'Myth of Balance', 134.
[70] Kisilevsky, 'Balancing', 24.
[71] Neocleous, 'Myth of Balance', 134.
[72] Ibid.
[73] Ibid.
[74] Eran Shor et al., 'Does Counterterrorist Legislation Hurt Human Rights Practices? A Longitudinal Cross-National Analysis', *Social Science Research* 58 (July 2016): 104.
[75] Michaelsen, 'Balancing', 4.
[76] Ibid.
[77] Locke, *Two Treatises,* 123.
[78] Neocleous, 'Myth of Balance', 134–35.
[79] Michaelsen, 'Balancing', 4.
[80] Ibid.

control.[81] Consequently, the government is prohibited from limiting its people's civil liberties, except in cases of a threat to society.[82] Likewise, Montesquieu describes circumstances in which the government may temporarily encroach upon the liberty of its people, yet only to the extent necessary to preserve them forever: "there are cases where a veil has to be drawn, over liberty, as one hides the statues of the gods."[83]

Adam Smith, in *The Wealth of Nations*, examines the concept of sovereignty by linking security with liberty.[84] He articulates the "liberty of every individual" alongside their "sense of security," advocating for the establishment of an impartial judiciary, independent of executive power.[85] Smith implies that security and liberty are inherently interconnected, suggesting that liberty can be found within security. When discussing the taxation of American and Irish provinces by Great Britain, he emphasises that such taxation is justified not only on the grounds of justice but also as a means of safeguarding "every security which they possess for their liberty, their property, and their religion."[86] Jeremy Bentham expands this perspective by proposing that political liberty is "another branch of security," specifically protecting individuals "against the injustice of the members of the Government."[87] Instead of viewing security and liberty as opposing values, these thinkers depict them as deeply intertwined, to the point where they could be perceived as antonyms.[88]

2.4.2. Security-Liberty Balancing Models

This brief overview of the philosophical and political discourse on the relationship between security and liberty reveals multiple approaches and interpretations of the balance between security and liberty norms. The balancing approach, most commonly depicted as a scale with security on one end and liberty on the other, implies that an increase in security will automatically reduce civil liberties.[89] While the idea of the security-liberty balance as a trade-off has become increasingly popular in international counterterrorism since 9/11, scholars have conceptualised the balancing model in several other ways.

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[81] Ibid.
[82] Ibid.
[83] Montesquieu, *The Spirit of Laws*, Book XII, Chapter XIX.
[84] Neocleous, 'Myth of Balance', 140.
[85] Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. S. M. Soares (1776), 559.
[86] Ibid, 738.
[87] Bentham, *Bentham*, vol. 1.
[88] Neocleous, 'Myth of Balance', 141.
[89] Pavone et al., 'Systemic Approach', 233.

Material model of balance

Adelman summarises the three most common images of balance in academia, where the concept is applied to vastly different types of balancing.[90] He describes the 'material model,' associated with "weighing scales and teeter-totters," as the most general understanding of balance.[91] The material model's concept of balance centres on a point of equilibrium between two norms placed on opposite sides of the scale.[92] It is often described as a zero-sum game between security and liberty, in which increasing security requires sacrificing some liberty.[93] Those advocating for stricter national security measures in response to terrorism often invoke the zero-sum game application of the balancing framework.[94] This approach to balance presupposes that there exists an optimal trade-off between security and liberty.[95] The risk is so extreme that governments can only respond to the threat with measures that intrude on civil liberties and human rights, which would not be permitted in times of normalcy.[96] While the application of the material model might seem intuitive at first, several issues arise regarding the zero-sum game aspect.

At what point does the image move away from the optimal trade-off, and when would the liberties sacrificed outweigh the gains in security? How can we delineate the point at which governmental assertions of a balanced approach become inappropriate?[97] What specific civil liberties and human rights are inviolable within the balancing framework? Historically, torture has represented a line that most governments have consciously sought not to cross; however, the post-9/11 era not only saw the use of torture in counterterrorism operations but also the attempts to justify such actions by legal experts and even judges at times. For example, Judge Richard Posner has critiqued the courts' emphasis on certainty, suggesting that this may be inappropriate in cases involving torture.[98] He acknowledges that while there is an absolute probability of harm

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[90] Howard Adelman, 'Canada's Balancing Act: Protecting Human Rights and Countering Terrorist Threats', in *National Insecurity and Human Rights: Democracies Debate Counterterrorism*, ed. Alison Brysk and Gershon Shafir, Global, Area, and International Archive (University of California Press, 2007), 140.
[91] Ibid.
[92] Ibid.
[93] Robin W. Lovin, 'Security and the State: A Christian Realist Perspective on the World since 9/11', in *Civil Liberties, National Security and Prospects for Consensus: Legal, Philosophical, and Religious Perspectives*, ed. Esther D. Reed and Michael Dumper (Cambridge University Press, 2012), 247.
[94] Daniel J. Solove, 'Data Mining and the Security-Liberty Debate', *The University of Chicago Law Review* 75, no. 1 (2008): 354.
[95] Cass R. Sunstein, 'Fear and Liberty', *Social Research*, Fear: Its Political Uses & Abuses, vol. 71, no. 4 (2004): 989.
[96] Ibid.
[97] Ibid.
[98] Richard A. Posner, *Not a Suicide Pact: The Constitution in a Time of National Emergency*, Inalienable Rights Series (Oxford University Press, 2006), 33.

to rights on one end of the balance (due to the use of torture), there is an "uncertain benefit on the other."[99] Such actions threaten to irrevocably skew the balance toward security and would be counterbalanced only by greater protections of human rights, which would ultimately outweigh the security measures; however, such protections are few and far between in the post-9/11 era. Furthermore, when it comes to such extremes as torture and indefinite detention, the scale could never be shifted back to an appropriate balance.[100]

While politicians and scholars alike frequently leverage the material model to justify prioritising security measures over civil liberties, there exist few, if any, clear explanations as to why exactly "security and civil liberties must be mutually exclusive."[101] Given that not all security measures limit liberty, and that there are no examples demonstrating an increase in the effectiveness of security measures accompanied by a related decrease in liberty, the question arises as to why the material model is the most commonly used image of balance.[102] When evaluating effectiveness, the most effective security measures are not necessarily the most detrimental to liberty.[103] While security and liberty may clash at times, the balance should not be framed as an absolute, zero-sum game, but rather as a nuanced, complex relationship.[104]

Metaphysical model of balance

The second approach to balance that Adelman defines is the metaphysical model, in which the two opposing forces are placed within "the same circle of reference" as separate realms.[105] The metaphysical model is often described as the yin-yang model, where balance is defined as the "harmony between two complementary forces."[106] While the notion of harmony may initially seem abstract and elusive, like the terms security and liberty, it is best described as the avoidance of extremes, where too much of either security measures (fright) or liberty protections (fight) would destabilise the equilibrium.[107] This model reflects the closest approximation to balancing that the US government adopted in the post-9/11 era, in which yin and yang are treated as mutually exclusive domains, lacking interaction, and "relegated to mutually exclusive enclaves."[108] Within this model, human rights are designated as the 'yin,' the more passive and feminine of the forces, only preserved for citizens and placed in a "separate

[99] Ibid.
[100] Adelman, 'Canada's Balancing Act', 140.
[101] Solove, 'Data Mining', 354.
[102] Ibid.
[103] Ibid.
[104] Ibid, 362.
[105] Adelman, 'Canada's Balancing Act', 140.
[106] Ibid.
[107] Ibid.
[108] Ibid, 140–41.

and self-contained container" against the more aggressive 'yang,' which only applies to those who threaten the harmony and exist in a realm without the existence of human rights.[109] Therefore, the two forces are independent of one another, and security is not bound by the checks provided by human rights.[110] Furthermore, the yin-yang model also implies an 'us' versus 'them' ideology that is inherently detrimental to liberty and equality.[111]

Matrix model of balance

Lastly, Adelman identifies the matrix model of balance, which is commonly associated with the human security perspective.[112] This model, emblematic of the Canadian approach to counterterrorism, conceptualises balance as a variable rather than a constant.[113] It posits that the forces of security and liberty move in different directions at right angles to one another, along a continuum between two extremes: minimum/zero and maximum/absolute.[114] One axis represents the spectrum of security measures, while the other reflects the extent of human rights protections.[115] The balance in this case entails maximising both values, with the combination of rights and security leading to a policy best suited to address security threats.[116] The matrix model thereby facilitates a more nuanced outcome, in which the pursuit of maximising both values involves careful consideration of the potential security measure and its consequences, thereby enhancing resilience against fear, public pressure, or manipulation.[117]

Other applications of balance

There are several additional applications of the concept of balance beyond those previously discussed. One such approach involves the argument for liberty, which posits that the norms of liberty and security are interdependent. In this view, security serves to safeguard the ongoing enjoyment of liberty. Consequently, if liberty were to be compromised, the value of security would be correspondingly diminished. Therefore, security measures that restrict or limit liberty may ultimately fail to provide adequate security.[118]

Kisilevsky delineates three distinct conceptualisations of the justification for balancing: "an abstract, non-institutional sense, an internal legal sense, and an emergency sense."[119] The abstract sense of balance emphasises the moral obligation of

[109] Ibid.
[110] Ibid, 141.
[111] Ibid.
[112] Ibid.
[113] Ibid.
[114] Ibid.
[115] Ibid.
[116] Ibid.
[117] Ibid, 156.
[118] Lovin, 'Security', 247.
[119] Kisilevsky, 'Balancing', 20.

governments to protect and uphold individual rights even when "doing so increases the risk to its people's security, and even when it is upholding the rights of those very people who pose the risk to its security."[120] Secondly, she argues that the internal legal sense of balance is unjustified as it permits an "arbitrary limitation of the rights of some for the sake of the security of others," thereby violating established legal processes.[121] Consequently, she claims there is insufficient justification for balancing when it measures people's rights against competing considerations outside accepted legal systems.[122] Finally, the emergency/external perspective of balance concedes that extraordinary measures may be justified in response to existential threats or self-defence; however, Kisilevsky contends that such measures are only legitimate if ordinary response mechanisms to the threat are unavailable.[123] She further argues that the government's invocation of emergency measures undermines the judiciary's legal role as "guardian of justice" by excluding it from decision-making.[124] Overall, Kisilevsky's analysis suggests that, depending on the perspective adopted, the justifications for balancing may ultimately serve as arguments against the practice itself. Consequently, a more nuanced, comprehensive justification of rebalancing security and liberty in the face of terrorism is essential to legitimising security measures.

Each of these models shares a common limitation: they assess the balance between security and liberty at a singular, fixed point in time. Whether depicted as a scale, a yin-yang equilibrium, or a two-axis matrix, they fail to adequately represent the dynamic nature of this balance over extended periods. Specifically, how security measures enacted in crisis conditions produce long-term consequences for liberty that only become visible years later, or how rights-protective reforms emerge gradually and unevenly in response to initial overreach. This represents the core analytical gap that subsequent sections aim to address.

2.4.3. Criticism of the balancing framework

The temporal limitation identified above is not the only critique levelled at the balancing framework. While academic literature has thoroughly explored different images and models of balancing security and liberty, policy-makers and government officials in the post-9/11 era have tended to "pit the ideas of liberty and security against each other" and frequently frame them as a zero-sum game, presenting the two norms as in conflict.[125] Calls and attempts to 'strike a new' balance were prevalent in the

[120] Ibid, 21.
[121] Ibid, 19.
[122] Ibid, 20.
[123] Ibid, 33.
[124] Ibid, 19.
[125] Jonathan Cooper, *Countering Terrorism, Protecting Human Rights: A Manual*, ed. Peter Eicher (Office for Democratic Institutions and Human Rights, 2007), 15.

international arena after the terrorist attacks of 2001. Simultaneously, as the material model of balance gained popularity among practitioners and policy-makers in counterterrorism strategies, academics began to voice their criticism of the framework as these laws were enacted.[126] Critics have increasingly argued that this perceived conflict is a "false dichotomy."[127]

Scholars claimed that by presenting a false choice between security and liberty, these policies were "excessively simplifying" the highly complex relationship between the two norms.[128] The balancing metaphor not only suggests that an appropriate balance between the two measures is attainable but also overlooks the fact that, in a post-9/11 community, the competing powers of security and liberty have shifted significantly, making their relationship structurally skewed and one-sided.[129] Additionally, with the use of the balancing approach, not only is the relationship between security and liberty simplified, but also the exact meaning of the terms as well; politicians refer to these values in the abstract when invoking the image of necessary rebalancing between them without explaining how exactly these rebalancing efforts will impact either security or liberty.[130] Although these metaphors can help communicate ideas to the public, their continued ambiguity in counterterrorism policies risks concealing the intricate realities and trade-offs involved with these fundamental rights and priorities.[131]

Zero-sum game criticism

Beyond offering a general critique of the balancing image, scholars have identified several specific issues related to the zero-sum game image of security and liberty. A particularly prominent stance among critics is the rejection of the hydraulic relation between these two norms, whereby an increase in one automatically leads to a decrease in the other.[132] It is increasingly argued that security measures and the safeguarding of human rights and civil liberties, despite often being in tension, "need not exist in zero-sum" applications of balance.[133] Solove, for instance, describes the current security-liberty trade-off as fundamentally flawed, noting that the prevalent use

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[126] Bronitt, 'Critical Perspectives', 65.
[127] Michael Dumper and Esther D. Reed, 'Introduction', in *Civil Liberties, National Security and Prospects for Consensus: Legal, Philosophical and Religious Perspectives*, ed. Esther D. Reed and Michael Dumper (Cambridge University Press, 2012), 2.
[128] Henrik Skaug Sætra, 'The Ethics of Trading Privacy for Security: The Multifaceted Effects of Privacy on Liberty and Security', *Technology in Society* 68 (2022): 9.
[129] Bigo and Guild, 'Clapham Omnibus', 113.
[130] Brysk, 'National Insecurity', 13.
[131] Michaelsen, 'Balancing', 19.
[132] Ashworth, 'Security', 208.
[133] Daniel B. Prieto, *Framing the Debate: Civil Liberties and National Security - Civil Liberties and National Security After 9/11*, War About Terror (Council on Foreign Relations, 2009), 6.

of this balancing image is "rigged so that security will win out nearly all the time."[134] Although the assumption that the security-liberty relationship is straightforward has been widely adopted among practitioners, critical questions regarding the extent of liberty sacrificed for security remain inadequately addressed. In the UN and EU counterterrorism sanctions context, this zero-sum logic is particularly evident: the listing of individuals under the 1267 regime was treated as a security gain, with no corresponding accounting for the liberty costs imposed on the listed person.

Quantification of security and liberty criticism

The image of balancing implies "some process of quantification and a fairly accurate methodology," yet the norms of security and liberty resist precise measurement.[135] Tsakyrakis contends that such imagery inherently carries "connotations of mathematical precision or, at any event, seem to allude to some kind of qualification," creating an illusion that norms like security and liberty can be weighed against each other like comparing apples and oranges.[136] Ashworth claims that not only the idea of assigning weights to civil liberties is contestable, but it also "requires a comparison of the weight of certain rights against certain consequences."[137] Others have also noted the mathematical connotation of the balancing framework, as if "there were a self-evident weighting of or priority among" the norms of security and liberty.[138] Forst remarks that the balancing framework and its core components "defy precise measurement" due to their abstract nature, making them difficult to quantify.[139] Despite academic criticisms regarding the inherent impossibility of quantifying the relative importance of security and liberty, practitioners engaged in balancing efforts have attempted to assign concrete values to these norms. For instance, Judge Posner described a scenario illustrating the psychological processes judges may employ when weighing issues related to counterterrorism measures:

> Suppose liberty is worth 1,000 and security only 100; nevertheless, a 20 per cent reduction in security as a result of invalidating some defensive measure (such as detaining terrorist suspects incommunicado) will cause more harm (100 x .20 = 20) than a 1 per cent reduction in liberty as a result of upholding the measure (1,000 x .01 = 10).[140]

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[134] Solove, 'Data Mining', 362.
[135] Ashworth, 'Security', 209–10.
[136] S. Tsakyrakis, 'Proportionality: An Assault on Human Rights?', *International Journal of Constitutional Law* 7(3), (2009): 474–75.
[137] Ashworth, 'Security', 210.
[138] Bronitt, 'Critical Perspectives', 68.
[139] Brian Forst, *Terrorism, Crime, and Public Policy*, (Cambridge University Press, 2008), 420 & 434.
[140] Posner, *Not a Suicide Pact*, 33.

The foregoing example not only disregards the problematic nature of assigning numerical values to fundamental human rights and counterterrorism measures but also highlights the absence of any clarification regarding which particular aspect of liberty is deemed equivalent to '1,000'. This lack of specificity hampers meaningful political discourse on the meaning of liberty and security within the balance.

Bigo critiques the depiction of security and liberty as "easily differentiable, [and] quasi-quantifiable" concepts, arguing that this perspective presupposes these values are eternal and that the balancing discourse often silences political debates on counterterrorism.[141] Furthermore, Bigo contends that such discourse not only necessitates extensive national security measures but also fragments the concept of liberty.[142] He examines the underlying justification for employing the balancing metaphor in counterterrorism, particularly how it is used to argue that "additional security is necessary to preserve liberty."[143] Bigo notes that shifting the rhetoric from the term 'liberty' to 'freedom' emphasises the individual level, thereby maintaining security at national and global scales.[144] Framing liberty as a collection of individual freedoms facilitates its fragmentation, making it more digestible for the population by suggesting that restricting certain freedoms can safeguard security for all. Additionally, using the framing of "a unified security and a fragmented liberty" centralises danger and conceptualises the security-liberty relationship as a triangle, in which increased security measures are essential, even at the expense of liberty, to prepare for future dangers and threats.[145] In the sanctions context, this fragmentation is evident in the way due process rights were disaggregated and traded off against collective security objectives, without any transparent accounting of the overall cost to rights.

Distribution and proportionality criticism

Beyond addressing the issues with the false sense of quantifiability of security and liberty within the balancing framework, Bigo's critique of framing the balance as collective security versus individual liberty raises critical questions about proportionality and distribution. Post-9/11 counterterrorism policies operate on the premise that individual rights should be weighed "against the interests of the greater community," therefore situating security at the community level.[146] While this conceptual approach may appear theoretically acceptable, its practical implementation reveals significant disparities: it is not the "case of everyone giving up a few liberties

[141] Bigo, 'Delivering Liberty and Security,' 270.
[142] Ibid, 265.
[143] Ibid, 264.
[144] Ibid, 270.
[145] Ibid, 270–71.
[146] Michaelsen, 'Balancing', 8–9.

so that everyone can be more secure."[147] Some may need to relinquish only minor civil liberties, whereas others might be compelled to surrender substantial rights, with certain individuals potentially losing their liberty entirely.[148] Consequently, the distribution of sacrifice and limits on liberty would not equally impact every member of a given society when faced with the balancing exercise of liberty and security. In practice, these counterterrorism measures often disproportionately infringe upon the rights and liberties of minorities, ostensibly to enhance security for the majority.[149] Such discriminatory effects, or the unequal distribution of rights limitations, frequently go "unacknowledged," and in some cases, these unintended consequences only emerge as evident over time.[150] This distributional asymmetry is directly relevant to the UN and EU counterterrorism sanctions regime: those listed for asset freezing are not a random cross-section of society but mainly come from particular national, ethnic, and religious communities. This highlights concerns about proportionality and discrimination that the current balancing framework is ill-equipped to address.

State of emergency and exceptional measures criticism

After terrorist attacks, especially at the scale of 9/11, it is not uncommon for politicians and practitioners to enact seemingly "irrational policies without sufficient deliberation" under the guise of panic, or leverage public fear to advance legislation that disproportionately prioritises security or extends political authority.[151] During such extraordinary times or states of emergency, authorities often justify the implementation of exceptional security measures by asserting the need to restore the security-liberty balance, effectively creating a distinction between emergency and normalcy. The concept of 'state of exception' is based on the premise that society has entered a period of emergency, warranting deviations from ordinary policy procedures to reestablish normalcy.[152] These emergency measures are typically presented with the implication that they would be limited in scope and purpose.[153] However, as most scholars argue, the image of separated periods of emergency and normalcy is inherently ambiguous and problematic, much like the quantification of security and liberty in the balancing framework.[154] Furthermore, once a state of emergency is declared, policymakers are often able to enact exceptional security measures swiftly, frequently with minimal public debate or review regarding their content, leading to a shift in the security-liberty

[147] Waldron, 'Safety and Security 2012', 32.
[148] Ibid, 32–33.
[149] Ashworth, 'Security', 209.
[150] Ibid.
[151] Eric A. Posner and Adrian Vermeule, *Terror in the Balance: Security, Liberty, and the Courts* (Oxford University Press, 2007), 11.
[152] Moeckli, *Human Rights*, 227.
[153] Ibid, 227–28.
[154] Ibid, 228.

balance in favour of security and resulting in long-term unintended consequences for civil liberties.[155] In the counterterrorism sanctions context, the post-9/11 emergency framing enabled the UNSC to adopt binding counterterrorism obligations under Resolution 1373, without the deliberation or rights-protective safeguards that would ordinarily accompany legislation of such reach and permanence.

Unintended consequences criticism

Evoking a simplistic, vague image of the security-liberty balance during states of emergency also raises another set of critiques, particularly regarding unintended consequences. Following the 9/11 attacks, legislative bodies faced pressure to respond swiftly through counterterrorism measures, often implementing temporary security policies with the understanding that they would be revisited once the emergency subsided.[156] However, in practice, bypassing established democratic procedures increased the risk of both unintended and intentional adverse outcomes. In other words, as "governments erode established procedures, the lawlessness of terrorism is being met with the lawlessness of counterterrorism."[157] When the legislature expands its powers under the guise of urgency, these measures frequently lack clear sunset clauses or sufficient oversight, making them susceptible to permanent incorporation into ordinary laws and procedures.[158] Consequently, temporary restrictions on civil liberties, once deemed acceptable for national security, may become entrenched, thereby permanently limiting human rights and civil liberties.[159] While people might be willing to endure temporary reductions in their liberty for survival and reestablishment of security, when these limitations become too intrusive and permanent, they will undermine liberty on a structural level.[160] Critics argue that the post-9/11 discourse on balance lacked specificity regarding security and liberty; it "militate[d] against any structured consideration of the value of rights" and enabled political rhetoric that justified the use of far-reaching security measures by referring to the emergency and allowed for the permanent curtailment of rights.[161] The UN counterterrorism sanctions regime illustrates this precisely: listing procedures introduced as emergency measures in 2001 persisted with minimal procedural reform for nearly a decade, and rights-protective

[155] Bronitt, 'Critical Perspectives', 76.
[156] Ibid.
[157] Hocking, *Terror Laws*, xiii.
[158] Laura K. Donohue, *The Cost of Counterterrorism: Power, Politics, and Liberty* (Cambridge University Press, 2008), 2.
[159] Ibid.
[160] Forst, *Terrorism*, 435.
[161] Liora Lazarus and Benjamin J. Goold, 'Security and Human Rights: The Search for a Language of Reconciliation', in *Security and Human Rights*, ed. Benjamin J. Goold and Liora Lazarus (Bloomsbury Publishing Plc, 2007), 16.

adjustments emerged only gradually through litigation and institutional pressure: the temporal dynamic that this study traces across its empirical chapters.

2.4.4. Modernising the balance of security and liberty

While the number of critical responses to the widespread use of the balancing framework by practitioners and policy-makers increased significantly in the years following 9/11, some scholars went beyond merely highlighting issues associated with the balancing paradigm by proposing ways to modernise the theory to better suit contemporary counterterrorism efforts. Some argued for the continued usage of the balancing image as it "might be necessary to facilitate and foster broader public debate" regarding the limitations on liberty in the pursuit of increased security.[162] For instance, Bennoune emphasised the importance of moving beyond the binary oppositions between security and liberty norms, advocating for a holistic understanding of these norms by governments, international organisations, and human rights advocates.[163] She contended that such an approach would foster a deeper understanding of how justice and rights are essential for achieving long-term peace and security, noting that "peace is more than the absence of war" and must address the root causes of violence and conflict.[164]

Ashworth advocates for a structured approach to balancing and using the image of balance as a "method of accommodating conflicting interests, by retaining human respect for human rights while allowing some scope for other interests to be protected."[165] He exemplifies this by incorporating a necessity test or implementing compensatory procedures, thereby addressing critiques that view the balancing process as a zero-sum game.[166] Further interpretations of the balancing metaphor emphasise the interdependence and mutual reinforcement of liberty and security, suggesting that their placement on opposite ends of a scale requires re-evaluation.[167] Bigo extends this conceptualisation by proposing a reframing of the traditional binary balance into a triangular model involving liberty, security, and democracy, thus reintroducing democratic processes and bounds to the debate that might have been avoided during the state of emergency.[168]

Other scholars advocate including certain qualifiers within the balancing framework to ensure outcomes remain fair when seemingly conflicting values are at

[162] Michaelsen, 'Balancing', 19.
[163] Bennoune, 'All Necessary Measures?', 668.
[164] Ibid, 673.
[165] Ashworth, 'Security', 217.
[166] Ibid.
[167] Michaelsen, 'Balancing', 3–4.
[168] Bigo, 'Delivering Liberty and Security', 271.

play.[169] Cooper contends that elements such as necessity, legality, proportionality, and non-discrimination should be integrated into the balancing framework.[170] He emphasises that to uphold the lawfulness and proportionality of counterterrorism measures, a delicate balance must be "struck between the burden placed on the individual whose rights are being limited and the interests of the general public in achieving the aim that is being protected."[171] Similarly, Michaelsen argues for the inclusion of a proportionality test, citing its application in Germany, where proportionality is assessed through three main aspects: whether the curtailment of human rights was 1) suitable, 2) necessary, and 3) appropriate.[172] Additionally, this proportionality assessment should gauge the extent to which liberty can be curtailed in response to escalating security threats.[173] Beyond these considerations, proportionality evaluations should also scrutinise the necessity of such extensive security measures, their effectiveness, their impacts on affected individuals and communities, and the "long-term consequences for the legitimacy of the criminal justice system."[174]

2.4.5. The time qualifier: updating the security-liberty balance

The metaphor of balancing security and liberty, often invoked to justify the implementation of new security measures, is primarily centred on immediate perceived threats such as terrorism. However, this approach often neglects the potential long-term consequences of such measures.[175] Currently, the security-liberty balancing framework tends to analyse the relationship between these two norms "at one particular point in time."[176] Moeckli critiques this approach as "misleadingly simplistic and may obscure the real interests and issues at stake" by evaluating the relationship between security and liberty only at a fixed moment, rather than tracking their dynamic relationships over a longer period.[177] Similarly, Sullivan observes that several scholars, particularly those examining law, tend to "disregard issues of time and space."[178] He highlights the importance of the temporality of judicial reviews and challenges to specific security measures.[179] While courts may initially defer cases during emergencies, the passage of time often leads to an accumulation of cases seeking review of measures implemented during those emergencies. In essence, attempts to rebalance security and liberty are

[169] Cooper, *Countering Terrorism*, 71.
[170] Ibid, 68.
[171] *Ibid*, 71.
[172] Michaelsen, 'Balancing', 20.
[173] Moeckli, *Human Rights*, 10.
[174] Ibid, 16.
[175] Michaelsen, 'Balancing', 21.
[176] Moeckli, *Human Rights*, 11.
[177] Ibid, 2.
[178] Sullivan, *The Law of the List*, 52.
[179] Ibid, 281–82.

often initiated well after the original assessment, highlighting the need to consider temporal dynamics in such evaluations.

Warshawsky asserts that the balancing scale of liberty and security should not be perpetually tilted in one direction, as the sacrifice of liberty, or even security in certain cases, should be "a temporary phenomenon," adapting to the prevailing perceptions of threat over time.[180] Similarly, Posner and Vermeule highlight the dynamic nature of the balancing scale and claim that the "shape of the security-liberty frontier changes over time."[181] The optimal point of balance shifts continuously as "threats to liberty and safety wax and wane."[182] It is important to recognise that while the security measures will be swiftly implemented, they will have long-term effects on human rights. Moreover, the expedited process of drafting and enacting these measures following 9/11 often left insufficient time for critical analysis of the "potential deficiencies," consequences, and effectiveness.[183] This oversight has led to significant setbacks in human rights, setbacks that will require a much longer period to remedy than the time taken to implement the measures themselves.

To thoroughly evaluate the influence of 9/11 on the relationship between security and liberty, it is essential to incorporate a temporal dimension into the balancing framework. This approach involves tracking the long-term consequences of short-term political decisions.[184] By examining the evolution of the security-liberty balance concerning the UNSC counterterrorism sanctions regimes from 1999 to 2020, this study aims to take stock of two decades worth of "political action and legal deliberation on the balance between liberty and security" and demonstrate that these two norms have interacted with one another in multiple ways over time and their dynamic relationship can only be evaluated through an extended temporal frame.[185] Including a temporal component underscores the need for a "process of 'updating' or 'contemporisation'" to effectively integrate national security considerations and human rights principles into the conceptual framework of the security-liberty balance.[186]

Collectively, these critiques and proposals emphasise that time is not a peripheral factor but a fundamental component of the security-liberty balance. The temporal qualifier performs a specific analytical function that synchronic analysis

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[180] Warshawsky, 'Balance to Be Found', 94.
[181] Posner and Vermeule, *Terror in the Balance*, 46.
[182] Posner, *Not a Suicide Pact*, 31.ga
[183] Moeckli, *Human Rights*, 43–44.
[184] Ibid, 234–35.
[185] Federico Fabbrini, 'The Interaction of Terrorism Laws with Human Rights', in *Routledge Handbook of Law and Terrorism*, ed. Genevieve Lennon and Clive Walker (Routledge, 2015), 85.
[186] Isaac Kfir, 'A Regime in Need of Balance: The UN Counter-Terrorism Regimes of Security and Human Rights', *University of Miami National Security and Armed Conflict Law Review* 4(1), (2013): 44.

cannot: it makes visible the structural asymmetry between the speed at which security measures are enacted and the speed at which rights-protective adjustments emerge. Security measures in the counterterrorism context are implemented rapidly, typically in the immediate aftermath of attacks, under emergency conditions and with minimal deliberation; while the procedural, legal, and institutional reforms that constrain and correct those measures develop slowly, unevenly, and often only in response to sustained litigation and political pressure. A static snapshot of the security-liberty balance at a particular point in time consequently tends to underestimate the cumulative liberty costs associated with counterterrorism initiatives and overstate the extent to which rights protections have advanced. The temporal qualifier, applied across the period from 1999 to 2020, exposes this asymmetry and facilitates an examination of how the security-liberty balance evolved over the two decades of the UN and EU counterterrorism sanctions regimes.

The time qualifier alone, however, reveals that the relationship is dynamic but does not explain how or through which mechanisms it changes. To account for the specific pathways through which security and liberty norms interact, converge, and are contested over time, it is necessary to complement the temporal framework with a theory of norm diffusion and convergence. Norms theory provides the mechanism-level explanation that the time qualifier establishes the need for: it identifies the actors and the channels through which normative change in the security-liberty balance is produced and transmitted between the UN and the EU. The following chapter develops this framework.

Conclusion

The literature reviewed in this chapter establishes the scholarly foundations on which this project is based. Existing scholarship has produced rich philosophical accounts of security and liberty norms, multiple competing models of their balance, and long-standing critiques of the zero-sum framing that dominated post-9/11 counterterrorism discourse. The material, metaphysical, and matrix models each reflect essential aspects of how practitioners and scholars have conceptualised the relationship between these two norms. Scholars such as Bennoune, Ashworth, Bigo, and Cooper have demonstrated that the binary trade-off model is flawed in its original framing: reducing the relationship between the two norms to a limited perspective.

This body of work shares a common analytical limitation: it evaluates the security-liberty relationship at a single point in time. Whether examining emergency legislation enacted in 2001 or the subsequent legal challenges, existing balancing frameworks treat the relationship between security and liberty as static rather than a dynamic process that evolves over years and institutional cycles. As Moeckli and Sullivan demonstrated, courts often defer scrutiny during emergencies and only revisit

the balance much later, meaning that assessments made at a single moment underestimate the long-term costs of rapid security measures. Introducing a temporal qualifier directly addresses this gap: it reframes the security-liberty balance as a relationship that must be evaluated across an extended period, tracing how security-enhancing measures are implemented quickly while rights-protective adjustments follow more slowly and unevenly.

A further limitation of existing research pertains to its institutional specificity; or rather, the lack thereof. The majority of scholarship addressing the security-liberty balance in counterterrorism either operates at an abstract level or focuses on a single jurisdiction, legal case, or instrument. Few studies explore the dynamics of this balance across two interconnected yet distinct international organisations, the UN and the EU, operating within the same sanctions framework over an extended period. While Sullivan's analysis of the UN sanctions list and Den Boer and Wiegand's framework for EU counterterrorism convergence serve as partial exceptions, neither adopts a norms-based approach that traces how security and liberty norms interact, partially converge, and remain in tension across both organisations.

A third and related gap concerns the actors who influence the balance. The literature extensively documents the consequences of counterterrorism sanctions for listed individuals and for civil liberties more broadly, but pays comparatively limited attention to the norm entrepreneurs and antipreneurs who advocated for, opposed, and gradually rebalanced the 1267 regime from a security-driven instrument toward one that increasingly incorporated due process and human rights protections. Understanding why and how this rebalancing process occurred requires attention to agency: to the judges, Ombudspersons, academics, NGOs, and institutional insiders who drove change from within the regime; as well as to the structural and temporal conditions that enabled or constrained their influence.

This study integrates these interconnected gaps by examining the evolution of cooperation between the UN and the EU on counterterrorism sanctions from 1999 to 2020. It investigates how this collaboration influenced the balance between security and liberty. The study differs from existing scholarship in three ways. First, it adopts a temporal qualifier that extends the analytical frame across two decades rather than at a single point, focusing on the asymmetric pace of security enhancements and rights protections: an insight that single-point assessments cannot reveal. Second, it employs a norms-based convergence framework, drawing on the norm life cycle, contestation, diffusion, and the four convergence pathways outlined in the theory chapter, to trace how security and liberty norms develop, interact, and partially converge across the UN and EU, rather than within a single organisation or jurisdiction. Third, it emphasises the role of diverse norm entrepreneurs as key drivers of change, identifying specific actors

across politico-strategic, organisational, procedural, and legal domains who have shaped the evolution of the 1267 regime, a dimension underexplored in existing literature.

The contribution of this research is therefore not merely a chronicle of the evolution of UN-EU counterterrorism sanctions from 1999 to 2020, but to explain how and why the security-liberty balance shifted across that period, through what convergence pathways, driven by which actors, and with what cumulative effects on the norms of security and liberty. The theoretical framework that enables this analysis is developed in the following chapter.

Chapter 3: Norms Theoretical Framework

This chapter develops the theoretical framework for analysing the evolution of the security-liberty balance in UN and EU counterterrorism sanctions between 1999 and 2020. It begins by briefly revisiting the security-liberty balance and introducing a temporal qualifier, highlighting the long-term consequences of rapid security measures and gradual rights-protective adjustments. It then draws on norms research (norm life cycle, contestation, spiral, and norm clusters) to conceptualise how security and liberty norms, and related human rights norms, diffuse, are contested, and converge over time. Building on this literature, the chapter defines norm entrepreneurs and antipreneurs and presents four norms convergence pathways (politico-strategic, organisational, procedural, and legal) that underpin the empirical analysis of UN-EU sanctions.

3.1. Modernising balance

The metaphor of balancing security and liberty has become a central theme in counterterrorism discourse. However, it has faced extensive critique for its oversimplification and zero-sum assumptions. Scholars such as Bennoune, Ashworth, and Bigo contend that framing security and liberty as binary opposites obscures their inherent interdependence and risks justifying disproportionate restrictions on individual rights.[187] Contemporary proposals for re-evaluating this balance advocate for nuanced, structured approaches, including assessments of necessity and proportionality, emphasising that justice and rights are essential to sustainable security rather than mere constraints.[188]

Further contributions highlight the need to qualify the balancing framework with criteria such as legality, proportionality, and non-discrimination, ensuring that limitations on liberty remain fair and justified in light of public interests.[189] Michaelsen and Moeckli, for example, point to proportionality assessments that consider suitability, necessity, and appropriateness,[190] and examine the broader consequences of security measures for affected individuals and the legitimacy of criminal justice systems.[191] These critiques and proposals highlight a key insight: the security-liberty balance should not be treated as a static trade-off but as a complex, normatively constrained relationship that must be evaluated in light of its long-term consequences for individuals, communities, and the legitimacy of criminal justice and security systems.[192]

[187] Bennoune, 'All Necessary Measures?', 668.
[188] Ashworth, 'Security', 217.
[189] Cooper, *Countering Terrorism*, 68.
[190] Michaelsen, 'Balancing', 20.
[191] Moeckli, *Human Rights*, 16.
[192] Ibid.

3.2. Time qualifier

Existing balancing frameworks typically assess the relationship between security and liberty at a single point in time, concentrating on immediate threats such as terrorism, while overlooking the long-term effects of emergency measures.[193] Moeckli and Sullivan critique this static approach for failing to account for the temporal dynamics of judicial review and legislative change,[194] highlighting that courts may postpone scrutiny during emergencies and only revisit the balance years later.[195] Similarly, Warshawsky, as well as Posner and Vermeule, emphasise that the security-liberty frontier shifts as threats wax and wane,[196] and that sacrifices of liberty or security should be temporary rather than permanent, subject to re-evaluation as threats and norms evolve.[197]

These critiques underscore that time is a crucial dimension of the security-liberty relationship. Rapidly implemented counterterrorism measures can create lasting human rights consequences, particularly when adopted with limited prior analysis of their deficiencies and effectiveness. To capture this dynamic, this study introduces a temporal qualifier to the security-liberty balance and applies it to UN and EU counterterrorism sanctions from 1999 to 2020. By examining the long-term consequences of short-term decisions, the research reflects on two decades of political and legal deliberations concerning the liberty-security tradeoff and demonstrates that a comprehensive assessment of their interaction necessitates an extended temporal framework.

Analytically, the time qualifier facilitates the identification of distinct phases in the evolution of UN and EU counterterrorism sanctions and assesses how the security-liberty balance shifts across these periods rather than at a single point in time. It allows for the comparison of trajectories in which security-enhancing measures are implemented quickly while rights-protective adjustments follow more slowly or unevenly. By incorporating the temporal dimension into the balancing framework, the analysis can trace not only whether convergence occurs, but when, along which dimensions, and with what cumulative effects on human rights norms. The temporal qualifier thus constitutes a foundational element within the theoretical framework. It is combined with concepts of norms diffusion, contestation, and convergence in the following sections, which identify the pathways through which security and liberty

[193] Ibid, 11.
[194] Ibid, 2.
[195] Sullivan, *The Law of the List*, 281–82.
[196] Posner, *Not a Suicide Pact*, 31.
[197] Warshawsky, 'Balance to Be Found', 94.

norms develop, interact, and partially converge within the context of UN and EU sanctions practices.

3.3. Norms: Concepts and dynamics

While the field of norms research is as "varied as the phenomenon it is attempting to understand," it provides an avenue to delve deeper into the dynamic relationship between security and liberty norms over an extended period of time.[198] Given that norms are simultaneously static and flexible, the theories of norms diffusion and convergence should not be analysed at a single point in time, thereby further supporting the inclusion of the time qualifier within the security-liberty balance framework.

The field of International Relations (IR) has long been engaged in the study of norms. Early work on transnational actors highlighted their influence on international politics, but it was not until the late 1980s and the rise of constructivism that norms began to garner sustained attention.[199] Constructivist scholars have since explored how norms acquire specific meanings and shape the behaviour of international actors,[200] and during the 1990s and 2000s, norms increasingly entered security studies to better understand their impact on state behaviour.[201] This shift laid the groundwork for analysing counterterrorism sanctions as a site of norm development and convergence between security, liberty and human rights.

3.3.1. Definition of norms

Norms research is multifaceted. While scholars commonly define norms as "a standard of appropriate behaviour for actors with a given identity," there exists considerable variation in these definitions.[202] Constructivist theorists emphasise that norms are essentially shared ideas maintained through collective belief and adherence to their assigned meanings.[203] Additionally, norms are seen as entities that facilitate problem-solving, reduce transaction costs, and underpin the language and frameworks

[198] Carla Winston, 'Norm Structure, Diffusion, and Evolution: A Conceptual Approach', *European Journal of International Relations* 24(3) (2018): 639.
[199] Joseph S. Nye and Robert O. Keohane, 'Transnational Relations and World Politics: An Introduction', *International Organization* 25(3) (1971): 338.
[200] Regina Heller and Martin Kahl, 'Tracing and Understanding "Bad" Norm Dynamics in Counterterrorism: The Current Debates in IR Research', *Critical Studies on Terrorism* 6(3), (2013): 414.
[201] Nicole Deitelhoff and Lisbeth Zimmermann, 'Norms under Challenge: Unpacking the Dynamics of Norm Robustness', *Journal of Global Security Studies* 4(1), (2019): 3.
[202] Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *International Organization* 52(4), (1998): 891.
[203] Regina Heller et al., 'The "Dark" Side of Normative Argumentation – The Case of Counterterrorism Policy', *Global Constitutionalism* 1(2), (2012): 286.

of international politics.[204] Jeffrey Legro described norms as "collective understandings of the proper behaviour of actors," emphasising their dynamic, ongoing nature rather than treating them as dichotomous entities.[205] Wiener further contributes by characterising norms as both 'stable' when defined at a specific point in time, and 'flexible' when analysed over time.[206] This understanding of norms as continuous and flexible entities paves the way for another aspect of norms research: norms development. It also supports the study's focus on how security and liberty norms change rather than remain fixed across two decades of UN and EU counterterrorism sanctions.

3.3.2. Norm development: the norm life cycle

One of the most influential frameworks for understanding norms development is the norm life cycle, initially introduced by Martha Finnemore and Kathryn Sikkink. This foundational theory of norms research encompasses several key concepts, including norm entrepreneurship, diffusion, and convergence mechanisms. The norm life cycle is discussed before other aspects of norm theory because it highlights an essential characteristic: norms are inherently flexible and constantly evolving. Consequently, they should not be analysed from a static perspective. Recognising that norms are dynamic is crucial for understanding how they develop and influence the international system, which necessitates examining their progression over time.

In 1998, Finnemore and Sikkink described the life cycle of norms as a three-stage process: beginning with 'norm emergence,' advancing to 'norm cascade,' and culminating in 'internalisation.'[207] The processes of norm creation and norm emergence are largely driven by norm entrepreneurs who devote substantial energy to gaining widespread support for their specific normative ideas.[208] Once a norm has emerged from the landscape of potentially conflicting ideas, it enters the subsequent stages of the norm's life cycle process. According to Finnemore and Sikkink, the transition from norm emergence to norm cascade (characterised by widespread acceptance of the norm) occurs at a 'tipping point' or threshold where the "critical mass of relevant state actors adopt the norm."[209] The move into the cascade phase is often facilitated by institutionalisation, in which the norm becomes embedded in international

[204] Andrew P. Cortell and James W. Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda', *International Studies Review* 2(1), (2000): 65–66.
[205] Jeffrey W. Legro, 'Which Norms Matter? Revisiting the "Failure" of Internationalism', *International Organization* 51(1), (1997): 33.
[206] Antje Wiener, *The Invisible Constitution of Politics: Contested Norms and International Encounters*, (Cambridge University Press, 2008), 42.
[207] Finnemore and Sikkink, 'Norm Dynamics', 895.
[208] Heller et al., 'The "dark" Side', 289.
[209] Finnemore and Sikkink, 'Norm Dynamics', 895.

organisations, legal frameworks, and global practices.[210] At the final stage, norms may attain a "taken-for-granted" status, becoming so deeply integrated that explicit endorsement or scrutiny diminishes.[211] Despite this seemingly linear progression, the norm life cycle is not inevitable: transitions between stages are influenced by various actors with differing motives, and many norms fail to advance beyond early stages or are disrupted by conflicting norms.[212] This non-linear view of norm development is central to the thesis's analysis of how security and liberty norms, and related human rights norms, may stall, reverse, or only partially converge in UN and EU sanctions practice.

3.3.3. Norm contestation and the norm spiral

Norm contestation research explores how different interpretations and approaches to norms shape their meanings.[213] Deitelhoff broadly defines contestation as "all instances of a questioning and/or rejection of norms."[214] Sandholtz claims that this process of norm contestation or change occurs in cycles, thereby supporting the idea that norms can be seen as flexible concerning their assigned meanings.[215] Scholars distinguish between different types of contestation: applicatory contestation, which questions how norms should be applied in specific circumstances, and justificatory contestation, which questions the moral validity of a norm as a whole.[216] Importantly, when two conflicting norms trigger a cycle of norm contestation, the outcome may be either the reinforcement and specification of norms or their broadening and weakening.[217] Therefore, while contestation often aims to roll back certain norms, it can result in backlash and, in turn, strengthen the norm in question.[218] Heller et al., for example, analyse a cycle of human rights norm contestation in US counterterrorism policy during the Bush administration, particularly concerning torture.[219] They observe that in certain "contestation processes norms get only temporarily off balance and may ultimately lead to the reaffirmation of the established norm."[220] The authors conclude

[210] Ibid, 900.
[211] Alan Bloomfield, 'Norm Antipreneurs and Theorising Resistance to Normative Change', *Review of International Studies* 42(2), (2016): 313.
[212] Finnemore and Sikkink, 'Norm Dynamics', 895.
[213] Deitelhoff and Zimmermann, 'Norms under Challenge', 5.
[214] Nicole Deitelhoff, 'What's in a Name? Contestation and Backlash against International Norms and Institutions', *The British Journal of Politics and International Relations* 22(4), (2020): 718.
[215] Wayne Sandholtz, 'Dynamics of International Norm Change: Rules against Wartime Plunder', *European Journal of International Relations* 14(1), (2008): 101–3.
[216] Bloomfield, 'Norm Antipreneurs', 318–19.
[217] Deitelhoff and Zimmermann, 'Norms under Challenge', 5.
[218] Deitelhoff, 'What's in a Name?', 717.
[219] Heller et al., 'The "dark" Side', 283.
[220] Ibid.

that the outcome of a contestation cycle, whether the norm will erode or strengthen, cannot be decided based on theoretical research only, as the question must be approached empirically.[221] Norm contestation is an important feature of norm development, which further emphasises the dynamic nature of norms. For this thesis, contestation is a key mechanism through which security and liberty norms are challenged and reshaped in UN and EU counterterrorism sanctions debates.

Similar to how previous work in norms research treated norms as frozen and unchanging before turning to norm dynamics, scholarship on norm development has become increasingly diverse.[222] Finnemore and Sikkink's norm life cycle model conceptualises norm change from the bottom up, while Sikkink, Risse, and Ropp's spiral model, developed for the "sphere of peace, democracy and human rights,"[223] depicts a largely trickle-down process "by which domestic actors increasingly internalise international human rights norms."[224] The spiral model thus demonstrates that norms are dynamic and move in both upward and downward directions between international and domestic arenas.

These foundational theories of norm development, life cycle, contestation, and norm spiral all underscore the view that norms are inherently flexible and subject to change over time, driven by diverse actors and mechanisms. In all these theories related to norm dynamics, different actors drive the norm development process, different mechanisms operate, and different periods or cycles of time apply.[225] They collectively support the thesis's emphasis on temporal dynamics, multi-level movement and actor-driven change in the evolution and partial convergence of security, liberty and human rights norms in UN and EU counterterrorism sanctions. Building on these insights, the next section defines norms convergence in the UN–EU counterterrorism sanctions context and introduces the four convergence pathways that structure the empirical analysis.

3.4. Norm entrepreneurs and antipreneurs

This section shows that norms are inherently flexible and constantly changing; more importantly, they are "actively built by agents" who seek to shape how a specific appropriate behaviour is defined. Cass Sunstein refers to these actors as "people

[221] Ibid.
[222] Bloomfield, 'Norm Antipreneurs', 313.
[223] Thomas Risse and Kathryn Sikkink, 'The Socialization of International Human Rights Norms into Domestic Practices: Introduction', in *The Power of Human Rights*, ed. Thomas Risse et al. (Cambridge University Press, 1999), 8.
[224] Thomas Risse and Stephen C. Ropp, 'International Human Rights Norms and Domestic Change: Conclusions', in *The Power of Human Rights*, ed. Thomas Risse et al. (Cambridge University Press, 1999), 237.
[225] Winston, 'Norm Structure', 649.

interested in changing social norms" and calls them norm entrepreneurs. According to the norm life cycle theory, norm entrepreneurs play a crucial role at various stages: initially, during the emergence phase, they identify issues and raise awareness of the need for change; subsequently, during the norm cascade phase, they endeavour to persuade "'a critical mass' of states to accept the new norm;" and ultimately, they may take on a leadership role by promoting the widespread diffusion of the norm on a global scale.[226]

While states, as norm entrepreneurs, have garnered significant academic attention, they are not the sole agents of behavioural change.[227] Finnemore and Sikkink identify international organisations as norm entrepreneurs capable of acting as agents of change.[228] Additional research highlights the norm entrepreneurial contributions of organisations such as research institutions, the media, local and regional communities, and members of the judiciary, executive, and other governmental bodies.[229] Sometimes, the most unexpected individuals become influential norm entrepreneurs. Bruno Latour emphasises that "those who are powerful are not those who 'hold' the power in principle, but those who practically define or redefine what 'holds' everyone together," shifting towards a more practical understanding of power and influence.[230] An illustrative example is the establishment of an Ombudsperson's Office related to UN counterterrorism sanctions, which would have never emerged without the profound impact and influence of academics turned security experts.[231] Over time, the Ombudspersons themselves have become influential norm entrepreneurs, thereby amplifying the importance of academic contributions within the UN system.

It is important to recognise that not all actors aim to effect positive behavioural change. Actors can assume various roles in their interactions with norms, including that of a norm entrepreneur. Conversely, there exists an opposite role known as the norm antipreneur, who seeks to "defend the entrenched normative status quo against challengers."[232] Scholars have conceptualised a continuum or spectrum of norms influencing actors' behaviour, ranging from norm entrepreneur at one end to norm antipreneur at the other.[233] Additionally, antipreneurs may adopt a "veto-player role,"

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[226] Bloomfield, 'Norm Antipreneurs', 312–13.
[227] Finnemore and Sikkink, 'Norm Dynamics', 902.
[228] Ibid.
[229] Margaret E. Keck and Kathryn Sikkink, 'Transnational Advocacy Networks in International and Regional Politics', *International Social Science Journal* 51(159) (1999): 91–92.
[230] Bruno Latour, 'The Powers of Association', *The Sociological Review* 32(1), (1984): 273.
[231] Sullivan, *The Law of the List*, 177.
[232] Bloomfield, 'Norm Antipreneurs', 321.
[233] Ibid, 311.

attempting to obstruct efforts by the international community to develop new legislation or policies aligned with specific norms.[234]

Finally, the work of norm entrepreneurs is context-sensitive. Their specific motivations related to particular norms influence the strategies they employ, including the use of multiple frames and tactics tailored to advance their agendas.[235] For instance, the US capitalised on the 'window of opportunity' of 9/11 to influence the ban on the practice of torture and took on a norms antipreneur role when it came to the protection and promotion of human rights norms within the context of counterterrorism.[236] The roles actors assume concerning norms are fluid and can shift based on contextual factors, motivations, and timing. Consequently, a norm entrepreneur may transition into a norm antipreneur to better align with evolving goals, as evidenced by the American approach to the use of torture pre- and post-9/11.

3.4.1. Analytical role of norm entrepreneurs in this study

This thesis empirically identifies norm entrepreneurs and antipreneurs through documentary analysis and interview data, highlighting actors who advocate for or defend norms governing UN and EU counterterrorism sanctions. The actors include UN and EU officials, ombudspersons, judges, NGOs, academics, and other experts whose contributions are documented in resolutions, guidelines, case law, institutional reforms, and related materials within the international counterterrorism sanctions framework. From an analytical perspective, these actors are examined in relation to the four convergence pathways outlined in a subsequent section. Norm entrepreneurs are posited to facilitate change along these pathways by promoting new security and liberty frameworks, advocating organisational reforms, enhancing procedural safeguards, and integrating human rights norms into legal instruments. Conversely, antipreneurs aim to preserve existing practices or oppose rights-protective modifications. Analysing their activities over time offers insights into how UN and EU sanctions norms evolve and converge, highlighting the actors who promote or oppose change across the four pathways of convergence.

3.5. Norm clusters

Context matters not only when analysing how actors engage with individual norms but also in understanding the interplay between different norms. Norms "do not exist in a vacuum;" they are often interconnected within overarching normative structures based on their content.[237] While early norms research acknowledged that

[234] Ibid, 324–25.
[235] Winston, 'Norm Structure', 646.
[236] Deitelhoff and Zimmermann, 'Norms under Challenge', 10.
[237] Winston, 'Norm Structure', 652.

norms are part of a larger regime, in most cases, scholars focused on a single norm because it appeared more manageable empirically.[238] Nevertheless, it is widely acknowledged that norms are embedded in broader structures with "similar underpinnings."[239] March and Olsen describe a "relatively stable collection of practices and rules defining appropriate behaviour for specific groups of actors in specific situations" as institutions.[240] Other scholars refer to such collections of normative practices and rules as 'bundled norm[s],'[241] 'norm complexes,'[242] 'related norms,'[243] as well as 'composite norms.'[244]

Winston introduced the concept of 'norm clusters' as a new framework for understanding "principled action in the international system."[245] She argued that analysing norms as clusters allows researchers to reframe "the concept of contemporary international norm itself into a looser and less determinate collection of interlocking norm components."[246] This conceptualisation is best aligned with the objectives of this research, as Winston noted that "in a norm cluster, rather than a set of fixed norms, both continuity and change exist within a single issue area."[247] Recognising the interconnected and evolving nature of norms, norm clusters serve as an effective unit of analysis for examining the balance between security and human rights norms.

For instance, human rights norms comprise a complex system of civil, political, social, and economic rights, all integrated within the same overarching normative structure of a human rights norm cluster. Since norm clusters "emerge, grow, and change, just as single norms," they enable a more nuanced understanding of how the balance of security and liberty evolved in the last two decades, particularly in the context of counterterrorism sanctions, while also benefiting from extensive prior research on norms dynamics and development. In this study, security and liberty are examined as components within a broader cluster of norms, rather than as isolated human rights categorised under liberty norms. Consequently, liberty norms encompass those human rights and civil liberties that influence UN and EU counterterrorism sanctions, while security norms address a broader spectrum of legislation that may not be exclusively

[238] Sarah V. Percy and Wayne Sandholtz, 'Why Norms Rarely Die', *European Journal of International Relations* 28(4), (2022): 946.
[239] Deitelhoff and Zimmermann, 'Norms under Challenge', 10.
[240] James G. March and Johan P. Olsen, 'The Institutional Dynamics of International Political Orders', *International Organization* 52(4), (1998): 948.
[241] Deitelhoff and Zimmermann, 'Norms under Challenge', 10.
[242] Emily Paddon Rhoads and Jennifer Welsh, 'Close Cousins in Protection: The Evolution of Two Norms', *International Affairs* 95(3), (2019): 598.
[243] Percy and Sandholtz, 'Why Norms Rarely Die', 945.
[244] Ibid, 947.
[245] Winston, 'Norm Structure', 3.
[246] Ibid, 18.
[247] Ibid, 30.

related to counterterrorism. This norm cluster perspective informs the pathways of convergence, whereby politico-strategic, organisational, procedural, and legal alterations are regarded as interconnected dimensions of the same norms cluster.

3.6. Norm diffusion

To comprehensively understand the mechanisms by which norms move across space, time, and institutions, it is essential to examine the theories of norm diffusion and norms convergence. Diffusion can be defined as the process through which "ideas, normative standards, or (…) policies and institutions spread across time and space."[248] Specifically, in the context of norms, diffusion refers to the "process of change in what is perceived as legitimate in a field, subfield or within an organisation."[249] Consequently, the theory of norm diffusion posits that "norms travel" across locations, time, and contexts.[250] Therefore, the more interaction there is between these locations and contexts, the more easily norms diffusion can occur.

Norm diffusion scholarship characterises this interaction as a process in which both national and international actors take action to spread norms within the international system.[251] In the context of international organisations, such as the UN and the EU, the degree of interconnectedness significantly influences the extent of norm diffusion between them.[252] It is essential to distinguish between diffusion and interdependence; diffusion should be understood as "a consequence of interdependence."[253] Recent research has increasingly focused on the diffusion of norms among international organisations. Sommerer and Tallberg assert that decision-makers within these organisations "are likely to search for models to copy in their efforts to design" effective and legitimate policies and institutions.[254] This indicates that global governance provides an ideal environment for the diffusion of norms among international organisations.[255] Furthermore, they state that diffusion between multiple international organisations "may be a two-way rather than one-way process," in which

[248] Thomas Risse-Kappen, *Domestic Politics and Norm Diffusion in International Relations: Ideas Do Not Float Freely*, Routledge/UACES Contemporary European Studies Series 34 (2017), 293.
[249] Lena Ajdacic, 'Status Hierarchies and Norm Diffusion: The Increase of Top Incomes in High Finance', *Socio-Economic Review* 20(4), (2022): 1772.
[250] Winston, 'Norm Structure', 645.
[251] Bruno Oliveira Martins, 'The Political-Legal Nexus in EU Counter-Terrorism: An Assessment of the Two-Track Influences between the EU and the UN', *European Politics and Society* 17(2), (2016): 189.
[252] Thomas Sommerer and Jonas Tallberg, 'Diffusion Across International Organizations: Connectivity and Convergence', *International Organization* 73(02), (2019): 404.
[253] Peter Starke, 'Qualitative Methods for the Study of Policy Diffusion: Challenges and Available Solutions', *Policy Studies Journal* 41(4), (2013): 564.
[254] Sommerer and Tallberg, 'Diffusion', 400.
[255] Ibid.

norms can travel both vertically within organisations and horizontally across their entire organisational structures.[256] For this study, norm diffusion thus provides the underlying mechanism by which security and liberty norms travel between the UN and the EU, creating the conditions under which the convergence pathways identified in the next section can emerge.

3.7. Norms convergence

The second theory explaining how norms evolve across space, time, and institutions is known as norms convergence. It is essential to distinguish this from diffusion, as although they share certain characteristics, they are different processes. For example, Starke conceptualises diffusion as a causal process, whereas convergence is described as a "possible description of an outcome pattern."[257] In scholarly discourse, convergence often refers to "the development of policy similarity over time."[258] Therefore, norms convergence can be understood as becoming increasingly similar in meaning.[259] Given the broadness of this definition, scholars have introduced additional qualifiers to better conceptualise and operationalise the concept.

Holzinger and Knill, for instance, critique the common interpretation of convergence as merely "the growing similarity of policies over time," noting that this definition lacks clarity about how to empirically evaluate the process.[260] They emphasise the significance of convergence direction, which shapes the outcomes of norm movements, and argue that distinguishing between horizontal and vertical convergence is vital for understanding the evolution of human rights norms.[261] Heichel et al. draw attention to the necessity of a "precise time-frame that sets rigid standards for the interpretation of the findings." [262] They highlight the divergence of empirical approaches to norms convergence "not only in terms of longitudinal design," but also in how scholars aim to measure and evaluate behavioural change.[263] Beth Simmons likewise notes the difficulties of quantifying norm development and movement, arguing that the challenge lies in establishing a system that allows "comparison across time and space and a willingness to compress many details into a few indicators," thereby

[256] Ibid, 401.
[257] Starke, 'Policy Diffusion', 564.
[258] Stephan Heichel et al., 'Is There Convergence in Convergence Research? An Overview of Empirical Studies on Policy Convergence', *Journal of European Public Policy* 12(5), (2005): 829.
[259] Ibid, 831.
[260] Katharina Holzinger and Christoph Knill, 'Causes and Conditions of Cross-National Policy Convergence', *Journal of European Public Policy* 12(5), (2005): 776.
[261] Ibid.
[262] Heichel et al., 'Convergence', 829.
[263] Ibid, 831.

enabling scholars to better understand how norms converge.[264] These findings collectively highlight the critical importance of specifying the direction, level, and temporal scope of analysis when studying convergence. This study addresses this need by investigating the convergence of security and liberty norms from 1999 to 2020 within the context of UN and EU counterterrorism sanctions and by employing a set of convergence pathways across politico-strategic, organisational, procedural and legal domains.

3.8. Convergence pathways

Among various approaches to operationalising norms convergence, scholars have proposed a range of mechanisms, effects and analytical frameworks to investigate its dynamics. Some emphasise the acts through which norms disseminate, such as learning, emulation, competition and coercion.[265] For instance, Monika Heupel highlights mechanisms such as shaming, defiance, litigation, and learning to "account for the evolution of human rights protection provisions in UN sanctions policy."[266] While these mechanisms provide valuable insights into the convergence of human rights norms in UN sanctions, they are primarily linear in nature, which can oversimplify the complex, back-and-forth nature of change within the UN Security Council.[267]

Various norm entrepreneurs participate in the process of human rights norm convergence, ranging from court personnel and government representatives to bank secretariats.[268] Differentiating between mechanisms and processes of convergence poses significant empirical challenges.[269] Some scholars move away from focusing on different actions to distinguish between convergence mechanisms and emphasise the "existence of a multiplicity of distinct and diverse normative systems."[270] Sullivan's concept of assemblage is one such approach: it examines the development of human rights protections within the UN counterterrorism sanctions regime by treating the sanctions list as "a multisited research object" that is mobile and shaped by a variety of norm entrepreneurs from diverse backgrounds.[271] Muller defines assemblage as "a mode of ordering heterogeneous entities so that they work together for a certain time."[272]

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[264] Beth A. Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics*, (Cambridge University Press, 2009), 11.
[265] Sommerer and Tallberg, 'Diffusion', 405.
[266] Heupel, 'Power & Responsibility', 776.
[267] Ibid.
[268] Sommerer and Tallberg, 'Diffusion', 426.
[269] Starke, 'Policy Diffusion', 564–65.
[270] Grainne de Burca, 'The European Court of Justice and the International Legal Order after Kadi', *Harvard International Law Journal* 51(1), (2010): 4.
[271] Sullivan, *The Law of the List*, 37.
[272] Martin Müller, 'Assemblages and Actor-Networks: Rethinking Socio-Material Power, Politics and Space', *Geography Compass* 9(1) (2015): 28.

Assemblage connects "symbiotic cofunctioning" elements across different domains and investigates how norms are integrated into a broad array of structures, systems and institutions, collectively shaping the evolution of the UN sanctions list.[273] While Sullivan's framework offers valuable insights into the multi-actor and multi-level nature of sanctions norm development, its holistic character makes it less suited to tracing convergence across specific, comparable dimensions over time.

An alternative and more tractable approach is to disaggregate convergence into distinct dimensions or pathways that can be assessed both independently and in combination. Drezner, for instance, distinguishes between policy coordination and regulatory harmonisation as the two most influential pathways to convergence in anti-money laundering, demonstrating that disaggregating convergence into distinct channels enables a more nuanced assessment of where alignment occurs and where it does not.[274] Lutterbeck similarly explores the convergence of internal and external security in Western Europe across functional, spatial, operative and technological levels, showing that convergence may proceed at different speeds and to different degrees across these dimensions.[275] Sommerer and Tallberg add a further distinction by identifying three types of convergence effects: imitation, adaptation and inspiration, which establish patterns of similarity in the actions of norm entrepreneurs as norms spread across different contexts and over time.[276]

The value of a pathway-based approach is further demonstrated by its application to counterterrorism specifically. Den Boer has previously described "'pockets' or 'islands' or even 'hemispheres' of convergence" when analysing the extent to which EUMS harmonise models of policing, evaluating this process at institutional, regulatory and professional levels.[277] This earlier work signals that convergence in counterterrorism is neither uniform nor comprehensive, but rather selective and domain-specific: a finding that anticipates the more systematic framework developed with Wiegand.

D'Amato, in her analysis of European counterterrorism collaboration within the Sahel region, advances the concept of 'patchworks' to account for the "composition of different parts (…) display[ing] a sense of coherence" that characterises multi-level and

[273] Sullivan, *The Law of the List*, 16–17.
[274] Daniel W. Drezner, 'Globalization, Harmonization, and Competition: The Different Pathways to Policy Convergence', *Journal of European Public Policy* 12(5), (2005): 842.
[275] Derek Lutterbeck, 'Blurring the Dividing Line: The Convergence of Internal and External Security in Western Europe', *European Security* 14(2), (2005): 248.
[276] Sommerer and Tallberg, 'Diffusion', 400.
[277] Monica Den Boer, 'Police, Policy and Politics in Brussels: Scenarios for the Shift from Sovereignty to Solidarity', *Cambridge Review of International Affairs* 27(1), (2014): 57.

multi-actor counterterrorism cooperation.[278] Her patchwork conception allows for the evaluation of "previously unexplored variance of mixed instruments and connections" and reveals "fluid, overlapping, and sometimes contrasting groupings" of convergence along the diverse range of actors involved.[279] To operationalise this, D'Amato focused on three dimensions: political-strategic, which concerns the degree of convergence in actors' interpretation of the threat, shared objectives and ideas on potential solutions; organisational, which concerns cooperation between law enforcement, agencies, and intelligence services, including operative support; and procedural, which concerns the development of shared working procedures and standard protocols and enables professionals to engage in comparative learning.[280] Her multi-level findings suggest that much of the diversity within each dimension results from the multi-level dimension of counterterrorism itself, a dynamic directly relevant to the UN-EU context examined in this study.[281]

At the same time, Bolleyer and Guzzo Falci's recent research on EUMS' limitations on fundamental rights highlights the importance of differentiating between procedural and substantive or regulatory notions of convergence, finding that harm to liberal values through restricting fundamental rights increased over time.[282] Their work reinforces the value of the temporal qualifier added to the security-liberty balance and underscores that convergence notions or pathways must be assessed over an extended period to reveal how these norms actually evolve.

Den Boer and Wiegand's 2015 framework builds on and systematises these insights by proposing four pathways through which convergence occurs in counterterrorism: politico-strategic, organisational, procedural and legal (see Table 1.)[283] This framework equips researchers with a comprehensive tool to assess norms convergence across multiple domains, enabling analysis of both the directionality and impact of norm evolution. It allows for the examination of how convergence patterns emerge within the counterterrorism sanctions regime and how they evolve over time, affecting the balance between security and liberty.[284] Crucially, Den Boer and Wiegand acknowledge that convergence need not result in deep integration: their analysis reveals "bubbles" or pockets of convergence, with strong alignment in some domains coexisting

[278] Silvia D'Amato, 'Patchwork of Counterterrorism: Analyzing European Types of Cooperation in Sahel', *International Studies Review* 23(4), (2021): 1520.
[279] Ibid, 1520–21.
[280] Ibid, 1523–24.
[281] Ibid, 1534.
[282] Nicole Bolleyer and Paula Guzzo Falci, 'Governments Limiting Fundamental Rights: An Expansion of Liberal-Democratic Self-Defense in Europe?', *International Journal of Comparative Sociology*, 4 May 2026, 13.
[283] Den Boer and Wiegand, 'From Convergence to Deep Integration', 380.
[284] Heller et al., 'The "dark" Side', 302.

with persistent divergence in others.[285] They conclude instead that what has emerged is "selective convergence," which they describe as the "pre-portal of further internal security integration."[286] This finding resonates with Den Boer's earlier work on islands of convergence in policing and with D'Amato's patchwork conception.

Nevertheless, the framework also has limitations that require attention prior to its application within the context of UN-EU counterterrorism sanctions. First, Den Boer and Wiegand designed their framework for EUMS relations, focusing on how EU-level instruments drive convergence within national systems. It does not directly address convergence between two international organisations (the UN and the EU) that operate at different levels of authority and with different legal logics. Second, the framework is primarily institutional and structural: it traces the adoption of instruments and the alignment of practices but pays limited attention to the actors who drive or resist change, or to the normative content of what is converging. This gap is addressed in this thesis through the norms framework discussed in previous sections, which treats each pathway as a site of norm diffusion, contestation, and entrepreneurship, and identifies the norm entrepreneurs (states, officials, Ombudspersons, judges, and academics) who shape convergence within the 1267 sanctions regime. Third, its treatment of convergence is largely cumulative, without adequately accounting for cyclical contestation and reversal, or for the possibility that convergence along one pathway may trigger divergence or rebalancing along another. The Kadi rulings provide a clear illustration: rapid politico-strategic and organisational convergence in the early 1267 regime triggered subsequent contestation and rebalancing along procedural and legal pathways, a dynamic that Den Boer and Wiegand's framework does not easily capture.

This project adopts Den Boer and Wiegand's four pathways as an overarching theoretical framework, with three specific adaptations. First, the unit of analysis is redefined to encompass UN-EU relations, examining how each pathway operates at both the UN level (through Security Council resolutions, committee guidelines, and listing procedures) and the EU level (through common positions, implementing regulations, and jurisprudence). Second, each pathway is explicitly linked to the norms theory outlined previously, treating it as a site of norm diffusion, contestation and entrepreneurship rather than purely as an institutional domain. Third, the framework is temporally applied across the period from 1999 to 2020, tracing not only whether convergence occurs but when, along which dimensions, and with what cumulative effects on the security-liberty balance within the 1267 sanctions regime.

Taken together, these four pathways serve as an organising framework for the empirical chapters. The analysis reveals that politico-strategic convergence dominated

[285] Den Boer and Wiegand, 'From Convergence to Deep Integration', 399.
[286] Ibid, 401.

in the early al-Qaida sanctions period. Organisational convergence reached its peak in the 2000s, through the creation of new bodies and mechanisms. Procedural and legal convergence became increasingly prominent after 2006, particularly following key court rulings such as Kadi. Rather than treating the UN and the EU as symmetrical entities, the study delineates how these pathways initially develop within the UN sanctions regime and are subsequently contested, refined, and partially rebalanced through EU practices and jurisprudence.

3.9. The four convergence pathways

Having established the theoretical framework of norms convergence and adapted Den Boer and Wiegand's approach to the UN-EU sanctions context, this section defines and operationalises each of the four convergence pathways as analytical categories for the empirical chapters. Each pathway is treated as a distinct but interconnected dimension of the same normative structure, part of the security and liberty norm clusters. For each pathway, this section specifies what convergence looks like at the UN and EU levels, how norm entrepreneurs and antipreneurs operate within it, and what incomplete alignment looks like across the 1999-2020 period.

3.9.1. The politico-strategic convergence pathway

Den Boer and Wiegand describe politico-strategic convergence as the alignment of overarching counterterrorism strategies, threat assessments, strategic vocabularies, and multi-disciplinary security approaches across actors and institutions.[287] In the context of EUMS, they trace a “cross-fertilisation and merging process” through which similar strategic frameworks, including precautionary security logics, intelligence-led policing, and multi-agency approaches, were adopted at both national and European levels following 9/11.[288] This research adapts this pathway to the UN-EU context by examining how security and liberty norms converge at the level of strategic framing and policy objectives between the UN and the EU.

The politico-strategic pathway is particularly shaped by norm entrepreneurs and antipreneurs. Heller and Kahl show how the "window of opportunity" created by 9/11 enabled norm entrepreneurs to "push forward political solutions that correspond with their strategic interests," even when such solutions entailed violating longstanding norm clusters pertaining to human rights.[289] Security norm entrepreneurs, or human rights norm antipreneurs, recognised that "the normative stigma for breaking the norm is now significantly reduced," thereby altering the accepted behaviour of the international

[287] Ibid, 380.
[288] Ibid.
[289] Heller and Kahl, ‘Tracing and Understanding “Bad” Norm Dynamics in Counterterrorism’, 416.

community in counterterrorism.[290] Heller, Kahl, and Pisou further contended that a "coalition of norm challengers," employing similar language and framing, could synergistically enhance their influence and undermine long-established human rights norms.[291] These dynamics can also be conceptualised as a politics of redefinition, whereby norm entrepreneurs actively reinterpret and reshape the application of norms to specific situations.[292]

Given the transnational nature of terrorism and counterterrorism, "national policies – practices as well as ideas – tend to homogenise and converge" over time.[293] Convergence along this pathway can be defined as "any increase in the similarity between one or more characteristics of a certain policy (e.g. policy objectives, policy instruments, policy settings) across a given set of political jurisdictions (supranational institutions, states, regions, local authorities) over a period of time" regardless of the causal processes.[294]

Operationalisation for this study

Empirically, the politico-strategic pathway of norms convergence is traced through an analysis of Security Council resolutions, strategic documents, EU strategies, and Council conclusions, as well as other relevant documents, including Monitoring Team reports, expert group outputs, and meeting records, with particular attention to references concerning security, liberty, human rights, and due process. Convergence is assessed by examining whether these texts increasingly adopt similar characterisations of the terrorist threat, exhibit shared strategic discourses, such as the securitisation of counterterrorism and the integration of human rights-based approaches, and pursue aligned policy objectives related to sanctions, including measures against terrorist financing, travel bans, and arms embargoes. The analysis traces how these similarities develop, stall, or reverse across the 1999–2020 period, paying particular attention to moments where security-enhancing framings dominate at one level but are qualified or contested at the other through the introduction of human rights or due process considerations.

Norm entrepreneurs on this pathway include key MS (particularly P5 members and influential EU states), the EU Counter-Terrorism Coordinator, the UN Secretary-General and senior Secretariat officials, and expert bodies whose framing of terrorism

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[290] Ryder McKeown, 'Norm Regress: US Revisionism and the Slow Death of the Torture Norm', *International Relations* 23(1), (2009): 11.
[291] Heller et al., 'The "dark" Side', 301.
[292] Martti Koskenniemi, *The Politics of International Law* (Bloomsbury, 2011), 11.
[293] Heller and Kahl, 'Tracing and Understanding "Bad" Norm Dynamics in Counterterrorism', 420–21.
[294] Christoph Knill, 'Introduction: Cross-National Policy Convergence: Concepts, Approaches and Explanatory Factors', *Journal of European Public Policy* 12(5), (2005): 768.

shapes Security Council resolutions and EU Council conclusions. Antipreneurs are those who resist specific security framings or seek to reintroduce human rights language into strategic documents. Incomplete alignment on this pathway appears where security-enhancing framing dominates at one level but is absent or contested at the other, or where both organisations adopt similar vocabulary, such as references to human rights, while diverging in the policy commitments attached to that language.

3.9.2. The organisational convergence pathway

Den Boer and Wiegand define organisational convergence as the alignment of institutional structures, coordination arrangements and working mechanisms within and across counterterrorism organisations; highlighting the concept of organisational mimesis, which posits that, within similar or overlapping contexts, organisations "'socialise' and thus mimic each other."[295] Such mimetic behaviour may involve replicating institutional models, structures, or systems.[296] DiMaggio and Powell further characterise this process as isomorphism, describing it as a "constraining process that forces one unit in a population to resemble other units that face the same set of environmental conditions."[297] This logic applies directly to the UN-EU context: given that international counterterrorism constitutes a set of shared environmental conditions affecting diverse global actors, including the UN and the EU, organisations operating within this field are subject to similar pressures that may prompt institutional adaptation and convergence. In the context of the 1267 sanctions regime, this means examining how the UN and EU develop comparable institutional responses to the challenge of balancing security and liberty norms within their respective sanctions architectures.

This pathway is also shaped by the broader interconnectedness of international organisations. Similar to norms, international organisations are not isolated entities; rather, they are "interlinked and overlapping in functional or geographical scope."[298] In the context of counterterrorism, organisations and institutions are "part of the 'cast of thousands' that develops, implements and enforces" counterterrorism policies at all levels of governance.[299] Norms and standards, often originating from the UN umbrella institutions, are implemented, reinforced, and sometimes challenged by a wide array of entities.[300] Although these organisations may appear distinct, they are interconnected

[295] Den Boer and Wiegand, 'From Convergence to Deep Integration', 384.
[296] Ibid.
[297] Paul J. DiMaggio and Walter W. Powell, 'The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields', *American Sociological Review* 48(2), (1983): 149.
[298] Sommerer and Tallberg, 'Diffusion', 402.
[299] Fiona De Londras, *The Practice and Problems of Transnational Counter-Terrorism* (Cambridge University Press, 2022), 37.
[300] Ibid.

through shared practices and activities aimed at combating terrorism.[301] According to Sommerer and Tallberg, international organisations "tend to copy models from organisations with which they share partnerships and issue-area orientation."[302] Consequently, this interconnectedness influences not only individual organisations but can also promote or hinder the convergence of entire norm clusters.[303]

Operationalisation for this study

Empirically, organisational convergence between the UN and the EU is traced through an analysis of institutional reforms, the creation of new bodies and mechanisms, and the development of coordination structures within the 1267 sanctions regime. Convergence is assessed by examining whether the UN and EU establish similar or mutually referencing organisational arrangements, such as sanctions committees, review bodies, oversight mechanisms and coordination units, and whether these structures increasingly reflect shared norms around security and liberty over the 1999–2020 period. Particular emphasis is placed on identifying instances where institutional innovations by one organisation are adopted, echoed, or referenced by the other, as well as on the influence of knowledge-producing actors, such as academics, expert panels, and secretariat officials, whose work circulates across both organisations and informs institutional design.

Norm entrepreneurs on this pathway include institutional insiders who advocate organisational reform, such as Ombudspersons, committee chairs, secretariat officials, and expert bodies, as well as external actors, including academics and NGOs, whose research and advocacy directly influenced the creation of new oversight mechanisms, most notably the Office of the Ombudsperson. Antipreneurs are those who defend existing organisational arrangements, resist institutional reform, or seek to limit the mandate and independence of new bodies. Incomplete alignment on this pathway arises when the UN and EU create structurally similar bodies with differing mandates, powers, or independence; for example, when an EU review mechanism provides stronger procedural guarantees than its UN counterpart, or when institutional reforms at one level are not matched by corresponding adaptations at the other.

3.9.3. The procedural convergence pathway

The EU and the UN not only share organisational similarities but also mirror each other in technical aspects. Den Boer and Wiegand define procedural convergence as the gradual alignment of working protocols and working procedures among counterterrorism professionals, extending their analysis beyond traditional procedural

[301] Ibid, 45.
[302] Sommerer and Tallberg, 'Diffusion', 401–2.
[303] Janne Mende, 'Norm Convergence and Collision in Regime Overlaps. Business and Human Rights in the UN and the EU', *Globalizations* 19(5), (2022): 736.

patterns to include aspects such as "command structures and knowledge-sharing," thereby evaluating the cross-fertilisation of human rights norms through procedural convergence.[304] Over the past twenty years, as counterterrorism sanctions regimes have evolved, norm entrepreneurs and actors involved with the topic have begun to "work according to standard protocols and working procedures."[305] Procedural convergence in this context refers to the increasing similarity of sanctions processes across different entities, encompassing not only the standardisation of procedures but also the methods used for observation, implementation oversight, verification mechanisms for listed individuals, and other administrative and technical details crucial to safeguarding human rights in counterterrorism efforts. Den Boer and Wiegand expand this analysis beyond traditional procedural patterns to include aspects such as "command structures and knowledge-sharing," thereby evaluating the cross-fertilisation of human rights norms through procedural convergence.[306] In the context of the 1267 sanctions regime, this means examining how the UN and EU develop increasingly similar approaches to listing, delisting, review and notification; the procedural infrastructure through which the security-liberty balance is most directly expressed in practice.

The procedural pathway is particularly significant because, as D'Amato observes in her analysis of counterterrorism cooperation, it represents "arguably the highest degree of cooperation and convergence" among the four dimensions, in that shared working procedures enable professionals to engage in comparative learning of practical practices.[307] This view is consistent with Den Boer and Wiegand's observation that standardised procedures for information exchange may affect traditional organisational patterns such as command structures and knowledge-sharing, prompting professionals to develop formal and informal contacts, and to engage in cross-fertilisation.

Operationalisation for this study

Empirically, procedural convergence between the UN and the EU is assessed by analysing listing and delisting procedures, review mechanisms, transparency requirements, notification practices, and due process safeguards in the 1267 sanctions regime and the EU's counterterrorism sanctions framework. Convergence is evaluated by examining whether the UN and EU develop increasingly similar procedural standards, such as requirements to provide reasons for listing decisions, rights of listed individuals to challenge their designation, standardised review timelines, and criteria for delisting, and whether these standards develop in parallel or in response to each other

[304] Den Boer and Wiegand, 'From Convergence to Deep Integration', 382.
[305] Ibid.
[306] Ibid, 382–83.
[307] D'Amato, 'Patchwork of Counterterrorism', 1523–24.

across the 1999-2020 period. Particular attention is paid to how procedural innovations at one level, such as the establishment of the EU's review procedures following the Kadi rulings, prompted procedural reforms at the other level, including the creation of the Focal Point and the Office of the Ombudsperson within the UN.

Norm entrepreneurs on this pathway include Ombudspersons, legal practitioners, judges, human rights monitors, and secretariat officials who advocate for clearer, fairer, and more transparent sanctions procedures. Academics and NGOs are also significant, documenting procedural deficiencies and proposing reform models. Antipreneurs resist procedural reform on grounds of security sensitivity, argue for limiting the scope of review mechanisms, or seek to preserve opaque listing and delisting practices. Incomplete alignment on this pathway appears when the EU develops more robust procedural safeguards than the UN, for example, when the CJEU requires statements of reasons and effective judicial remedies while the UN's review mechanisms remain advisory rather than binding, or when procedural standards are formally aligned but diverge significantly in their practical implementation.

3.9.4. The legal convergence pathway

Den Boer and Wiegand describe legal convergence as the process by which "the fast-developing internationalisation of regulatory mechanisms lays down binding and non-binding principles" for national and supranational legal systems, contributing to an incremental alignment of legal norms across counterterrorism regimes.[308] Similar to other regimes of international law and regulation, counterterrorism exemplifies "an admixture of hard and soft law and regulation, which intermingle and interact to operate as order."[309] According to Den Boer and Wiegand, the ongoing internationalisation of counterterrorism regulation significantly contributes to the legal convergence of human rights norms.[310] In the context of the 1267 sanctions regime, this means examining how legal standards governing sanctions, including due process, human rights obligations, the right to an effective remedy and the protection against arbitrary listing, develop in parallel or in response to each other across the UN and EU.

The pathways of convergence are inherently interconnected, and the legal pathway illustrates this particularly well. A policy regarding human rights norms can be embedded into organisations or create new organisational structures, such as the Office of the Ombudsperson, which other institutions can then mimic. Over time, procedures for listing or supervising policy implementations can become standardised across institutions, eventually giving rise to legal obligations or case law that formalises these

[308] Den Boer and Wiegand, 'From Convergence to Deep Integration', 383.
[309] De Londras, *Practice and Problems*, 56.
[310] Den Boer and Wiegand, 'From Convergence to Deep Integration', 383.

standards. These pathways are designed to assess the dynamics of convergence from multiple perspectives and contexts, rather than to isolate specific moments or events.

While the UN and EU serve as key norm entrepreneurs in the pursuit of legal convergence, they are by no means the sole actors in this process. Citizens can "leverage law in legal proceedings," and successful arguments can sway the direction of legal convergence of norms.[311] Likewise, courts can shift the direction of norms convergence in counterterrorism sanctions legislation and potentially tip the balance in favour of human rights protections. This underscores that legal convergence is not a top-down process driven solely by states or international organisations, but an iterative one shaped by litigation, judicial policymaking, and the norm entrepreneurship of legal actors operating across multiple levels.

Operationalisation for this study

Empirically, legal convergence between the UN and the EU is traced through an analysis of Security Council resolutions, EU common positions and regulations, case law from the CJEU and the ECtHR, and related legal instruments that reference or respond to each other's standards. Convergence is evaluated by examining whether the UN and EU develop increasingly similar legal norms governing sanctions, such as standards of evidence for listing, rights to judicial review, obligations to provide reasons for sanctions decisions, and due process safeguards, and whether these norms develop in parallel or in direct response to legal challenges over the 1999-2020 period. Particular attention is paid to landmark moments of legal contestation, specifically the Kadi litigation, which compelled both the EU and the UN to incorporate due process standards and human rights protections into their respective sanctions regimes, demonstrating that legal convergence can occur through contestation and reversal rather than linear harmonisation.

Norm entrepreneurs on this pathway include judges, legal academics, human rights practitioners, NGOs, and individual litigants whose cases and arguments have shaped the legal norms governing sanctions. The UN and EU institutions themselves also act as norm entrepreneurs when they introduce rights-protective legal standards or reference each other's jurisprudence in developing their own frameworks. Antipreneurs resist the application of judicial review to sanctions decisions, invoke state security or the authority of binding resolutions to limit the scope of legal accountability, or seek to restrict access to effective remedies. Incomplete alignment on this pathway appears where the CJEU requires full judicial review and effective remedies, while the UN's Ombudsperson mechanism remains advisory and non-binding, or where legal norms converge in formal language while diverging in their practical judicial application

[311] Simmons, *Mobilizing for Human Rights*, 19.

across legal orders. Although legal convergence is a well-studied facet of the counterterrorism sanctions regime, it alone cannot account for the full spectrum of norm dynamics: it should therefore be understood in conjunction with the politico-strategic, organisational, and procedural pathways developed in the preceding sections.

Conclusion

This chapter has developed the theoretical framework for analysing the evolution of the security–liberty balance in UN and EU counterterrorism sanctions between 1999 and 2020. As previously argued, security and liberty are not static, mutually exclusive concepts but dynamic, interconnected norms that evolve alongside societal, political and global changes, and that their relationship can only be adequately assessed through an extended temporal frame rather than at a single point in time.

Building on this foundation, the chapter has reintroduced the temporal qualifier as a key analytical innovation, combined with a framework of norms diffusion and convergence. It has drawn on the norm life cycle, norm contestation, the spiral model, and the concept of norm clusters to show that security and liberty norms are embedded in broader normative structures, shaped by norm entrepreneurs and antipreneurs, and subject to contestation and partial convergence over time. Norm diffusion provides the background mechanism through which norms travel between the UN and the EU, while norms convergence, understood as an outcome pattern rather than a linear process, provides the analytical lens through which this thesis assesses the evolving security-liberty balance.

At the core of the framework lies the adaptation of Den Boer and Wiegand's four convergence pathways: politico-strategic, organisational, procedural and legal, within the context of UN-EU counterterrorism sanctions. Each pathway has been defined and operationalised as a distinct yet interconnected analytical category, specifying what convergence looks like empirically at the UN and EU levels, which norm entrepreneurs and antipreneurs operate within, and what incomplete alignment looks like across the 1999–2020 period. Collectively, these pathways constitute the foundational structure for subsequent empirical chapters.

The analysis shows that politico-strategic convergence dominated in the early al-Qaida sanctions period; organisational convergence peaked in the 2000s through the creation of new bodies and mechanisms; and procedural and legal convergence became increasingly prominent after 2006, particularly following the Kadi rulings. Rather than treating the UN and the EU as symmetrical entities, the framework delineates how these pathways initially develop within the UN sanctions regime and are subsequently contested, refined and partially rebalanced through EU practices and jurisprudence over two decades.

The theoretical framework developed here requires a methodology capable of tracing norm convergence across multiple levels, actors, and time periods. The subsequent chapter, therefore, sets out the multi-method qualitative design that enables the empirical chapters to apply the four convergence pathways systematically and to identify the actors, mechanisms, and temporal patterns that have shaped the security-liberty balance in UN and EU counterterrorism sanctions from 1999 to 2020.

Chapter 4: Methodology

Introduction

This chapter outlines the methodology used to investigate the evolution of the security-liberty balance within UN and EU counterterrorism sanctions regimes between 1999 and 2020. The research used a qualitative case-study design centred on documentary analysis of UN and EU primary materials, complemented by semi-structured expert interviews. Rather than adopting a fully integrated mixed-methods framework or formal process-tracing methodology, the researcher emphasises that documentary analysis constituted the primary evidentiary basis for the thesis, with supplementary event-history analysis, network analysis, and process-tracing methods supporting the interpretation of normative and institutional change over time.

The study was designed as a longitudinal and comparative examination of two interconnected institutional settings: the UN and the EU. This design enabled analysis of how counterterrorism sanctions were formulated, implemented, contested, and revised across different legal and political sites over an extended period. Documentary analysis was employed to reconstruct the evolution of sanctions design, including listing and delisting practices, institutional reforms, and legal safeguards. Subsequently, semi-structured expert interviews were conducted to clarify institutional practices, contextualise documentary findings, and validate preliminary interpretations derived from the documentary record. The design incorporated both within-case analysis, tracing the internal evolution of each regime across the study period, and cross-case comparison between the UN and EU sanctions frameworks, enabling systematic examination of convergence patterns and divergence across the two institutional settings. The methodological choices were informed by the specific challenges inherent in studying norms diffusion and convergence across interconnected institutional contexts, challenges that the subsequent sections address in detail.

4.1. Case study

Given the broad scope of counterterrorism sanctions regimes, case studies are useful for narrowing the research focus. A case study is an in-depth analysis of one or a small number of phenomena, designed to understand a specific case while generating knowledge applicable to similar cases.[312] In social science research, case studies serve four primary purposes: descriptive, interpretive, hypothesis-generating and refining,

[312] Pascal Vennesson, 'Case Studies and Process Tracing: Theories and Practices', in *Approaches and Methodologies in the Social Sciences*, ed. Donatella Della Porta and Michael Keating (Cambridge University Press, 2008), 227–28.

and theory-evaluating.[313] The key distinction between merely providing a chronological account of an event and analysing a case from a social science perspective lies in the intent: transforming historical descriptions into analytical concepts that can be generalised to similar phenomena or events.[314]

In norms diffusion research, case studies help identify the processes and decisions that shape how norms develop and spread.[315] Generally, case studies, particularly in norms research, must address the challenge of interdependence among cases. Selecting cases is a significant hurdle for researchers employing case studies. Both qualitative and quantitative studies are expected to choose cases in a "nonrandom fashion."[316] Seawright and Gerring identified seven methods for selecting cases in case studies and cross-case analyses: typical cases exemplify common options, diverse cases reflect a range of different values, extreme cases have outlier characteristics, deviant cases deviate from some overall cross-case pattern, influential cases represent key impactful aspects, most similar cases share attribute similarities, and most different cases display varied values on a specific variable.[317]

Challenges related to case studies include reliance on pre-existing, inflexible theories; data availability issues; and cognitive biases, such as confirmation bias (see Table 13: Select challenges associated with case studies).[318] Additionally, neglecting evidence that is missing or unavailable can cause researchers to overlook non-events within case studies, such as the relationship between democracy and peace, which can be an indicator of a non-event, like the outbreak of violent clashes.[319] Therefore, careful attention to both existing and non-existing data is crucial for identifying potential relationships between variables.

4.1.1. Case Selection and Scope

This study employed a qualitative comparative case-study design focused on two institutionally distinct but closely connected cases: the United Nations and the European Union.[320] These cases were selected because they represented the two principal sites through which counterterrorism sanctions relevant to this project evolved

[313] Ibid.
[314] J. Walton, 'Making the Theoretical Case', in *What Is a Case?: Exploring the Foundations of Social Inquiry*, ed. Charles C. Ragin and Howard Saul Becker (Cambridge University Press, 1992), 121.
[315] Vennesson, 'Case Studies and Process Tracing', 234.
[316] Starke, 'Policy Diffusion', 569.
[317] Jason Seawright and John Gerring, 'Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options', *Political Research Quarterly* 61(2), (2008): 297–98.
[318] Vennesson, 'Case Studies and Process Tracing', 236.
[319] Ibid, 238.
[320] Ibid, 231.

between 1999 and 2020. This research examines the evolving relationship between security and liberty within the context of counterterrorism sanctions, focusing on cooperation between the UN and the EU from 1999 to 2020. The UN provided the primary international framework, particularly through the 1267 sanctions regime and its associated subsidiary bodies, while the EU functioned both as an implementing actor and as a significant site of procedural and legal contestation. Examining the two together made it possible to analyse not only parallel developments but also interaction, feedback, and convergence between international sanctions practices.

The core substantive focus of the research was the UN 1267 counterterrorism sanctions regime, originating in UNSC Resolution 1267 (1999), the UN's earliest and most enduring targeted counterterrorism sanctions regime, which has operated continuously since 1999.[321] As such, it offers a uniquely long temporal window for tracing shifts in the security-liberty balance over time. The 1267 regime has also been at the centre of UN-EU interaction and contestation, including landmark judicial decisions such as the Kadi cases, which makes it an ideal case for examining pathways of politico-strategic, organisational, procedural, and legal convergence between the two organisations. Furthermore, the 1267 sanctions regime is widely regarded as a paradigmatic case of the tensions between security objectives and human rights protections, providing a critical context to explore the evolution of rights-based reforms within one of the most contentious UN sanctions regimes.

The case selection was therefore theory-relevant rather than representative in a statistical sense. The aim was not to assert that the UN and EU exemplified all sanctions regimes, but to examine a particularly significant and interconnected sanctions setting in which the dynamics of norm diffusion and convergence could be studied in depth.[322] Accordingly, the two cases were not treated as independent units existing in isolation from one another. On the contrary, their interdependence formed part of the rationale for selecting them.[323] EU counterterrorism sanctions often followed, implemented, or legally reinterpreted measures originating at the UN level. Furthermore, EU institutions, courts, and EUMS exerted pressures that contributed to broader debates on procedural safeguards, review processes, and legitimacy within the UN framework. Between 1999 and 2020, the UN remained the dominant forum for agenda-setting and regime formulation, whereas the EU emerged as a key actor for legal convergence and judicial policymaking, exemplified most notably by the *Kadi* cases. The relationship between

[321] UNSC Resolution 1267 (1999).
[322] Scott J. LaCombe and Frederick J. Boehmke, 'Learning and Diffusion Models', in *The SAGE Handbook of Research Methods in Political Science and International Relations*, ed. Curini, Luigi and Robert Franzese (SAGE Publications Ltd, 2020), 9–10.
[323] Starke, 'Policy Diffusion', 571.

the cases was therefore not external to the research design; it constituted one of its central phenomena.[324]

This interdependence carried significant methodological implications.[325] A design that regarded the UN and EU as entirely separate, distinct cases would have obscured the ways in which institutional developments within one framework influenced possibilities within the other.[326] Consequently, the study employed a comparative structure while acknowledging that the cases were interconnected through legal obligations, political coordination, shared MS participation, judicial responses, and overlapping counterterrorism practices.[327] The study therefore combined within-case analysis of each institutional setting with attention to cross-case interaction, particularly where reforms, contestation, or legal developments in one case influenced practices in the other.[328]

It is important to note that national-level sanctions and domestic implementation were not treated as separate cases in their own right; however, the researcher acknowledges that, outside the scope of this study, national-level sanctions have had significant impacts on the evolution of the security-liberty balance in counterterrorism sanctions.[329] However, the national level was not excluded from the analysis: Member States were considered in the research when their actions materially shaped the development, implementation, or contestation of UN or EU sanctions, for example, through listing proposals, implementation reports, diplomatic bargaining, litigation, and the practical enforcement of restrictive measures. This more limited focus on the national level allowed the project to remain cohesive while recognising that the operation of both UN and EU sanctions largely depended on state practices.

4.1.2. Periodisation and Temporal Scope

The temporal scope of this study extends from 1999 to 2020. This period was selected because it captures the emergence, consolidation, contestation, and gradual reform of UN and EU counterterrorism sanctions across a sufficiently long timeframe to analyse shifts in the security-liberty balance. While 9/11 and the post-9/11 period would seem adequate at first glance to evaluate the evolution of the balance between these two norms, it is important to keep in mind that the idea of countering terrorism through financial sanctions was introduced before the attacks of September 11, 2001.

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[324] Ibid, 569.
[325] Ibid, 571.
[326] Derek Beach and Ingo Rohlfing, 'Integrating Cross-Case Analyses and Process Tracing in Set-Theoretic Research: Strategies and Parameters of Debate', *Sociological Methods & Research* 47(1), (2018): 8.
[327] Starke, 'Policy Diffusion', 571.
[328] Ibid, 566.
[329] Forst, *Terrorism*, 433.

UNSC Resolution 1267 was adopted in 1999 and provided the basis of targeted individual counterterrorism sanctions.[330]

Therefore, the 1999 starting point was chosen for both substantive and methodological reasons. First, 1999 marked the establishment of the sanctions regime in question, and thus beginning the analysis in 1999 therefore makes it possible to trace the 1267 regime from its point of institutional creation rather than only from the later acceleration of counterterrorism measures after 9/11. Furthermore, 1999 preceded the post-9/11 transformation of global counterterrorism governance and thus provides a necessary basis for assessing later developments. This allows the study to distinguish between pre-existing sanctions structures, the sharp securitising shift associated with 9/11, and the subsequent evolution of procedural and legal safeguards over time.

The endpoint of 2020 was selected because it provides a clear and defensible closing point for a longitudinal study of sanctions evolution before later political and institutional developments introduced a new phase within international counterterrorism, including complications related to COVID-19 and the increasing use of artificial intelligence. By 2020, the principal cycles of reform central to this dissertation had already occurred, including the consolidation of due process debates, institutional innovation within the UN sanctions architecture, and the major legal and judicial confrontations through which the EU shaped the evolving security-liberty balance.

As the empirical chapters of this study demonstrate, international counterterrorism within the UN and the EU can largely be considered event-driven cycles, led by various norm entrepreneurs, resulting in overlapping mandates, oversight, and influence which shift the balance of security and liberty. This periodisation is therefore not merely chronological but analytical. The 1999–2020 timeframe enables the research to examine how the balance between security and liberty shifted across distinct yet connected phases. Accordingly, the empirical chapters examine the varying dominance of convergence pathways over time: the first chapter analyses the initial politico-strategic rebalancing of terrorism and counterterrorism (1999-2001); the second emphasises organisational convergence through the creation of new bodies and mechanisms (2001-2010); the third investigates the gradual procedural consolidation of safeguards (2011-2020); and the EU chapter scrutinises legal convergence, with judicial review and case law such as Kadi serving to crystallise and partly recalibrate earlier UN-driven decisions (1999-2020). The empirical chapters were organised by convergence pathway rather than by a single uninterrupted chronology because the

[330] Resolution 1267 (1999).

research found that politico-strategic, organisational, procedural, and legal developments did not evolve at the same speed or in the same institutional locations.

The allocation of three UN-focused chapters and one EU-focused chapter reflected the observed pathway of activity over the period examined, rather than a prior assumption of institutional importance. The UN remained the principal site of agenda-setting and sanctions design, whereas the EU became especially important in the development of legal review and rights-protective recalibration, most notably through the Kadi litigation and related practice. Organising the chapters by pathway therefore allowed the study to explain more clearly how different forms of norms convergence operated across time and across institutional sites. Adopting the time qualifier is especially important to the research's argument that the security-liberty balance cannot be adequately understood through single moments of crisis alone, but must instead be examined as a dynamic process unfolding over time.

4.1.3. UN history on terrorism pre-1999

Although 1999 constitutes the formal starting point of the analysis, relevant pre-1999 developments are briefly considered as historical background rather than as part of the main period under investigation. This is necessary because the 1267 regime did not emerge in an institutional vacuum. The powers of the UN Security Council, which continues to operate under provisional rules of procedure initially adopted in 1946 and last amended in 1982,[331] are primarily governed by the UN Charter.[332] The UN Charter confers substantial authority upon the UNSC, particularly under Chapter VII, which authorises the issuance of binding resolutions concerning threats to peace.[333] While a comprehensive analysis of the UN Charter is beyond the scope of this overview, Table 2 summarises the initial framework within which the Security Council was authorised to operate when imposing sanctions.

The UN Security Council, as defined by the UN Charter, serves as "legislature, judiciary, and executive" of its sanctions regime.[334] This tripartite function raises legal issues and has prompted various court cases concerning UN counterterrorism sanctions, which will be discussed further. The UN Charter's powers related to sanctions (see Table 3 for a summary) were meant to describe their origins and limits, highlighting a state-centric perspective. While sanctions have evolved to target individuals, the Charter does not address how the Security Council should handle disputes from entities other than states. Although it was suitable when created, especially for state sanctions, it now falls

[331] Provisional Rules of Procedure of the Security Council, S/96/Rev.7(1), (1983).
[332] Charter of the United Nations and Statute of the International Court of Justice, 1 (1945).
[333] Ibid.
[334] Cameron, 'Legal Safeguards', 191.

short in managing modern sanctions issues, leaving resolution mainly to the Security Council.

The United Nations, similarly to sanctions, approaches terrorism predominantly through a state-centric lens, with its involvement spanning from the late 1960s and becoming a recurring focus for the Security Council since the 1990s.[335] Despite decades of engagement, the UN has persistently failed to achieve a universally accepted definition of terrorism, resulting in legal instruments and conventions targeting specific acts, such as hijacking, rather than a general framework.[336] As Jane Boulden stated, terrorism is "simultaneously everywhere and nowhere at the UN."[337]

While various UN bodies have attempted and persistently failed to establish an internationally accepted definition of terrorism, the UN as a whole has been engaged with this specific threat to international peace and security for many decades and has adopted several international legal agreements concerning terrorism (see Table 4). One key milestone was the International Convention for the Suppression of the Financing of Terrorism, agreed upon in 1999 but only entering into force in 2002, highlighting slow Member State ratification and action before the watershed event of 9/11.[338] Only four countries ratified the 1999 Convention before 9/11.[339]

The Security Council has historically undertaken multiple measures in the context of counterterrorism efforts (see Table 5 for the UNSC repertoire before 1999). Nonetheless, these measures were also influenced by the persistent deadlock characteristic of the Cold War era, which notably contributed to the Council's decision not to condemn the 1972 Munich Olympics attacks.[340] In the past, the UNSC's reluctance to consider terrorism left the issue up to the General Assembly to consider as a whole.[341] Nonetheless, the attacks on Lockerbie and UTA flights in 1988 and 1989 shifted the focus back to the UNSC, where counterterrorism remained a key issue for subsequent decades (see Table 6 for a brief summary).[342]

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[335] Chantal de Jonge Oudraat, 'The Role of the Security Council', in *Terrorism and the UN: Before and After September 11*, ed. Jane Boulden and Thomas G. Weiss (Indiana University Press, 2004), 151.
[336] Rita Floyd et al., 'The Morality of Security: A Theory of Just Securitisation: Symposium', *European Journal of International Security* 7(2), (2022): 266.
[337] Thomas George. Weiss and Sam. Daws, *The Oxford Handbook on the United Nations / Eds. Thomas G. Weiss and Sam Daws.*, United Nations (Oxford University Press, 2007), 427.
[338] International Convention for the Suppression of the Financing of Terrorism, No.38349.
[339] De Londras, *Practice and Problems*, 123.
[340] E. Rosand, 'The UN-Led Multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed?', *Journal of Conflict and Security Law* 11(3), (2006): 17.
[341] Sullivan, *The Law of the List*, 67–68.
[342] de Jonge Oudraat, 'The Role of the Security Council', 153–54.

The UN's definition of terrorism remains unresolved. In the 1990s, the Security Council leveraged the 'sanctions decade' to advance counterterrorism efforts, using sanctions as a key instrument. While the UNSC has not explicitly defined terrorism, it describes its absence as a "condition of possibility."[343] Despite the lack of formal procedural rules, the organisation has systematically managed sanctions, escalating from only two during the Cold War to sixteen in the 1990s.[344] This increased activity has spurred academic and research engagement to better understand and theorise UN sanctions.[345]

4.2. Document Analysis

To explore the mechanisms and pathways through which norms converge and diffuse concerning the security-liberty balance in counterterrorism sanctions, a comprehensive analysis of relevant documents is essential. Document analysis, which constituted the primary evidentiary method of this research, is a "systematic procedure for reviewing or evaluating documents."[346] Its primary purpose is to examine and interpret the data within to derive meaning, understand underlying patterns, and develop empirical insights.[347] This methodological approach is often effectively combined with case studies, which complement each other by providing detailed descriptions and analyses of specific events or phenomena.[348] Beyond uncovering patterns of norms diffusion and convergence, document analysis also serves as a foundation for subsequent analytical methods.[349] Document analysis provides contextual information that can inform the formulation of interview questions and track policy evolution over time.[350]

The decision to employ documentary analysis as the primary methodological approach is driven by the characteristics of the research questions and the evidentiary landscape of UN and EU counterterrorism sanctions. The corpus of relevant primary documentation is extensive, spanning more than two decades, including UNSC resolutions, EU Council Decisions and Common Positions, judgments from the CJEU and CFI judgments, Analytical Support and Sanctions Monitoring Team reports,

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[343] Sullivan, *The Law of the List*, 322.
[344] Arne Tostensen and Beate Bull, 'Are Smart Sanctions Feasible?', *World Politics* 54(3), (2002): 373.
[345] Tostensen and Bull, 'Are Smart Sanctions Feasible?', 373.
[346] Glenn A. Bowen, 'Document Analysis as a Qualitative Research Method', *Qualitative Research Journal* 9(2), (2009): 27.
[347] Ibid.
[348] Ibid, 29.
[349] David L. Altheide, 'Tracking Discourse and Qualitative Document Analysis', *Poetics* 27(4), (2000): 290.
[350] Nicole Sankofa, 'Critical Method of Document Analysis', *International Journal of Social Research Methodology*, 28 August 2022, 2.

Ombudsperson reports, diplomatic records, and publications from expert bodies. Reconstructing the evolution of sanctions design throughout this period necessitated, above all, meticulous and sustained engagement with these documentary sources. The supplementary methods (event-history analysis, network analysis, process tracing, and semi-structured expert interviews) were used to contextualise, organise, and interpret the patterns identified through documentary analysis, rather than to establish a separate or independent evidentiary base.

4.2.1 The Documentary Corpus

Document analysis uses the term 'corpus' to refer to the set of documents and texts selected for analysis with a specific purpose.[351] For this study, the corpus was defined to include all relevant and accessible primary documents related to UN and EU counterterrorism sanctions between 1999 and 2020. This followed Sullivan's approach of studying UN counterterrorism sanctions through systematic engagement with the full body of directly relevant institutional documentation.[352] The corpus comprised the following categories of primary sources:

- UN documents: UNSC resolutions, reports of the Analytical Support and Sanctions Monitoring Team; Ombudsperson reports, and case summaries; UNSC meeting and briefing records; and Secretary-General reports on sanctions-related matters;
- EU primary documents: EU Council Decisions and Common Positions implementing or extending UN sanctions; autonomous EU counterterrorism sanctions instruments; European Parliament resolutions; and relevant Commission communications.
- Judicial and quasi-judicial materials: Judgments of the Court of Justice of the European Union (CJEU) and the Court of First Instance (CFI), in particular the *Kadi* line of cases; European Court of Human Rights (ECtHR) decisions relevant to sanctions and due process; and UN Human Rights Committee outputs bearing on counterterrorism sanctions.
- Expert and treaty body materials: Reports of UN Special Rapporteurs on human rights and counter-terrorism; treaty body observations; and reports of academic and policy bodies with direct institutional relevance, such as the Watson Institute Targeted Sanctions Consortium.

The corpus was refined through a unit-of-analysis approach, in which the researcher identified the specific passages, provisions, and decisions most directly

[351] Ken Benoit, 'Text as Data: An Overview', in *The SAGE Handbook of Research Methods in Political Science and International Relations*, ed. Curini, Luigi and Robert Franzese (SAGE Publications Ltd, 2020), 27.
[352] Sullivan, *The Law of the List*.

relevant to the evolution of listing criteria, delisting procedures, due process safeguards, and the four convergence pathways. Entire judicial opinions were treated as units where the legal reasoning was central to the argument; individual resolutions or their operative paragraphs were treated as units where incremental institutional change was being traced.

4.2.2. Content and Qualitative Coding

Beyond the identification of documents, the study employed qualitative content analysis to extract and organise the relevant data from the corpus.[353] Content analysis involves the critical reading and interpretation of texts to identify "patterns and connections of knowledge and power in the social structures that produced the text."[354]

In this study, content analysis was applied thematically rather than statistically: the researcher coded documents by reference to the four convergence pathways (politico-strategic, organisational, procedural, and legal), the temporal phases identified in the periodisation framework, and the role of identifiable norm entrepreneurs in shaping the evolution of sanctions design. This coding process was iterative, with each text undergoing at least three cycles of analysis and coding, using NVivo as the foundational tool for organising codes. Initial categories were generated from the theoretical framework set out in Chapter 2; additional categories were allowed to emerge from the documentary record where patterns were not anticipated by the prior framework, or where further breakdown of overarching codes was necessary. This approach reflects established practice in qualitative document analysis, where the relationship between theoretical categories and empirical material is treated as dynamic rather than fixed.[355]

4.2.3. Limitations of Documentary Analysis

Documentary analysis has its limitations. Firstly, access to the full range of primary sources is inconsistent: some UNSC discussions take place in closed sessions, and diplomatic cables along with internal communications between EUMS and EU institutions are not routinely published. The researcher regarded the absence of certain document types (such as non-public confidential deliberations) as analytically significant rather than merely a data gap. When such materials were not available, the researcher relied on publicly available substitutes, including reported diplomatic exchanges, secondary sources such as information published in scholarly works, and interview data, to triangulate interpretations drawn from the official documentary record.

[353] Benoit, 'Text as Data', 10.
[354] Ibid, 4.
[355] Ibid, 14.

Moreover, official documents, particularly UNSC resolutions and EU Council Decisions, represent the outcomes of deliberation rather than the process through which those outcomes were reached. They record decisions but do not always disclose the reasoning, bargaining, or norm entrepreneurship that produced them. The supplementary methods employed in this study, particularly semi-structured expert interviews and network analysis, were designed in part to address this limitation by providing insight into the deliberative processes that official documents do not capture.

4.3. Semi-Structured Expert Interviews

Semi-structured expert interviews served as the second data source within this study, complementing and contextualising the insights derived from documentary analysis. These interviews were not intended to establish an independent evidentiary base but aimed to clarify institutional practices, validate preliminary interpretations, and provide insight into deliberative processes not evident in official documents. Consequently, the interviews were conducted after the completion of most of the documentary analysis, ensuring that the questions directed to participants were informed by the patterns discerned in the primary documentary evidence.

Thirteen semi-structured expert interviews were conducted between 31 March 2025 and 30 July 2025, with simultaneous transcription and subsequent analysis of the interviews' content (see Table 7 for an overview). Potential participants were provided with an Informed Consent Form (Table 8), a Participant Information Sheet (Table 9), as well as a Sample of Interview Questions document (Table 10: Sample Interview Questions), as previously approved by Dublin City University's Research Ethics Committee (see Table 11). Interviews were conducted both online (8) and in person in Brussels (5), with an average duration of approximately 47 minutes (range: 39–55 minutes). The interview participants were from the following backgrounds: EU officials (5), private practitioners (4), policy advisors in think tanks (2), and academics/UN professionals (2). Participants were offered the opportunity to review and approve their transcript prior to analysis.

The interviews corroborated and contextualised data obtained through documentary analysis, event history analysis, and process tracing, rather than uncovering substantially new empirical information. This outcome was anticipated in the initial research design, which recognised that many of the relevant experts had extensive publication records and that the institutional documentation of the UN and EU sanctions regimes was itself unusually rich. The interviews nevertheless added value by shedding light on the underlying motivations, informal dynamics, and practicalities of implementation that are often obscured within formal documentation.

4.3.1. Rationale and Design: Semi-structured elite interviews

While texts and documents are fundamental to qualitative research methodologies, researchers can also draw valuable insights from alternative data sources. One such source is interviews, which help create a comprehensive understanding of the issue at hand. This project aimed to enhance its findings by incorporating semi-structured expert interviews with relevant actors and norm entrepreneurs, including personnel from the UN and EU, and professionals in related fields like banking and judicial institutions. Although interviews are widely used for data collection, they also serve as means for "producing performance texts and performance ethnographies about self and society."[356] Additionally, interviews are instrumental in identifying causal mechanisms within diffusion studies.[357]

Different types of interviews can be categorised based on their structural characteristics: structured, unstructured, and semi-structured. [358] In research, both the structure of the interview and its timing within the research process are critical considerations (see Table 12: Timing of Interviews). While the timing should primarily align with the specific objectives and goals of the study, various factors may influence this aspect. Ethical, logistical, and bureaucratic considerations, such as obtaining the approval of various forms to be used during the process, ranging from approval to consent forms, must be addressed prior to engaging interview participants. Additionally, participant availability can also affect scheduling. Although these factors should not pose insurmountable barriers, they can substantially impact the timing and, consequently, the purpose of conducting interviews.

The target group for interview participants can also influence when and how researchers wish to conduct their interviews. The social sciences employed both elite and expert interviews to advance research. While these two groups share certain characteristics, it is crucial to distinguish between them. According to Bogner and Menz, an expert has "technical, process, and interpretative knowledge that refers to a specific field of action, by virtue of the fact that the expert acts in a relevant way."[359] Technical knowledge refers to information about the rules and routines specific to the field, while

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[356] Norman K. Denzin, 'The Reflexive Interview and a Performative Social Science', *Qualitative Research* 1(1), (2001): 24.
[357] Claire Greenstein and Layna Mosley, 'When Talk Isn't Cheap: Opportunities and Challenges in Interview Research', in *The SAGE Handbook of Research Methods in Political Science and International Relations*, ed. Curini, Luigi and Robert Franzese (SAGE Publications, 2020), 3.
[358] Ali Alsaawi, 'A Critical Review of Qualitative Interviews', *European Journal of Business and Social Sciences* 3(4), (2014): 150–51.
[359] Alexander Bogner and Wolfgang Menz, 'The Theory-Generating Expert Interview: Epistemological Interest, Forms of Knowledge, Interaction', in *Interviewing Experts*, ed. Alexander Bogner et al., Research Methods Series (Palgrave Macmillan UK, 2009), 54.

process knowledge relates to the "actions, interaction routines, [and] organisational constellations" of the field.[360] Interpretive knowledge seeking focuses on gaining insight into the expert's "subjective orientations, rules, points of view and interpretations" of actions taken in the specific field.[361] Therefore, most members of the expert target group for interviews are often "people in positions of power, that is managers with greater decision-making responsibility."[362] While the elite are "often defined by their comparatively high social status and the associated privileges they enjoy."[363] In other words, experts can be members of the functional elite; however, oftentimes they are not at the highest level of decision-making in a given field or organisation.[364] Expert interviews offer the researcher a glimpse into participants at three levels: as individuals, as representatives of the institution or organisation they represent, and as strategic actors active in the political field.[365] Semi-structured expert interviews thus serve as a valuable tool for obtaining in-depth information, complementing other methodological approaches to enhance the accuracy and richness of research outcomes.

The positive influence of expert interviews on research is well established; however, they also present specific challenges that researchers must consider. As experts are more accustomed to discussing their technical, procedural, and interpretive knowledge, the researcher must prepare for a different interaction than that of an interview with a member of the public who may not have expertise in the field. Various strategies and interactions may arise during expert interviews (see Table 13: Experts' view of the researcher).

Interviewing experts also shares several considerations common to all interview practices. A particularly interview-specific challenge involves balancing the often competing priorities of "confidentiality and human subjects protections versus data access and research transparency."[366] While the question of confidentiality, anonymity, consent, and protection of interview participants remained the primary concern throughout, and was supervised through the DCU ethical review process, it came into tension with "emerging trends toward data access and research transparency."[367] Data

[360] Ibid, 52.
[361] Ibid.
[362] Beate Littig, 'Interviewing the Elite — Interviewing Experts: Is There a Difference?', in *Interviewing Experts*, ed. Alexander Bogner et al., Research Methods Series (Palgrave Macmillan UK, 2009), 100.
[363] Ibid, 99.
[364] Ibid, 99–100.
[365] Gabriele Abels and Maria Behrens, 'Interviewing Experts in Political Science: A Reflection on Gender and Policy Effects Based on Secondary Analysis', in *Interviewing Experts*, ed. Alexander Bogner et al., Research Methods Series (Palgrave Macmillan UK, 2009), 140.
[366] Greenstein and Mosley, 'When Talk Isn't Cheap', 15.
[367] Ibid, 27.

transparency, replicability, and verification are essential aspects of research design; however, they posed certain challenges for the interview component of this study.[368] To navigate these issues, detailed descriptions of the interview procedures and sample questions are provided in the appendices, alongside relevant metadata including interview date, duration, and participant background.[369] Additionally, citing "specific interview-based evidence offers another avenue for researchers to reassure readers about the credibility of the data presented," an approach adopted throughout the empirical chapters of this study.[370] Ultimately, the protection of interview participants was prioritised above all other considerations.

4.3.2. Gender-specific implications of interviews

As a young, female researcher interviewing senior practitioners in fields characterised by institutional hierarchy, the researcher was attentive to the potential for gender-inflected dynamics to affect interview conduct and outcomes. Expert interviews can be affected by various factors, including "age, professional status, background experience, and cultural factors" as well as gender.[371] Abels and Behrens identified five types of interactions that can occur during expert interviews (see Table 14: Gender-specific interaction).[372] In practice, several of these dynamics arose during the fieldwork period. Rather than treating them solely as obstacles, the researcher treated them as analytically informative, offering indirect insight into the professional cultures and hierarchies that shape participation in UN and EU sanctions governance. Gender-related challenges were managed through deliberate preparation and the strategic deployment of subject-matter expertise to establish credibility, consistent with the observation that such dynamics, while complicating, also present opportunities for "analysing gender-specific interaction effects in expert interviews and putting them to productive use."[373]

4.3.3. Challenges encountered in relation to semi-structured expert interviews

The researcher submitted Dublin City University's Research Ethics Committee's Ethical Review Application Form (see Table 11) on 7 February 2025, and received the Committee's approval on 5 March 2025 (see Table 15). Challenges emerged during the organisation and implementation of these semi-structured expert

[368] Ibid, 15.
[369] Ibid, 17–18.
[370] Ibid, 19.
[371] Abels and Behrens, 'Interviewing Experts in Political Science', 150.
[372] Ibid, 144.
[373] Alexander Bogner et al., 'Introduction: Expert Interviews — An Introduction to a New Methodological Debate', in *Interviewing Experts*, ed. Alexander Bogner et al., Research Methods Series (Palgrave Macmillan UK, 2009), 9.

interviews, primarily due to scheduling difficulties and participant withdrawals. Multiple interviews necessitated repeated rescheduling, and six prospective participants ultimately withdrew, citing the adverse effects of United States foreign aid budget reductions on their projects, which are financed through organisations such as the UN, EU, and OSCE. Despite these obstacles, the final thirteen interviews were completed and, upon analysis, yielded findings that support the primary arguments of this study. Notably, the interviews served to corroborate and contextualise data gathered through other methodologies, without yielding substantially new information.

This outcome was anticipated in the initial research design, which considered the extensive publication records of many experts and the availability of relevant institutional documentation. Nevertheless, unexpected factors, such as shifts in the political landscape and participants' reluctance to engage with a doctoral-level project, also influenced the interview process. Despite these unforeseen challenges, the multi-method design ultimately ensured that the robustness and validity of the research were not compromised.

4.4. Supplementary Analytical Methods

4.4.1. Rationale

While documentary analysis served as the primary methodological tool in this study, three supplementary analytical methods were employed to deepen the empirical investigation and address specific challenges posed by the research questions. Event history analysis, network analysis, and process tracing were not conceived as independent methodologies; rather, they functioned as structured analytical supports that contextualised and extended upon the findings from the primary documentary analysis and the semi-structured expert interviews. Each method was selectively and purposively applied, tailored to particular features of the data and the challenges inherent in the comparative UN-EU case structure between 1999-2020.

The deployment of these supplementary methods was consistent with the multi-method research design required to investigate the evolution of the security-liberty balance over two decades of counterterrorism sanctions practice, a complex, multi-causal process that could not be fully apprehended through a single analytical perspective. Each supplementary method fulfilled a specific yet interconnected role, charting temporal patterns (EHA), mapping relational dynamics among norm entrepreneurs (network analysis), and reconstructing causal mechanisms (process tracing), collectively allowing for a layered analytical strategy addressing the questions of norms diffusion and convergence.

4.4.2. Event history analysis

Diffusion scholars have historically embraced event history analysis (EHA) to better understand diffusion processes in political science.[374] Originally, the use of EHA was based on medical scholarship investigating survival data, where the 'event' was categorised as death, and the model estimated the risk of death for a specific patient.[375] When applied to political science and diffusion studies, the 'event' typically refers to the adoption of a policy, with the analysis estimating the probability of its implementation within a particular timeframe.[376] Nonetheless, the event is not necessarily confined to policy adoption; for instance, Lektzian and Souva characterised it as the point at which a country returns to pre-sanctions trade levels after sanctions are lifted.[377]

In this study, EHA was employed to scrutinise the influence of policies and norms on sanctions, particularly in response to terrorist incidents like 9/11, the Madrid and London attacks, along with subsequent terrorist activities. Normative events, formally documented institutional developments including resolutions, directives, framework agreements, and policy revisions, were identified, coded, and sequenced across the study period. This made it possible to map the timing and clustering of significant shifts in the institutional approach to the security-liberty balance within both the UN and EU contexts.

One way to address this challenge of understanding the different diffusion mechanisms is to use pooled event history analysis (PEHA) to "identify systematic commonalities in the determinants of diffusion and innovation across policies and reduce the idiosyncrasies of each individual policy."[378] While PEHA facilitates the identification of shared diffusion mechanisms and pathways, it does not fully resolve the challenge of recognising and addressing interdependence among cases.[379] To mitigate this issue, a shift from "monadic to dyadic structures" should be adopted, and instead of analysing single entities such as countries, organisations, or communities, pairing them into dyads allows researchers to incorporate the directionality of diffusion pathways.[380] Although dyadic pooled event history analysis enhances the capacity to account for interdependence, combining EHA with other methodologies may further enrich the study of available documents and data. While EHA remains a preferred

[374] LaCombe and Boehmke, 'Diffusion Models', 3.
[375] Ibid, 6–7.
[376] Ibid.
[377] David Lektzian and Mark Souva, 'Institutions and International Cooperation: An Event History Analysis of the Effects of Economic Sanctions', *The Journal of Conflict Resolution* 45(1), (2001): 69.
[378] LaCombe and Boehmke, 'Diffusion Models', 8.
[379] Ibid, 9.
[380] Ibid, 10.

approach for pinpointing when diffusion occurs, it encounters limitations in capturing the diverse pathways and mechanisms through which norms and policies spread and converge.[381]

4.4.3. Network Analysis

Network analysis offers scholars a systematic approach to modelling event pathways that also addresses the question of interdependence among cases.[382] Rooted in the broader field of public policy research, with topics ranging from understanding how specific policies spread to explaining the structure and evolution of international alliances, as well as understanding how the behaviour of one actor in the network affects other actors in the network.[383] In relation to EHA, network scholars note that "events flow through a network of actors," highlighting the importance of relational dynamics.[384] This approach enables diffusion and convergence researchers to identify key actors and norm entrepreneurs, contextualise their roles, and understand how their actions shape the diffusion and convergence processes of norms. Additionally, network analysis provides an alternative presentation of information on norm entrepreneurs and emphasises the directionality involved in the diffusion of ideas.[385] By anchoring analysis in the connections across cases, network analysis not only elucidates interdependence but also relies on these interconnected relationships, serving as a complementary methodological tool alongside other analytical frameworks.

The integration of multiple analytical methodologies is prevalent in qualitative research. In diffusion studies, combining document analysis, content analysis, event history analysis, and network analysis can offer a comprehensive understanding of diffusion and convergence mechanisms. For instance, Janne Mende conducted a single-case study utilising various qualitative analytical tools to examine the UN Treaty Process on Transnational Corporations and Other Business Enterprises with Respect to Human Rights.[386] The research commenced with an extensive document analysis of all documents related to the Treaty Process, followed by a detailed qualitative content analysis aimed at better understanding the deliberation process throughout the entire case.[387] Mende further strengthened her findings by incorporating expert interviews, field visits, and participant observations, thereby enabling a nuanced tracing of the process' evolution.[388]

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[381] Ibid, 7.
[382] Ibid, 12.
[383] Ibid.
[384] Ibid.
[385] Ibid, 12–13.
[386] Mende, 'Norm Convergence', 726.
[387] Ibid, 727.
[388] Ibid.

The network analysis conducted in this study was constrained by the availability of documentary evidence and by interviewees' willingness to describe informal institutional dynamics. Consequently, it remains an incomplete structural representation of the full relational field. It produced a relational map identifying key nodes, such as institutions, treaty bodies, and expert committees, along with significant ties including citations, co-authorships, and joint mandates. It also identified structural features like bridging actors and periods characterised by heightened activity or norm fragmentation.

4.4.4. Process Tracing

Different analytical approaches addressing the research question yield diverse perspectives and findings, thereby enhancing the researcher's understanding of the issue. To develop a comprehensive understanding of complex events, some diffusion scholars employ process-tracing methodologies. Process tracing is a "procedure for developing knowledge of context, sequence, or process" and is often the preferred method to explain intricate phenomena.[389] It is a qualitative, within-case method primarily designed to identify causal mechanisms that link multiple variables.[390] This requires researchers to meticulously examine the timing, sequencing, and interconnectedness of relevant issues.[391] Essentially, process tracing requires the researcher to view a policy impact as the "outcome of a causal mechanism, composed of individually necessary 'parts' composed of 'entities' (objects/actors/institutions) that engage in 'activities' to jointly transmit causal forces."[392] A causal mechanism explains how a cause or set of causes produces or contributes significantly to a particular outcome.[393] Process tracing, as a method, was designed to investigate complex events and issues in which several competing explanations of the causal links may be found for the specific policy outcome in question.[394] Process tracing enabled the researcher to trace the interconnected parts of the causal links that ultimately lead to the researched outcome.[395]

In this study, process tracing was employed to reconstruct the causal mechanisms through which specific normative shifts occurred within and between the

[389] Thad Dunning, 'Improving Process Tracing: The Case of Multi-Method Research', in *Process Tracing*, ed. Andrew Bennett and Jeffrey T. Checkel (Cambridge University Press, 2014), 215.
[390] Kyriakos Moumoutzis and Sotirios Zartaloudis, 'Europeanization Mechanisms and Process Tracing: A Template for Empirical Research', *JCMS: Journal of Common Market Studies* 54(2), (2016): 337.
[391] Starke, 'Policy Diffusion', 571–72.
[392] D. J. H. Te Lintelo et al., 'Process Tracing the Policy Impact of "Indicators"', *The European Journal of Development Research* 32(4), (2020): 1318.
[393] Beach and Rohlfing, 'Cross-Case Analyses', 7.
[394] Te Lintelo et al., 'Process Tracing', 1317.
[395] Beach and Rohlfing, 'Cross-Case Analyses', 8.

UN and EU institutional settings. It was applied selectively to the most significant normative events identified through the prior EHA and network analysis, rather than uniformly across the entire research data. The method drew on the full range of primary and secondary sources compiled in the documentary corpus, supplemented by elite interview testimony.

By tracing the "spread of policies and ideas through historical reconstruction of decision making at the actor level," process tracing provides an alternative framework for mapping out diffusion processes.[396] Its distinctive emphasis on individual actors underscores the fluid and contested nature of the security-liberty balance in counterterrorism sanctions regimes, acknowledging the presence of multiple stakeholders and norm entrepreneurs who may operate in different directions at any given time.

Typically, process tracing relies heavily on texts and documents, which offer "valuable insights into enacted practices."[397] Beyond official records such as court cases, meetings, diplomatic cables, and resolutions, an enriched understanding can also be gained from personal accounts, including memoirs and biographies of actors involved.[398] Personal recollections of how the process of norms convergence occurred within the evolution of sanctions regimes can shed light on new perspectives into the causal mechanisms of the issue.

A similar, albeit somewhat more unique approach to researching sanctions is Sullivan's narrative of "following the [sanctions] list" to different sites and contexts where the listing is taking place and thus shifting the focus of the research away from a simply chronological approach to one that is more applicable to trace the dynamic process of sanctions listing and norms convergence across sanctions regimes.[399] Both this approach and process (and practice) tracing require researchers to consult diverse sources where evidence of norms diffusion and convergence may be identified. This dissertation sought to fill that gap by employing a multi-method research design to link crises, institutional reforms, legal challenges, and shifts in listings and delistings across both regimes, thereby exploring how temporal sequences and cross-institutional interactions influence the security-liberty balance over twenty years.

While process tracing is a suitable methodological approach for examining complex issues and events such as the development of counterterrorism sanctions regimes, it presented certain challenges. Most notably, it was crucial to recognise that

[396] Starke, 'Policy Diffusion', 572.
[397] Vincent Pouliot, 'Practice Tracing', in *Process Tracing*, 1st edn, ed. Andrew Bennett and Jeffrey T. Checkel (Cambridge University Press, 2014), 249.
[398] Ibid.
[399] Sullivan, *The Law of the List*, 55.

"not all process tracing is definitive."[400] Bennett and Checkel caution researchers to "remember that conclusive process tracing is good, but not all good process tracing is conclusive."[401] Occasionally, process tracing outcomes lead to additional questions that can be addressed in future research by modifying the research design.[402] Moreover, process tracing is sometimes criticised for its limited generalizability. While not exclusive to process tracing alone, it remains a challenge for detailed, within-case qualitative methods to generate findings that can be generalised to broader issues.[403]

Pouliot's response to the challenge of generalizability in process tracing is a hybrid approach that he termed 'practice tracing,' which still focuses on the causal mechanisms of the research focus, but aided "with an eye to producing analytically general insights" as well.[404] He defines practices as "socially meaningful and organised patterns of activities" that hold the potential for generalisation.[405] Practices are integral to process tracing because they not only constitute the processes under study but also possess causal influence and power, as they are "performances, which unfold time and time over."[406] In essence, practices examined through within-case process tracing can be extended across cases using practice tracing, thereby enabling researchers to derive findings that are not only issue-specific but also generalizable across contexts.

Conclusion

This chapter has outlined the methodological framework used to investigate the evolution of the security-liberty balance within UN and EU counterterrorism sanctions between 1999 and 2020. It has shown that the study was designed as a qualitative, longitudinal, and comparative case study of two interconnected institutional settings, the United Nations and the European Union, with a particular focus on the 1267 sanctions regime, the selected temporal scope, and the implications of case interdependence for the research design. The chapter clarified why documentary analysis constituted the principal evidentiary foundation of the dissertation and why semi-structured expert interviews were used primarily to contextualise documentary findings, illuminate institutional practice, and validate developing interpretations.

The chapter also explained how the documentary corpus was constructed and analysed, how qualitative coding was organised around the four convergence pathways

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[400] Jason Lyall, 'Process Tracing, Causal Inference, and Civil War', in *Process Tracing*, ed. Andrew Bennett and Jeffrey T. Checkel (Cambridge University Press, 2014), 191.
[401] Andrew Bennett and Jeffrey T. Checkel, eds, *Process Tracing: From Metaphor to Analytic Tool*, Strategies for Social Inquiry (Cambridge University Press, 2015), 30.
[402] Lyall, 'Process Tracing', 191.
[403] Moumoutzis and Zartaloudis, 'Europeanization Mechanisms and Process Tracing', 346.
[404] Pouliot, 'Practice Tracing', 237–38.
[405] Ibid, 241.
[406] Ibid.

and the identified temporal phases, and how the limits of official documentation were addressed through triangulation with interviews and other materials. It further set out the design of the interview component, including the participant profile, timing, duration, ethical procedures, and the methodological challenges associated with elite interviewing, confidentiality, and researcher positionality. Rather than treating all methods as equivalent, the design established a clear analytical hierarchy in which documentary analysis provided the core empirical record, while selective event history analysis, network analysis, and process tracing were used to organise temporal patterns, map relational dynamics, and reconstruct key causal sequences.

Taken together, these methodological choices were intended to best address the research question regarding UN and EU counterterrorism sanctions. The combination of comparative case selection, explicit periodisation, systematic documentary analysis, semi-structured expert interviews, and supplementary analytical tools provided a framework for tracing how security-oriented measures, legal contestation, and rights-protective reforms developed over two decades across interconnected institutional sites. The following empirical chapters build on this framework by examining how different convergence pathways became more or less prominent over time, beginning with the initial politico-strategic rebalancing that accompanied the creation and early expansion of the UN counterterrorism sanctions regime.

Chapter 5: Politico-Strategic Convergence: UN 1999-2001

Introduction

The security-liberty balance in counterterrorism sanctions regimes fluctuates over time as political priorities and normative actors evolve. To understand this dynamic since the establishment of the 1267 regime in 1999, it is essential to examine it through norm convergence pathways. This chapter and subsequent sections analyse the development of UN counterterrorism sanctions across three periods: 1999-2001, 2002-2010, and 2011-2020. This chapter dedicates special attention to the politico-strategic pathway of convergence. It shows how the Security Council's initial framing of terrorism as a threat to international peace and security and its recourse to sanctions after 1999, and in response to the events of 9/11, generated a security-centric redefinition of appropriate behaviour, with only rudimentary consideration of human rights safeguards. While all four pathways are present and analysed, politico-strategic dynamics are most prominent in this period. It reviews key events and resolutions shaping the regime initially and over time, while network analysis evaluates the roles of norm entrepreneurs and UN actors. The analysis reveals that competing interests and strategic objectives among actors caused shifts in the security-liberty balance, underscoring its non-static nature and the importance of the temporal qualifier within the security-liberty balance framework.

5.1. Resolution 1267 (1999)

Building on previous chapters, the idea of countering the threat of terrorism by disrupting the financing of terrorists and terrorist organisations was introduced at the UN before the September 11 attacks of 2001. The UNSC imposed sanctions under Chapter VII thrice: Resolution 748 (1992) against Libya, Resolutions 1054 and 1070 (1996) against Sudan, and Resolution 1267 (1999) targeting al-Qaeda and the Taliban.[407] Drafted by the US, in collaboration with Canada, the Netherlands, Russia, Slovenia, and the UK, Resolution 1267 aimed to pressure the Taliban to surrender al-Qaeda members responsible for the 1998 embassy bombings in Kenya and Tanzania.[408] Member States (MS) varied in their responses; Afghanistan supported the resolution, emphasising humanitarian exemptions, while Malaysia and China expressed concerns about civilian impacts.[409]

[407] De Londras, *Practice and Problems*, 52–53.
[408] Biersteker, 'Targeted Sanctions', 101.
[409] *Security Council Fifty-fourth Year: 4051st Meeting, Friday, 15 October 1999, Hearing on S/PV.4051 before the UNSC*, UNSC (1999), at 2–5.

Resolution 1267 was unique within the realm of sanctions, as it named a specific individual to be targeted within the text, Usama bin Laden, both in the preambulatory and operative clauses.[410] It reaffirmed prior resolutions (1189, 1193, 1214 of 1998) and emphasised international obligations under counterterrorism conventions for MS to extradite or prosecute terrorists.[411] The resolution asserted that the Taliban's failure to comply with Resolution 1214 (1998) threatened international peace and security, leading to the imposition of targeted sanctions within a month if the Taliban continued to refuse bin Laden's handover for indictment.[412]

These 1267 (1999) sanctions included:

1) aerial travel restrictions related to Taliban "owned, leased or operated" aircraft, except humanitarian aid and religious obligations pending advanced approval by the Committee;[413]

2) freezing of funds and other financial resources related to the Taliban.[414]

As a consequence of the Taliban's non-compliance with the request to extradite bin Laden, these measures came into force on 14 November 1999.[415]

To support the aviation ban and the financial sanctions, the Security Council established a Committee of the Security Council (made up of all UNSC members) to:

a) collect Member State information on the effective implementation of the sanctions;

b) respond to potential sanctions violations;

c) submit periodic reports to the Council on the impact of the measures;

d) make periodic reports discussing the alleged violations;

e) designate aircraft and funds to be included in the measures;

f) consider exemption requests; and

g) to examine Member State reports in relation to the sanctions.[416]

MS were mandated to report to the Committee regarding the implementation of the measures within thirty days of their enactment.[417] Additionally, Resolution 1267 called upon the Committee to explore potential strategies for enhancing the monitoring and enforcement of sanctions. This was to be achieved through reports generated with the

[410] Resolution 1267 (1999), 1–3.
[411] Ibid, 1.
[412] Ibid, 2.
[413] Ibid, para.4(a).
[414] Ibid, para.4(b).
[415] Ibid, para.3.
[416] Ibid, para.6.
[417] Ibid, para.10.

assistance of the Secretariat, "competent international organisations," as well as neighbouring states, other concerned parties, and relevant stakeholders.[418]

5.1.1. 1267 Committee*[419]

The Committee comprised all UNSC 15 members, and decisions were consensus-based.[420] As Chair of the 1267 Sanctions Committee, a UNSC subsidiary entity, one's level of engagement can significantly influence sanctions effectiveness.[421] Active participation, including regional travel, enhances implementation and positions the Chair as a key norms entrepreneur within the UN counterterrorism framework.[422] Committee chairs and vice-chairs, appointed annually by the Security Council President's Note, are typically mid-level diplomats, either First Secretaries or Counsellors, with limited counterterrorism expertise.[423] This often results in a focus on political negotiations over technical issues, compounded by high turnover due to time-limited postings, which leads to fragmented institutional knowledge transfer.[424]

5.1.2. Knowledge-Producing Reviews

Given the limited expertise of the 1267 Sanctions Committee members, since 1998, a series of knowledge-producing working groups established by the German, Swedish, and Swiss governments have scrutinised targeted sanctions to enhance their efficacy and develop them into a viable alternative to comprehensive sanctions.[425] Academics, officials, and practitioners collaborated through these informal groups to supply essential information, thereby supporting the Committee's functioning.[426]

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[418] Ibid, para.12.

[419] ***For for consistency throughout this project, this Committee will be called the '1267 Committee.' However, the author will explain the significance of its name changes over the years in the following sections.***

[420] UNSC, 'Security Council Committee Pursuant to Resolutions 1267 (1999) 1989 (2011) and 2253 (2015) Concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and Associated Individuals, Groups, Undertakings and Entities | United Nations Security Council', accessed 25 April 2024, https://www.un.org/securitycouncil/sanctions/1267.

[421] Richard Boucher and Caty Clement, 'Coordination of United Nations Sanctions with Other Actors and Instruments', in *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action*, ed. Thomas J. Biersteker et al. (Cambridge University Press, 2016), 123–24.

[422] Ibid, 124.

[423] Sullivan, *The Law of the List*, 69.

[424] Ibid.

[425] Rosemary Foot, 'The United Nations, Counter Terrorism, and Human Rights: Institutional Adaptation and Embedded Ideas', *Human Rights Quarterly* 29(2), (2007): 504.

[426] Ibid.

Interlaken-Process

In 1998 and 1999, the Swiss Federal Office for Foreign Economic Affairs sponsored two conferences in Interlaken, Switzerland, later known as the Interlaken Process, to focus on targeted financial sanctions.[427] The Swiss government appointed the Watson Institute to oversee the academic, scientific, and practical aspects of these conferences.[428] The findings from the Interlaken Process highlighted several key conditions for effective targeted sanctions, including that the listed individuals have "assets abroad of a magnitude that their freezing or seizure would cause them serious problems."[429] Additionally, there must be accessible information and analysis of the connections among those listed, enabling the creation of a comprehensive sanctions list.[430] This process allowed the UNSC to hold its first-ever "open debate on sanctions" in April 2000, during Canada's Presidency.[431]

Bonn-Berlin Process

The first Interlaken conference was quickly followed by a UK Department for International Development event at the Overseas Development Institute in London, aimed at enhancing the sanctions process.[432] However, it was a process funded by the German government in Bonn and Berlin in 1999 and 2000 that resulted in a manual on effectively applying targeted arms embargoes and travel sanctions.[433] The German government tasked the Bonn International Centre for Conversion (BICC) with leading the Bonn-Berlin Process.[434] Similar to the Interlaken Process, this initiative produced a handbook-style report, which was published and shared with the 1267 Committee and the Security Council during an open debate in the Irish presidency in October 2001.[435]

Stockholm Process

In late 2001 and early 2002, smaller academic meetings and conferences were held at Sciences Po in Paris and Chatham House in London; however, these events were neither officially endorsed nor attended by the UNSC.[436] Instead, it was the Stockholm Process (2001-2002), supported by the Swedish government, that drew increased Council attention.[437] In partnership with Uppsala University's Department of Peace and

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[427] Tostensen and Bull, 'Are Smart Sanctions Feasible?', 379.
[428] Heupel, 'Power & Responsibility', 781.
[429] Tostensen and Bull, 'Are Smart Sanctions Feasible?', 388–89.
[430] Ibid.
[431] Ibid.
[432] Ibid, 379.
[433] Ibid.
[434] Ibid.
[435] Joanna Weschler, 'The Evolution of Security Council Innovations in Sanctions', *International Journal: Canada's Journal of Global Policy Analysis* 65(1), (2010): 40.
[436] Ibid. Also confirmed by interviews C, I, J, & L.
[437] Heupel, 'Power & Responsibility', 781.

Conflict Research, the process explored ways for the UN to bolster the Secretariat's role in sanctions regimes and enhance domestic implementation to prevent sanctions evasion.[438] Similar to the Interlaken and Bonn-Berlin processes, the Security Council held an open debate in February 2003, during the German presidency, to discuss the Stockholm Process's recommendations.[439]

5.1.3. Informal Working Group on General Issues of Sanctions

The three processes on targeted sanctions proposed two approaches: 1) improve humanitarian exemption procedures with clearer criteria and monitor the sanctions' civilian impact, and 2) target sanctions at elites or organisation leaders.[440] While these efforts identified ways for the UN to enhance the targeted sanctions regime, they also revealed a lack of clear procedures and criticised existing practices.[441] In response to mounting pressure on the UNSC over targeted sanctions, the Council established the Informal Working Group on General Issues of Sanctions in 2000.[442] The Working Group was briefed by experts to foster learning among Council members and to develop specialised knowledge about targeted sanctions.[443] It organised seminars, published reports on sanctions techniques and best practices, and provided recommendations to improve the effectiveness and design of sanctions.[444]

Following their entry into force in November 1998, the 1267 targeted sanctions were swiftly criticised. The Security Council showed openness to discussing reforms, often acknowledging contributions from scholars, NGOs, and debates organised by the General Assembly and the Secretary-General.[445] These interactions enriched the 1267 Committee's understanding of counterterrorism, but high diplomat turnover impeded the development of lasting organisational memory necessary for effective enforcement.

Slow improvement progress

The exchanges underscored the ambiguity in Resolution 1267 regarding the standards the 1267 Committee should apply in designating individuals and groups for the sanctions list.[446] On 22 December 1999, the Committee issued a travel ban list

[438] Weschler, 'The Evolution of Innovations', 40.
[439] Ibid.
[440] Tostensen and Bull, 'Are Smart Sanctions Feasible?', 380.
[441] Ibid.
[442] Heupel, 'Power & Responsibility', 782.
[443] Ibid, 781.
[444] Michael Brzoska and George A. Lopez, 'Security Council Dynamics and Sanctions Design', in *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action*, ed. Thomas J. Biersteker et al. (Cambridge University Press, 2016), 61.
[445] Heupel, 'Power & Responsibility', 783.
[446] Larissa Van Den Herik, 'The Security Council's Targeted Sanctions Regimes: In Need of Better Protection of the Individual', *Leiden Journal of International Law* 20(4), (2007): 804.

without clear criteria, leading to an opaque process.[447] MS proposed individuals and entities, which were added unless the Committee objected, with no specified requirements for justification or mechanisms for contestation.[448] Although draft guidelines were adopted in February 2000 through informal expert consultations, they lacked explicit criteria for designation and did not require credible supporting information from nominating States.[449] It was only in April 2000 that the 1267 Committee Chairman published recommendations, compiled by the Secretariat, outlining avenues to consider for improving implementation monitoring.[450]

The 1267 Committee, following extensive deliberation and critique, has ultimately established a formal set of guidelines governing its procedures, including specific criteria for the designation of individuals and entities.[451] Nominating MS were requested to furnish comprehensive identifying information to facilitate precise implementation and mitigate the risk of misidentification.[452] Such information includes names, passport numbers, dates of birth, and, if available, photographs of all nominees subject to sanctions. Additionally, bank account information and locations were recommended for inclusion in the nomination information package.[453] Of particular significance, states were also requested to provide a narrative description delineating the grounds or justification for taking action against the nominated individual or entity.[454]

In late 2002 and early 2003, the 1267 Committee added key criteria concerning the process for removing individuals or entities from the sanctions list.[455] Before this, the sanctions regime lacked any provision for listed individuals or their representatives to request removal.[456] Under this new procedure, a Member State where the individual is a citizen or resident could begin negotiations with the nominating state regarding the

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[447] Security Council Committee established and pursuant to resolution 1267 (1999) concerning Afghanistan, *Report of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Afghanistan*, S/2000/1254 (UNSC, 2000), 3.
[448] Monika Heupel, 'Multilateral Sanctions against Terror Suspects and the Violation of Due Process Standards', *International Affairs (Royal Institute of International Affairs 1944-)* 85(2) (2009): 309.
[449] Heupel, 'Power & Responsibility', 784. Also confirmed by Interview L.
[450] Security Council Committee established and pursuant to resolution 1267 (1999) concerning Afghanistan, *Report of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Afghanistan*, 3.
[451] Cameron, 'Legal Safeguards', 176.
[452] Ibid.
[453] Ibid.
[454] 1267 Committee, 'Guidelines of the Security Council Committee Established Pursuant to Resolution 1267 (1999) for the Conduct of Its Work, Adopted on 7 November 2002', 7 November 2002, 6.
[455] Heupel, 'Power & Responsibility', 785.
[456] Ibid.

listing.[457] If both states reached an agreement through negotiations, the petitioning state could then submit a delisting request to the 1267 Committee for consideration.[458]

The 1267 Committee's scope and name have evolved, alongside reforms in its procedures. Initially restricted to Afghanistan, it was renamed the 1267 Committee following Resolution 1390 (2002), which expanded its purview to include ISIL (Da'esh) associates and granted it a global mandate.[459] According to then-Chair Ambassador Valdivieso, this name change signified its transformation into a worldwide instrument to combat terrorism, representing the only active sanctions regime at the time addressing this threat.[460] However, he acknowledged that the extended global scope, in combination with the comprehensive nature of the sanctions, "raises serious challenges for its implementation."[461]

5.2. Resolution 1333 (2000)

Even before Resolution 1390 (2002), the UN acknowledged challenges in implementing sanctions. Following Resolution 1267 (1990), Resolution 1333 (2000) expanded sanctions to include an arms embargo on Taliban-controlled Afghan territories, with exceptions for non-lethal humanitarian supplies.[462] The resolution mandated the Taliban to close terrorist camps but failed to define 'terrorists.'[463] It also required MS to freeze assets of Usama bin Laden and affiliates, with the 1267 Committee maintaining a designated list.[464] Addressing enforcement issues, the Security Council requested that the Secretary-General and the 1267 Committee establish a Committee of Experts on Afghanistan within 60 days to improve monitoring of the embargo and camp closures, and to review the sanctions' humanitarian impact.[465]

Resolution 1333 (2000) expanded the 1267 Committee's responsibilities, requiring it to compile lists of Taliban-controlled entry and landing points for aircraft, individuals and entities linked to bin Laden, and authorised humanitarian organisations and agencies.[466] The 1267 Committee was also responsible for considering exemption requests, sharing implementation information, conducting state visits as necessary, and periodically reporting to the Security Council.[467] The measures were set to remain in

[457] Ibid.
[458] Ibid.
[459] UN Security Council Resolution 1390 (2002), S/RES/1390 (2002) 1 (2002).
[460] *Security Council Fifty-seventh Year: 4673rd Meeting, Wednesday, 18 December 2002.: Hearing on S/PV.4673 before the UNSC*, UNSC (2002), at 5.
[461] *Ibid*, 5–6.
[462] UN Security Council Resolution 1333 (2000), S/RES/1333 (2000) 1 (2000), at paras.5-6.
[463] Ibid, para.3.
[464] Ibid, para.8(c).
[465] Ibid, para.15.
[466] Ibid, paras.16(a), 16(b), 16(d).
[467] Ibid, paras.16(c), 16(e), 16(f), 16(g).

force for 12 months, pending the UNSC's decision on their extension based on Taliban compliance.[468]

The draft resolution, submitted by India, Kyrgyzstan, the Russian Federation, Tajikistan, and the US, passed unanimously, although China and Malaysia abstained.[469] Malaysia cited procedural and substantive concerns, including the lack of periodic impact assessments by the 1267 Committee and the design process for sanctions, which examine effectiveness and humanitarian considerations.[470] They criticised the one-sided arms embargo on the Taliban, which "compromises the essential neutrality of the Council," as well as citing concerns regarding politicisation.[471] China shared similar reservations, questioning the embargo's efficacy in advancing peace in Afghanistan and raising concerns about the humanitarian consequences of the sanctions, particularly in light of the Office for the Coordination of Humanitarian Assistance (OCHA) report and the potential impact of Resolution 1333.[472] The Netherlands, despite voting in favour, highlighted the humanitarian and political repercussions of UNSC sanctions relative to broader political objectives.[473]

5.2.1. Committee of Experts on Afghanistan

Following concerns about Resolution 1333 (2000), the Committee of Experts on Afghanistan was established, with five members from Eritrea, the Philippines, the UK, Egypt, and Argentina, and began its work on 19 March 2001.[474] Their report to the Security Council detailed actions taken to implement Resolution 1333 and offered recommendations to enhance monitoring of the arms embargo and the closure of terrorist camps.[475] As the Taliban failed to comply with Resolutions 1267 (1999) and 1333 (2000), the arms embargo entered into force on 19 January 2001 for 12 months.[476] The mid-May report was timely for Security Council consideration; however, the UNSC

[468] Ibid, paras.23-24.
[469] *Security Council Fifty-fifth Year: 4251st Meeting, Corrigendum, Tuesday, 19 December 2000: Hearing on S/PV.4251/Corr.1 before the UNSC*, UNSC Voting results (2000).
[470] *Ibid*, 4.
[471] *Ibid*, 5.
[472] *Ibid,* 8–9.
[473] *Ibid*, 6.
[474] Committee of Experts on Afghanistan, *Report of the Committee of Experts Appointed Pursuant to Security Council Resolution 1333 (2000), Paragraph 15 (a), Regarding Monitoring of the Arms Embargo against the Taliban and the Closure of Terrorist Training Camps in the Taliban-Held Areas of Afghanistan*, S/2001/511 (UNSC, 2001), 3.
[475] Ibid.
[476] Ibid, 4–5.

ultimately addressed the recommendations at the 30 July 2001 meeting during the adoption of Resolution 1363 (2001).[477]

The Committee of Experts identified challenges such as a lack of coordination among neighbouring states and illegal flights in Taliban-controlled areas. It proposed measures, including an embargo on aircraft turbine fuels, to curb arms transfers.[478] It recommended establishing the Office for Sanctions Monitoring and Coordination - Afghanistan in Vienna, with a regional team.[479] The Committee noted this body would likely evolve over time, necessitating ongoing adjustments.[480] It concluded that sanctions should be part of a comprehensive strategy that integrates political, humanitarian, and economic efforts to promote stability in Afghanistan.[481]

5.3. Resolution 1363 (2001)

In July 2001, the Security Council adopted Resolution 1363, taking note of the recommendations from the Committee of Experts on Afghanistan. The resolution established a Monitoring Group of five experts to oversee the implementation of measures set out in Resolutions 1267 (1999) and 1333 (2000).[482] It also created the Sanctions Enforcement Support Team, composed of fifteen experts, to be based in states bordering Taliban-controlled Afghanistan.[483] Colombia's draft resolution also requested that the Secretary-General bolster these mechanisms through the UN Trust Fund.[484] Following the resolution's unanimous adoption, the Secretary-General had 30 days to establish both entities.[485] However, the deployment of the Sanctions Enforcement Support Team ultimately never occurred, and the Monitoring Group's activities were delayed further by the events of September 11, 2001.[486]

5.3.1. Monitoring Group

The Monitoring Group (MG) issued its inaugural report in January 2002, referencing the 9/11 attacks and noting its inability to deploy for sanctions assessment under Resolutions 1363 (2001), 1333 (2000), and 1267 (1999).[487] Established in

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[477] *Security Council Fifty-sixth Year: 4352nd Meeting, Monday, 30 July 2001: Hearing on S/PV.4352 before the UNSC*, UNSC (2001).
[478] Committee of Experts on Afghanistan, *Report (18 May 2001)*, 8.
[479] Ibid, 13–14.
[480] Ibid, 14.
[481] Ibid, 15.
[482] UN Security Council Resolution 1363 (2001), S/RES/1363 (2001) 1 (2001), para.4(a).
[483] Ibid, para.4(b).
[484] Ibid, para.9.
[485] Ibid, para.3.
[486] Victor D. Comras, *Flawed Diplomacy: The United Nations and the War on Terrorism* (Potomac Books, Inc., 2010), 72–73.
[487] UNSC Monitoring Group, *First Report of the Monitoring Group on Afghanistan established pursuant to Security Council Resolution 1363 (2001)*, S/2002/65 (UNSC, 2002), 2.

October 2001, the MG comprised five experts from the UK, the US, France, Jordan, and Nepal.[488] Despite travel restrictions, the MG collaborated with agencies such as the IAEA, World Customs Organisation, INTERPOL, and MS.[489] The MG observed inadequate implementation of the 1267 Committee's list of designated individuals and entities, as set out in Resolutions 1267 and 1333 of 26 November 2001, and committed to addressing these gaps in future reports.[490] The MG recommended maintaining and expanding the arms embargo on Afghanistan, advocating for DDR programs and restructuring security forces.[491] It also called for the inclusion of financial investigation experts within the Sanctions Enforcement Support Team.[492]

5.4. Resolution 1368 (2001)

Before examining the Monitoring Group further, it is crucial to review the resolutions that preceded these reports to fully contextualise the MG recommendations. On September 12, 2001, the Security Council unanimously adopted Resolution 1368 (2001), which called for increased international efforts against terrorism and acknowledged in its preambular clauses the "inherent right of individual or collective self-defence" as outlined in Article 51 of the UN Charter.[493] During the meeting, the UK, Ireland, and France recognised the EU's condemnation of the attacks and called for a global strategy to confront international terrorism.[494] Additionally, representatives from Mauritius, Russia, and Ukraine emphasised the importance of enhanced global cooperation led by the Security Council in counterterrorism initiatives.[495] It is important to note the speed at which this resolution was drafted and unanimously adopted by Council members, given its content.[496]

5.5. Resolution 1373 (2001)

Similar to the passing of Resolution 1368 (2001), Resolution 1373 (2001) was drafted and adopted in a notably expedited manner. The draft resolution was developed through prior consultations, which facilitated an accelerated official meeting that commenced at 21:55, with no speakers scheduled, and concluded with a vote within five

[488] Ibid, 3.
[489] Ibid, 4.
[490] Ibid, 9.
[491] Ibid, 11.
[492] Ibid, 12.
[493] Andrea Charron, *UN Sanctions and Conflict: Responding to Peace and Security Threats* (Routledge, 2012), 166.
[494] *Security Council: Fifty-sixth Year: 4370th Meeting, Wednesday, 12 September 2001: Hearing on S/PV.4370* (2001).
[495] *Ibid*.
[496] Highlighted by Interview I.

minutes, subsequently adjourning at 22:00 on 28 September 2001.[497] A comprehensive analysis of Resolution 1373 (2001) will be provided in the following chapter; however, this section briefly outlines key aspects of this concise four-page document. First and foremost, the resolution was adopted pursuant to Chapter VII of the UN Charter.[498] Moreover, it is a legally binding instrument that urged all MS to become parties to relevant conventions and protocols concerning terrorism, with particular emphasis on the International Convention for the Suppression of the Financing of Terrorism (1999).[499] Furthermore, the resolution broadened the scope of measures against the financing of terrorist activities to a global level, marking a significant shift from the targeted sanctions framework established by Resolution 1267 (1999) and subsequent legislation.[500] This pivotal change in the Security Council's counterterrorism approach warrants an examination of the chronological developments leading up to it, as previously outlined, to fully comprehend the evolution of the security-liberty balance following Resolution 1267 (1999).

5.6. Norms Convergence Pathways: 1999-2001

This chapter has demonstrated that evaluating the scale, scope, and impact of international counterterrorism efforts is inherently complex due to the numerous centres of activity, varying strategic interests, and resource allocations dedicated to combating terrorism. There exists a scarcity of comprehensive reports on the UN's global counterterrorism architecture.[501] Consequently, it is crucial to analyse this question from multiple perspectives to gain a nuanced understanding of how security and liberty norms have evolved. The subsequent sections examine the convergence of norms between 1999 and 2001 through politico-strategic, organisational, and procedural pathways, while the legal norms convergence is reviewed in a later chapter through case studies of the Kadi saga.

5.6.1. Politico-Strategic Convergence Pathway

From a politico-strategic perspective, it may seem that all actors should collaborate to combat terrorism, considering their diverse interests and capabilities. However, it would be remiss to view the UN as a collective or the Security Council as a unitary actor, as it could provide a "misleading sense of coherence to the Council's

[497] *Security Council: Fifty-sixth Year: 4385th Meeting, Friday, 28 September 2001: Hearing on S/PV.4385* (2001), 2.
[498] UN Security Council Resolution 1373 (2001), 1.
[499] Ibid, para.3(d).
[500] Ibid, para.1.
[501] Fionnuala Ní Aoláin, 'The Ever-Expanding Legislative Supremacy of the Security Council in Counterterrorism', in *9/11 and the Rise of Global Anti-Terrorism Law: How the UN Security Council Rules the World*, ed. Arianna Vedaschi and Kim Lane Scheppele (Cambridge University Press, 2021), 36.

decision-making" processes.[502] As former General Assembly President Diogo Freitas do Amaral emphasised, "after all, the Organisation is no more than the sum of its Members. Its successes are the successes of its Member States; and its failures are the failures of the Member States."[503] Building on this, UNSG Kofi Annan underscored the importance of developing coordinated strategies so that the organisation "as a whole becomes greater than the sum of its parts."[504]

While this United Nations perspective is positive, it is important to acknowledge that MS's competing political interests drive Security Council policies and sanctions.[505] Draft resolutions undergo extensive negotiation and bargaining among members, with limited focus on assessing the range of available sanctions tools or their long-term interactions.[506] Historically, the process of developing and implementing Security Council resolutions, particularly in the early counterterrorism sanctions regime, was relatively obscure.

The 1990s Security Council was often described as "hermetic," with limited resources beyond MS's own contributions.[507] In 1994, the French representative noted tensions between the UNSC and UN Members, stemming from a shift from public meetings to informal consultations, which have become "increasingly devoid of content" as decisions are made and agreed upon in advance.[508] In 1994, the Council committed to enhancing transparency by increasing open meetings, and by 2002, formal sessions tripled from an annual average of 66 to 238, with approximately 80 open to public debate.[509] This increase suggests the UNSC's willingness to incorporate criticism and promote transparency in its working methods.[510]

In this context of open dialogue and cooperation with UN agencies, Member States, and NGOs, Switzerland, Germany, and Sweden sponsored the review processes in the Interlaken, Bonn-Berlin, and Stockholm regions. Pressure from norms

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[502] Paul Bentall, 'United Nations Targeted Sanctions and Other Policy Tools: Diplomacy, Legal, Use of Force', in *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action*, ed. Thomas J. Biersteker et al. (Cambridge University Press, 2016), 87.
[503] UNGA, *'United Nations Is Worth Our Praise' Says General Assembly President in Statement to Women's International Forum*, Press Release GA/9077 (1996). Sentiment shared also in Interviews C, K, & H.
[504] UNGA, *Mandate Review Must Ensure That Organization Becomes Greater than 'Sum of Its Parts', Secretary-General Tells General Assembly*, SG/SM/10398, GA/10453 (2006).
[505] Bentall, 'Policy Tools', 87.
[506] Ibid.
[507] David Malone, ed., *The UN Security Council: From the Cold War to the 21st Century* (Lynne Rienner Publishers, 2004), 241.
[508] *Security Council: Forty-ninth Year: 3483rd Meeting, Friday, 16 December 1994.: Hearing on S/PV.3483 before the UNSC* (1994), 2.
[509] Malone, *The UN Security Council*, 243.
[510] Ibid.

entrepreneurs such as non-Council members, including troop-contributing countries, the Economic and Social Council, and NGOs, contributed to and occasionally influenced UNSC decisions, forming "various concentric circles around the Council."[511] Although this broadened participation enhanced the process, it also introduced new political interests and dynamics that the Council needed to address alongside terrorism threats.[512]

The evolution of the 1267 sanctions regime has been influenced by various MS and Council members from the European Union, including through review processes (Germany, Sweden, Switzerland) and the drafting of counterterrorism sanctions resolutions (Netherlands, Slovenia, see Table 16). However, the politico-strategic dynamics of the UNSC remain dominated by the Permanent 5 (P5) Members (China, France, the UK, the US, and the Russian Federation). While there has been a "dramatic increase in outreach and interaction" on various issues, along with a decline in the use of veto powers, the influence of the P5 persisted.[513] During the 1990s, the Security Council imposed Chapter VII counterterrorism sanctions three times: on Libya (1992), Sudan (1996), and al-Qaeda/Taliban (1999).[514] The 1267 sanctions, coupled with heightened US counterterrorism focus following embassy attacks in Tanzania and Kenya (1998) and the USS Cole bombing (2000), highlight the vested interests of the US and other P5 members in elevating counterterrorism to a global priority.[515]

Using the tools available to the Security Council, combined with the P5's predominant influence, the Council's politico-strategic direction has largely reflected the interests of these permanent members. Consequently, the balance between security and liberty has been skewed in favour of their preferences. By elevating the 1267 sanctions regime to a legally binding one for all MS through the use of Chapter VII powers, the Council transformed the global landscape of counterterrorism law. Furthermore, this process has been characterised by an expedited procedural pace, with minimal opportunity for open debate, as evidenced by the brevity of meetings (see Table 16, 'meeting length').[516]

The Security Council, while empowered to pass legally binding resolutions, functions primarily as a political organ (rather than a legal one), with its decisions influenced by the politico-strategic goals of its members.[517] MS representatives often receive conflicting guidance from different government departments, leading to inconsistent positions at the UNSC. For instance, although several EUMS have actively

[511] Ibid, 242–43.
[512] Bentall, 'Policy Tools', 87.
[513] Brzoska and Lopez, 'Sanctions Design', 60. Also confirmed by Interviews F & M.
[514] Martins, 'The Political-Legal Nexus', 184.
[515] Ibid.
[516] De Londras, *Practice and Problems*, 55.
[517] Ibid. Also confirmed by Interview M.

contributed to the development of sanctions regimes, many continued to abstain from resolutions on human rights and terrorism. Notably, Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the UK abstained from UNGA Resolution 56/160 (2001), "Human Rights and Terrorism," illustrating divergence over issues of security and liberty within both the Security Council and the General Assembly.[518]

This section examines the politico-strategic norms convergence perspective, highlighting the heterogeneity of norms entrepreneurs, goals, political motivations, and strategic orientations of actors involved in shaping the 1267 counterterrorism sanctions regime. While a tabular presentation of UN counterterrorism activities could be succinct, it would overlook the complex, dynamic interactions among UN organs, member states, NGOs, and other stakeholders in the creation, implementation, and enforcement of sanctions. The differing interests of norms entrepreneurs complicate a clear chronological narrative and analytical framework. This overview underscores the variety of actors and interests, demonstrating that the security-liberty balance shifts based on the political and strategic orientations of MS and norms entrepreneurs. Ultimately, MS influence the direction of the UN, especially the Security Council, in counterterrorism efforts. Despite some adaptations, the Council's resolution processes remain opaque, fostering complex interdependencies and overlapping mandates that necessitate a shift in perspective, which the subsequent sections on norms convergence examine.

5.6.2. Organisational Convergence Pathway

This section analyses the organisational convergence between security and liberty norms from 1999 to 2001, before September 11, 2001. At that time, counterterrorism at the UN was chiefly managed by the General Assembly, with the Security Council intervening in select cases.[519] However, the Security Council's established sanctions regimes and committees initiated a complex infrastructure of sub-organs, whose interactions before 9/11 warrant examination.[520] As previously discussed, UN sanctions and norms entrepreneurs interact through cooperation, coordination, and collaboration, with the latter representing the highest level of partnership (see Table 17).[521]

1) UN sanctions-specific actors (such as sanctions committees, expert panels, the Secretariat, and the Security Council);

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[518] *General Assembly: Fifty-sixth Session: 88th Plenary Meeting, Wednesday, 19 December 2001: Hearing on A/56/PV.88 before the UNGA* (2001).
[519] De Londras, *Practice and Problems*, 52–53.
[520] Ibid, 64–65.
[521] Boucher and Clement, 'Coordination', 120.

2) Other specialised UN agencies (peacekeeping missions, special representatives of the Secretary-General, human rights entities, and judiciary processes);
3) International institutions with special interests (such as the Financial Action Task Force: FATF, INTERPOL, and the International Civil Aviation Organisation: ICAO);
4) Regional bodies, national institutions, and NGOs.

Additionally, various informal institutions and independent norm entrepreneurs can access the inherently selective membership of counterterrorism organisations within the international community.[522] Some of these informal institutions, such as the Financial Action Task Force (FATF), eventually evolved into "specialised regulatory entities" within the field.[523] Others, including research scholars like Thomas Biersteker and Sue Eckert, continue to contribute to the counterterrorism domain.[524]

The UN sanctions-specific actors, established by the Security Council, engaged with the 1267 sanctions regime, including the 1267 Committee, the Committee of Experts on Afghanistan, and the Monitoring Group, which submitted reports and recommendations. The Council responded with measures such as Resolution 1363 (2001), which established the Monitoring Group and the Sanctions Enforcement Support Team. This indicates a dynamic, reciprocal relationship between the Security Council and these actors from 1999 to 2001. The focus on humanitarian exemptions, facilitated by the Sanctions Enforcement Support Team, highlights the integration of human rights considerations within the regime.

Other specialised UN agencies had less influence on the development of the 1267 sanctions regime. Since 1996, the General Assembly has been drafting a counterterrorism convention through its Sixth Committee.[525] Several EU and Western states abstained from relevant General Assembly votes. While the Assembly and the Secretary-General referenced review processes and knowledge-generating initiatives like the Interlaken and Bonn-Berlin processes, these efforts did not establish new organisations or foster ongoing engagement on counterterrorism. Consequently, between 1999 and 2001, there was minimal norms convergence between 'other specialised UN agencies' concerning the security-liberty balance.

Among the international institutions actively fostering the convergence of security and liberty norms in counterterrorism efforts during this period, the Financial

[522] De Londras, *Practice and Problems*, 40.
[523] Fionnuala Ní Aoláin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/73/361 (UNGA, 2018), para.10.
[524] Sullivan, *The Law of the List*, 156.
[525] Resolution 51/210 Adopted by the General Assembly [on the Report of the Sixth Committee (A/51/631)], A/RES/51/210 1 (1996), para.9. Also highlighted in Interview D.

Action Task Force (FATF), established by the G7 in 1989, warrants particular attention. FATF initially aimed to combat money laundering within the banking sector, but expanded its scope before 2001 to include disrupting terrorist financing.[526] The organisation substantially broadened its membership and augmented its institutional tools, thereby enhancing its capacity to disrupt terrorist financing. Although not a UN entity, FATF has maintained a special relationship with the UN counterterrorism framework, which deepened after Resolution 1373 (2001).

The review processes of Interlaken, Bonn-Berlin, and Stockholm, involving regional bodies, NGOs, and national institutions, are among the most influential in norms convergence. Their insights on developing and enhancing targeted sanctions contributed to the formation of the UN Security Council's Informal Working Group on General Issues of Sanctions. This expansion provided a platform for discussions on integrating human rights protections into sanctions, indirectly influencing the organisational convergence towards safeguarding liberty.

Scholars and experts involved in knowledge production have emerged as norm entrepreneurs. The UN Secretariat recognised the value of engaging academic specialists in research on targeted sanctions and organised educational initiatives to foster relationships with Security Council members.[527] These efforts facilitated informal yet vital connections between UN decision-makers and external norm entrepreneurs. Notable scholars from the Watson Institute, such as Biersteker, Eckert, Schrijver, and van den Herik, collaborated with officials such as Jeno Staehelin (Switzerland) and Joseph Stephanides (UN Secretariat, Department of Political Affairs) to conduct workshops on targeted sanctions in 1998.[528] These unofficial links laid the groundwork for future policy recommendations, exemplified by the Interlaken process and Swiss policy papers.[529] Such scholars, well-integrated within the UN framework before 9/11, became key figures in shaping counterterrorism policies and balancing security with civil liberties.[530]

The organisational pathway of security-liberty norms convergence reveals that the international counterterrorism landscape was actively evolving before 9/11. The Security Council had begun expanding the sanctions regime, shifting from universal to targeted measures, indicating a move toward integrating human rights and civil liberties considerations. The development of review mechanisms and specialised sanctions groups further underscored the Security Council's growing focus on human rights protections. Although these initiatives initially lacked precise procedural frameworks,

[526] De Londras, *Practice and Problems*, 42.
[527] Sullivan, *The Law of the List*, 160–61.
[528] Ibid, 156–57.
[529] Ibid, 157–58.
[530] Ibid, 163.

subsequent sections examine how the sanctions regime progressed from obscurity to establish clearer guidelines.

5.6.3. Procedural Convergence Pathway

Counterterrorism resolutions are frequently fast-tracked by Council members before formal meetings, limiting public debate over their specifics (see Table 16 for official meeting lengths).[531] The Security Council's primary political nature results in less time and expertise allocated to legal and procedural matters, further hindered by limited political will among Member States and a lack of counterterrorism expertise among representatives.[532] High staff turnover and the two-year mandates for elected Council members compound these issues.[533] Fluctuating membership and leadership within counterterrorism committees hinder the development of comprehensive organisational, technical, and procedural knowledge required to administer and enforce sanctions.[534] Moreover, political motivations often influence counterterrorism committee priorities, and leadership changes can cause significant shifts in sanctions procedures.[535]

Chronological event history analysis offers a simplified overview of counterterrorism sanctions but does not align well with a linear view of inputs (e.g., pressure or expert advice) and outputs (e.g., guidelines or listing criteria).[536] The UNSC counterterrorism sanctions reflect a continuous interplay between pressure and knowledge inputs and outputs, resulting in incremental modifications to procedural guidelines. Yet, between 1999 and 2001, the 1267 sanctions regime saw no improvement in maintaining or enforcing sanctions, despite increasing pressure from norms entrepreneurs.

Since adopting Resolution 1267 (1999), MS, banks, and other norms entrepreneurs have criticised the vague listing criteria and lack of specific information on the sanctions list.[537] The phrase "individuals and entities associated with" bin Laden was not defined, complicating compliance for MS and private entities, such as those in aviation and banking. These challenges were compounded by the fact that the Security Council had not previously paid adequate attention to these issues before the events of

[531] De Londras, *Practice and Problems*, 55.
[532] Eric Rosand, 'The UN-Led Multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed', *Journal of Conflict & Security Law* 11(3), (2006): 423.
[533] Sullivan, *The Law of the List*, 69.
[534] Foot, 'Institutional Adaptation', 491.
[535] Ibid. Confirmed by Interview A.
[536] Heupel, 'Power & Responsibility', 776.
[537] Cameron, 'Legal Safeguards', 176.

September 11, 2001. It was only in November 2007 that the 1267 Committee issued its first set of operational guidelines.[538]

Between 1999 and 2001, procedural norms convergence regarding counterterrorism sanctions gradually increased through informal recommendations and reports, such as those from the Interlaken and Bonn-Berlin processes. Member States and norms entrepreneurs exerted pressure on the Council to clarify implementation and enforcement practices. Official channels, including the 1267 Committee and expert groups, regularly reported on monitoring and enforcement strategies.[539] This period saw a shift in the security-liberty balance toward security, primarily due to the original mandates' lack of safeguards and clear listing criteria.[540] Although not inherently in conflict with human rights, the limited procedural guidance led to a disproportionate emphasis on security over liberty.[541]

Conclusion

This chapter employed event history, document, and network analyses to trace the development of the 1267 counterterrorism sanctions regime from 1999 to 2001. It demonstrated the evolving balance between security and liberty norms, examining norms convergence and change through politico-strategic, organisational, and procedural pathways. Despite the brief period, numerous norms entrepreneurs and actors shaped the UN counterterrorism framework, reflecting diverse interests and motivations. Document analysis of resolutions, reports, and meeting records revealed that while resolutions appeared unanimously adopted, many MS harboured concerns about sanctions' impacts, indicating varied politico-strategic directions within the UNSC. Event history analysis identified key events that significantly influenced politico-strategic decisions, a pattern further analysed in later chapters.

The convergence of politico-strategic, organisational, and procedural norms indicates that the security-liberty balance in counterterrorism sanctions is inherently dynamic rather than static, nor should it be pinpointed at a specific moment in time, as it would hide the fact that these norms have a dynamic relationship and continuously shift in either direction if the analysis includes a time qualifier. This balance shifts over time, as shown in Table 18, which highlights a divergence between 1999 and 2001 across analytical perspectives. While politico-strategic and procedural pathways favoured security norms over human rights, the organisational pathway within the UN counterterrorism framework emphasised the importance of protecting human rights within the sanctions regime.

[538] Ibid.
[539] Foot, 'Institutional Adaptation', 495.
[540] Cameron, 'Legal Safeguards', 180.
[541] Ibid.

This chapter argues that the security-liberty balance in the UN counterterrorism sanctions regime is ever-changing and cannot be understood through a single point in time. The balance is an ever-changing, dynamic relationship between the two norms where numerous norms entrepreneurs and policy actors bring numerous interests and objectives to the negotiating table. Consequently, a longitudinal analysis of norm convergence between security and liberty is essential to grasp the regime's evolution. Major events like 9/11 have significantly shifted priorities and objectives of the norms, warranting an in-depth examination of their long-term effects. The decisions implemented during this period established a deeply security-focused conception of counterterrorism sanctions from a politico-strategic perspective, which subsequent reforms would have to address. The following chapter reviews the 9/11 attacks, international responses, and the evolving convergence of security and liberty norms across politico-strategic, organisational, and procedural dimensions.

Chapter 6: Organisational Convergence: UN 2001-2010

Introduction

The security-liberty balance in counterterrorism sanctions has evolved as the political objectives and priorities of the numerous norms entrepreneurs involved in the process change. To understand this dynamic since the 1999 establishment of the UN 1267 regime, it is essential to examine pathways of norm convergence. This chapter analyses the balance between security and liberty within the UN from 2002 to 2010, focusing on key events and resolutions that modified the regime. Using network analysis, it also evaluates the roles of norms entrepreneurs and actors in counterterrorism. The findings highlight that shifts in interests and objectives among these actors altered the security-liberty balance, underscoring its non-static nature over extended periods and the need to incorporate a temporal dimension into the framework.

6.1. Resolution 1373 (2001)

Resolution 1373 (2001), adopted shortly after 9/11, has significant long-term implications for the international counterterrorism sanctions regime; thus, it warrants secondary analysis for the purposes of this chapter, focusing on the 2002-2010 period. Issued under Chapter VII, Resolution 1373, in four short pages, criminalised terrorism financing, including requirements to freeze the financial assets of terrorists.[542] The Resolution focused on the prevention of terrorist activity, including cross-border movements, and addressing terrorism-related criminal investigation and judicial processes.[543] The Council highlighted the need for international cooperation in information exchange, judicial, and administrative matters, and called on MS to work together by participating in multilateral agreements, such as the International Convention for the Suppression of the Financing of Terrorism (1999).[544] It urged MS to ensure human rights compliance in refugee procedures[545] and established the Counterterrorism Committee to monitor implementation, requiring reports within 90 days.[546]

Resolution 1373 (2001) was adopted "under Chapter VII, is of a very special nature," just 17 days after 9/11, during a five-minute Security Council meeting.[547] The resolution marked a significant shift towards enhanced international security

[542] Resolution 1373 (2001), Para.1(a-d).
[543] Ibid, Para.2(a-g).
[544] Ibid, Para.3(a-e).
[545] Ibid, Para.3(f-g).
[546] Ibid, Paras. 6-7.
[547] UN Security Council Resolution 1535 (2004), 2.

cooperation and served as a significant global response to terrorism.[548] Through Resolution 1373 (2001), the UN provided the international community with the "single most powerful response" to terrorism.[549] Although it broadened counterterrorism financial sanctions, it did not acknowledge prior resolutions, such as 1267 (1999) and 1333 (2000), perhaps recognising their failure to prevent such an attack.[550] The Security Council, nonetheless, emphasised the importance of financial measures in counterterrorism efforts.[551] By invoking Chapter VII powers, the Security Council transformed Resolution 1373 (2001) into a foundational, potentially indefinite framework for international counterterrorism.[552] Responding to a single-day, single-state event, it established a global regime.[553] In retrospect, this development should have been more alarming at the time, given its binding nature, open-ended scope, and content.[554]

Resolution 1373 (2001) expanded and consolidated existing counterterrorism measures into a concise, binding instrument, effectively transforming voluntary standards into legal obligations for MS and bypassing domestic ratification processes.[555] While aligned with the UN Convention for the Suppression of the Financing of Terrorism, it also incorporated principles from previous UNSC and UNGA resolutions, emphasising international cooperation and integrity of refugee processes.[556] While the Resolution sought to accelerate the "crystallisation of international norms against terrorism," it did so with an important caveat: it failed to define key terms, including terrorism.[557] Overall, the resolution reflects a synthesis of prior measures rather than a wholly original framework.[558]

While the Resolution is rooted in precedent, it does not encompass all counterterrorism norms within the UN framework.[559] Key elements, such as the definition of terrorism and the nexus between human rights and counterterrorism, topics

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[548] (FIDH) International Federation for Human Rights, *The United Nations Counter-Terrorism Complex: Bureaucracy, Political Influence and Civil Liberties* (2017), 13.
[549] de Jonge Oudraat, 'The Role of the Security Council', 152.
[550] Kent Roach, 'Chapter 10: Sources and Trends in Post-9/11 Anti-Terrorism Laws', in *Security and Human Rights*, ed. B. J. Goold and Liora Lazarus (Hart, 2007), 231–32.
[551] Ibid, 232.
[552] De Londras, *Practice and Problems*, 89.
[553] Ní Aoláin, 'Legislative Supremacy', 49.
[554] C. H. Powell, 'Chapter 7: The Legal Authority of the United Nations Security Council', in *Security and Human Rights*, ed. B. J. Goold and Liora Lazarus (Hart, 2007), 166.
[555] Martins, 'The Political-Legal Nexus', 186.
[556] Peter Romaniuk, *Multilateral Counter-Terrorism: The Global Politics of Cooperation and Contestation*, Routledge Global Institutions (Routledge, 2010), 67–68.
[557] Powell, 'The Legal Authority', 159.
[558] Romaniuk, *Multilateral Counter-Terrorism*, 68.
[559] Ibid. Also noted in Interview D.

of ongoing debate in the Third Committee, were omitted.[560] Notably, 'human rights' is mentioned only once, in its operative clauses, in relation to implementing appropriate measures in line with "international standards of human rights" for refugee determinations.[561] Although references to combating terrorism "in accordance with the Charter of the United Nations" could imply a commitment to human rights protections, this interpretation is subject to MS discretion.[562] Historically, prior resolutions, including Resolution 1269 (1999), have more explicitly addressed the balancing of counterterrorism and human rights, demonstrating an evolving recognition of their interconnection within UN efforts.[563]

6.1.1. Resolution 1373 (2001) through norms convergence lenses

The events of September 11, 2001, and the subsequent adoption of Resolution 1373 (2001) critically affected the balance between security and civil liberties within counterterrorism frameworks. From a politico-strategic perspective, the post-9/11 political context fostered a unique international environment, leading to expanded UN counterterrorism measures integrated into a transnational sanctions regime.[564] Many provisions of Resolution 1373 were derived from existing sources, reflecting a low threshold for due diligence driven by heightened security concerns.[565] Its vague procedural guidelines regarding sanctions implementation and listing procedures resulted in long-term implications for the operation and expansion of the regime, from a procedural norms convergence perspective.[566] Organisationally, 2001 marked the institutionalisation of counterterrorism efforts within the UN and globally, exemplified by increased multilateral cooperation.[567] UN agencies such as ICAO intensified their aviation security roles, while other entities like the IMF and World Bank incorporated financial counterterrorism measures.[568] This surge in activity represented a pivotal moment, shaping the security-liberty trade-off inherent in sanctions regimes.

This chapter focuses explicitly on organisational convergence, illustrating how the proliferation of UN counterterrorism bodies, committees, mechanisms, and expert groups restructured the institutional landscape. These changes created new entry points for human rights norms entrepreneurs while reinforcing security-focused practices. These organisational changes interacted with politico-strategic framing and emerging legal contestation; however, this chapter argues that shifts in the organisational

[560] Ibid.
[561] Resolution 1373 (2001), Para.3(f).
[562] Ibid, 1.
[563] UN Security Council Resolution 1269 (1999).
[564] Charron, *UN Sanctions and Conflict*, 93.
[565] Ní Aoláin, 'Legislative Supremacy', 46.
[566] Van Den Herik, 'The Security Council's Targeted Sanctions Regimes', 804.
[567] Romaniuk, *Multilateral Counter-Terrorism*, 104.
[568] Ibid, 104–5.

architecture were the central driver for security-liberty balancing between 2001 and 2010. All four convergence pathways are examined in the chapter, but organisational dynamics are the primary focus, with politico-strategic framing, emerging procedures, and legal contestation addressed as they interact with institutional change.

6.1.2. Counterterrorism Committee (CTC) in 2002

Resolution 1373 (2001) established the Counterterrorism Committee (CTC), a subsidiary of the Security Council comprising all members, to oversee compliance and support implementation of its measures.[569] The CTC provides technical assistance, engages in capacity building, and collaborates with international organisations.[570] Its functions include operational activities like sanctions enforcement, surveillance through reporting, compliance monitoring, and capacity building by strengthening domestic counterterrorism laws.[571]

The CTC's work has been shaped by its leadership, with chairmanships typically assigned informally by the P5 Security Council members.[572] Sir Jeremy Greenstock, its inaugural chair representing the UK, demonstrated "political evenhandedness" while aligning the CTC's objectives with US interests.[573] He emphasised technical aspects of counterterrorism, excluding political analysis from its mandate, and launched a multistage programme starting with domestic counterterrorism reviews via MS reporting before 2001's end.[574] Subsequent stages focused on assistance measures and institutional support, addressing legal gaps amid acknowledged financial constraints for sustained engagement.[575]

Following 9/11, the CTC quickly garnered support, with all MS reporting by May 2003.[576] The Security Council commended its proactive engagement, noting that Resolution 1373 relied on existing terrorism conventions, emphasising immediate action over legal definitions.[577] The CTC chair clarified it would not function as a tribunal nor define terrorism legally, advocating for a global technical assistance hub requiring increased funding.[578] Human rights considerations were highlighted by UNSG

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[569] De Londras, *Practice and Problems*, 23.
[570] Daniel Alati and Graham Hudson, 'Secret Evidence in Civil Litigation against the Government: The Lasting Impact of UN Security Council Resolution 1373 on Procedural Fairness in Canada and the United Kingdom', in *9/11 and the Rise of Global Anti-Terrorism Law: How the UN Security Council Rules the World*, 1st edn, ed. Arianna Vedaschi and Kim Lane Scheppele (Cambridge University Press, 2021), 159.
[571] De Londras, *Practice and Problems*, 23.
[572] International Federation for Human Rights, *The UNCT Complex*, 31.
[573] de Jonge Oudraat, 'The Role of the Security Council', 161.
[574] Ibid, 162.
[575] Ibid, 163.
[576] Romaniuk, *Multilateral Counter-Terrorism*, 70.
[577] *Security Council: Fifty-seventh Year: 4453rd Meeting, Friday, 18 January 2002: Hearing on S/PV.4453 before the UNSC* (2002), 4.
[578] *Ibid*, 5.

Kofi Annan and Ireland's UNSC representative, affirming that counterterrorism measures should not compromise human rights.[579] The CTC Chair stated that monitoring compliance with human rights law fell outside its mandate.[580]

Following the establishment of a Policy Working Group on the United Nations and Terrorism by Secretary-General Kofi Annan in October 2002, discussions emphasised the delicate balance between security measures and human rights.[581] UNSG Annan criticised the pursuit of security at the expense of human rights as "short-sighted, self-contradictory and, in the long run, self-defeating."[582] The CTC was recognised as a key facilitator of international consensus, evidenced by sustained political commitment and 265 MS reports.[583] Nonetheless, concerns about human rights persisted; the CTC Chair and Vice-Chair acknowledged the need to safeguard individual rights but noted these issues lie outside the organisation's mandate.[584] The CTC engaged with the High Commissioner for Human Rights, Sergio Vieira de Mello, on human rights matters, although the CTC's primary focus remained on international and regional cooperation.[585]

The CTC's leadership emphasised its role in fostering international cooperation, contrasting it with the more enforcement-oriented 1267 Committee. The Vice-Chair highlighted the importance of collaboration between these bodies to address the gap between the CTC's framework and its practical application under the 1267 Committee.[586] The broader mandate of the CTC likely accounts for greater engagement by MS in reporting than the 1267 Committee, which has faced criticism over human rights protections in its listing procedures.[587] Ultimately, the CTC is positioned as a "switchboard [and] a catalyst" within the UN counterterrorism architecture, as reinforced by Resolution 1373, which underscores the importance of coordinated efforts.[588]

6.2. Resolution 1390 (16 January 2002)

In January 2002, the Council expanded the 1267 sanctions mandate via Resolution 1390 (2002), broadening its scope to include Osama bin Laden, al-Qaeda,

[579] *Ibid*, 16.
[580] *Ibid*, 5.
[581] Foot, 'Institutional Adaptation', 501.
[582] *Security Council Fifty-seventh Year, 4618th Meeting, Friday, 4 October 2002: Hearing on S/PV.4618 before the UNSC*, UNSC (2002), 4.
[583] *Ibid*, 12.
[584] *Ibid*, 8.
[585] *Ibid*, 5–6.
[586] *Ibid,* 10.
[587] Foot, 'Institutional Adaptation', 495–96.
[588] Thierry Tardy, 'The Inherent Difficulties of Interinstitutional Cooperation in Fighting Terrorism', in *Terrorism and the UN: Before and After September 11*, ed. Jane Boulden and Thomas G. Weiss (Indiana University Press, 2004), 125.

the Taliban, and associates.[589] This Resolution removed Afghanistan-specific measures and gained global reach of 1267 sanctions.[590] Unlike earlier resolutions requiring periodic renewal, Resolution 1390 stipulated that measures would be reviewed annually, with the Security Council retaining the authority to extend or modify them, thus removing automatic lapse of measures.[591] Resolution 1390 (2002) also mandated regular updates to sanctions lists, development of implementation guidelines, and coordination among relevant sanctions bodies.[592] Additionally, all Member States were required to submit reports to the 1267 Committee within 90 days.[593] The Monitoring Group's mandate was renewed for 12 months, with quarterly reporting obligations, to enhance organisational norms convergence.[594]

6.2.1. Monitoring Group Reports 2002-2003

The Monitoring Group submitted a total of five reports before the conclusion of 2003. These reports addressed various recurrent topics and themes, as summarised in Table 19. The initial report, issued under Resolution 1390, emphasised that the MG's extended mandate is "very broad, comprehensive, and challenging," despite concurrently limited resources available to the MG; for instance, the deployment budget for the Sanctions Enforcement Support Team was reduced.[595]

From a politico-strategic perspective, the MG reports identified the sanctions list as the primary tool for implementing financial prohibitions, travel bans, and arms embargoes.[596] However, these measures in "their present form are much less effective than was intended," prompting a call to the Security Council for remedial action, or risk stagnation.[597] The reports noted the proliferation of national lists, partly due to the undefined terms in Resolution 1390, such as "funds," "economic resources," and "humanitarian exceptions."[598] Some jurisdictions have therefore issued their own definitions;[599] the MG commended the EU for its "extensive definitions included in the

[589] Resolution 1390 (2002), Para.2.
[590] Van Den Herik, 'The Security Council's Targeted Sanctions Regimes', 800.
[591] Resolution 1390 (2002), Para.3.
[592] Ibid, Para.5(f).
[593] Ibid, Para.6.
[594] Ibid, Para.9.
[595] UNSC Monitoring Group, *Report of the Monitoring Group Established Pursuant to Security Council Resolution 1363 (2001) and Extended by Resolution 1390 (2002)*, S/2002/541 (2002), 4.
[596] Ibid, 3–4.
[597] UNSC Monitoring Group, *Second Report of the Monitoring Group Established Pursuant to Resolution 1363 (2001) and Extended by Resolutions 1390 (2002) and 1455 (2003), on Sanctions against Al-Qaida, the Taliban and Individuals and Entities Associated with Them*, S/2003/1070 (2003), 37.
[598] UNSC Monitoring Group, *Second Report of the Monitoring Group Established Pursuant to Security Council Resolution 1363 (2001) and Extended by Resolution 1390 (2002)*, S/2002/1050 (2002), 11.
[599] Confirmed by Interviews B, E, & L.

regulations issued."[600] The MG characterised the travel ban as primarily a political statement, more effective against al-Qaeda than the Taliban, and suggested that the broader territorial scope of the arms embargo has not achieved complete success.[601]

From a procedural norms convergence perspective, the MG reports consistently highlighted issues with the list's identifiers, including potential duplication stemming from cultural and linguistic differences in spelling, transliteration, and titles such as Mullah.[602] The absence of guidelines for adding new entries was noted as a limitation to the list's effectiveness as a counterterrorism instrument.[603] In December 2002, the MG welcomed the 1267 Committee's new guidelines, which clarified listing and delisting procedures, requiring "a narrative description" and "justification for taking action."[604] The MG also indicated that the 1267 Committee was developing guidelines for humanitarian exemption requests.[605]

Resolution 1455 (2003) reappointed the Group of Experts, which reported procedural deficiencies, including incomplete identifiers, such as 34 individuals listed with only single names, transcription errors, and common or double names.[606] The MG's December 2003 report evaluated 66 MS reports under Resolutions 1390 and 1455, noting that 88 states had not submitted any report.[607] Of those reporting, 20 did so solely under Resolution 1390 and 17 solely under Resolution 1455, indicating limited awareness of the resolution and listing guidelines.[608] Over 32 months, none of the 272 listed individuals attempted international travel or were denied entry, revealing "systemic weaknesses" that compromised the credibility of counterterrorism sanctions.[609]

The MG emphasised that due to the dispersed structure of al-Qaeda and the Taliban, targeted individuals were scattered geographically, necessitating a global approach to sanctions enforcement.[610] Regarding the travel ban, it was noted that visa controls no longer fall solely under national jurisdiction, thus requiring UNSC

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[600] UNSC Monitoring Group, *Second MG Report (1390)*, 11.
[601] UNSC Monitoring Group, *First MG Report (1390)*, 10.
[602] Ibid, 6.
[603] UNSC Monitoring Group, *Second MG Report (1390)*, 9.
[604] 1267 Committee, "Guidelines," Art.5(b),
[605] UNSC Monitoring Group, *Third Report of the Monitoring Group Established Pursuant to Security Council Resolution 1363 (2001) and Extended by Resolution 1390 (2002)*, S/2002/1338 (2002), 8–9.
[606] UNSC Monitoring Group, *Report of the Monitoring Group Established Pursuant to Security Council Resolution 1363 (2001) and Extended by Resolutions 1390 (2002) and 1455 (2003)*, S/2003/669 (2003), 29.
[607] UNSC Monitoring Group, *Second MG Report (1455)*, 3.
[608] UNSC Monitoring Group, *Fifth MG Report (1455)*, 62.
[609] Ibid, 36.
[610] UNSC Monitoring Group, *First MG Report (1390)*, 4.

consideration of measures that may exceed domestic authority.[611] The MG also identified international organisations such as FATF, the Egmont Group, Europol, and NATO as actively involved in countering terrorist financing.[612] Additionally, the fourth MG report detailed efforts by banking and government officials to develop methodologies for detecting illicit financial transactions, sharing "patterns of terrorist funding behaviour" to enhance international cooperation.[613] The expanding UN counterterrorism sanctions framework has led to approximately 15% of reports referencing lawsuits and legal actions against listed entities by national authorities.[614]

This analysis of the MG reports indicated that in the two years following the September 11 attacks, there were notable shifts in the balance between security and liberty concerning UN counterterrorism sanctions. These changes did not result from a coordinated, overarching effort; thus, not all four convergence pathways shifted uniformly. During this period, neither human rights protection nor security emerged as the predominant focus, as reflected in the Monitoring Group reports.

6.2.2. December 2002

On 18 December 2002, the 1267 Committee Chair briefed the Council on the name change from the Committee on Afghanistan, emphasising that it reflected "the developments that have turned it into an instrument of global scope."[615] He noted a gap between the framework of cooperation established by the CTC and effective implementation, which falls under the 1267 Committee's purview.[616] The 1267 Chair called for greater coordination among counterterrorism entities to improve organisational coherence. Additionally, he addressed the Committee's handling of requests from individuals affected by sanctions, noting critiques regarding judicial procedures and humanitarian exceptions.[617]

6.3. Resolution 1452 (20 December 2002)

In December 2002, Security Council Resolution 1452 introduced procedural modifications to improve the effectiveness and fairness of sanctions, responding in part to criticisms from states such as Sweden, Canada, and EU representatives.[618] The Resolution exempted funds for basic needs and authorised the 1267 Committee to approve extraordinary expenses for humanitarian exceptions from freezing.[619]

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[611] UNSC Monitoring Group, *Second MG Report (1390)*, 16.
[612] Ibid, 13.
[613] UNSC Monitoring Group, *Fourth MG Report (1455)*, 13.
[614] Ibid, 30.
[615] *4673rd Meeting*, 5.
[616] *Ibid,* 6.
[617] *Ibid.*
[618] Cameron, 'Legal Safeguards', 177.
[619] UN Security Council Resolution 1452 (2002), S/RES/1452, Paras.1-3.

6.3.1. UN Human Rights Norms Entrepreneurs in 2002

In October 2002, High Commissioner for Human Rights Sergio Vieira de Mello addressed the CTC, asserting that there is no inherent contradiction between implementing Security Council Resolution 1373 and respecting human rights.[620] He expressed concern about the scope and legitimacy of MS counterterrorism laws and acknowledged that some human rights may be limited in emergencies, emphasising the importance of transparency and time restrictions.[621] He called for stronger links between the CTC and human rights forums like the Human Rights Committee (HRC) and the Office of the High Commissioner for Human Rights (OHCHR), and recommended appointing a human rights advisor to promote "the non-abuse of 1373."[622] His politico-strategic approach highlighted the compatibility of security and liberty norms within counterterrorism frameworks. Organisationally, he urged the CTC to engage regularly with UN human rights bodies, and procedurally, he proposed providing guidance on standards and practical implementation of human rights in counterterrorism.[623]

In 2002, the General Assembly considered three new draft resolutions, continuing the practice of annually adopting resolutions related to human rights and terrorism until 2017.[624] During the spring session, Mexico formally submitted a resolution to the UN Human Rights Council, which was ultimately unsuccessful. Nevertheless, the Mexican Foreign Minister successfully advanced the same resolution, titled "Protecting Human Rights and Fundamental Freedoms while Countering Terrorism," through both the Third Committee and the General Assembly.[625]

UNGA Resolution 57/219 (2003) referenced earlier resolutions, notably 56/160 and Commission on Human Rights (CHR) Resolution 2002/35, which addressed human rights in the context of terrorism.[626] Resolution 57/219 (2003) emphasised that MS must adhere to their international human rights obligations when implementing counterterrorism measures and encourages adherence to CHR guidance.[627] The resolution also mandated that the OHCHR provide both general recommendations and targeted assistance to MS.[628] It established a framework for addressing human rights

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[620] Office of the High Commissioner for Human Rights, *Statement Address by Sergio Vieira de Mello The High Commissioner for Human Rights to the Counter-Terrorism Committee of the Security Council*, 21 October 2002.
[621] Ibid.
[622] Ibid.
[623] Ibid.
[624] Romaniuk, *Multilateral Counter-Terrorism*, 78–79.
[625] Ibid.
[626] Resolution 57/219 Adopted by the General Assembly: Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, A/RES/57/219 1 (2003), 1.
[627] Ibid, Paras.1-2.
[628] Ibid, Paras.3(b-c).

and terrorism simultaneously, which later laid the foundations for Security Council Resolution 1456 (2003).[629]

6.4. Resolution 1455 (2003)

In January 2003, the Security Council convened a series of ministerial meetings on counterterrorism sanctions. On January 17, it adopted Resolution 1455 (2003), reaffirming previous resolutions, including 1267 (1999), 1333 (2000), 1390 (2002), and 1452 (2002), and committing to enhancing sanctions measures within a year.[630] The resolution also urged the 1267 Committee and the CTC to improve coordination and information sharing, reappointed the Monitoring Group experts for 12 months, and called for procedural and enforcement enhancements.[631] Secretary of State Colin Powell summarised the resolution as an effort to bolster MS implementation of "sanctions that are targeted at terrorists and are without time limits."[632]

6.5. Resolution 1456 (2003)

During the same ministerial meeting, Resolution 1456 (2003) marked a pivotal shift in the sanctions regime, affirming that MS must adhere to "international law, in particular international human rights, refugee, and humanitarian law" when enacting counterterrorism measures.[633] This wording became agreed language in subsequent resolutions.[634] Secretary-General Kofi Annan highlighted the importance of balancing security with safeguarding freedoms to prevent collateral damage, while ministers from Germany, Mexico, and Spain underscored the symbiotic relationship between security and liberty.[635] The resolution prioritised international cooperation, designating the CTC as the primary body to facilitate assistance.[636] The resolution and the ministerial meeting both emphasised upcoming meetings with regional organisations to bolster global cooperation and foster horizontal relationships among states and organisations within and beyond the UN framework.[637] Although Resolution 1456 (2003) represented a key step in balancing security and liberty, critics argued that the human rights provisions, despite appointing a dedicated expert, "would make no real difference to proceedings."[638] Nonetheless, the inclusion of this language marked a shift in MS'

[629] Foot, 'Institutional Adaptation', 507.
[630] UN Security Council Resolution 1455 (2003), S/RES/1455 (2003), 1.
[631] Ibid.
[632] *Security Council Fifty-eighth year: 4688th meeting, Monday, 20 January 2003: Hearing on S/PV.4688 before the UNSC* (2003), 19.
[633] UN Security Council Resolution 1456 (2003), S/RES/1456, Para.6.
[634] Foot, 'Institutional Adaptation', 500.
[635] *4688th Meeting*.
[636] Resolution 1456 (2003).
[637] *4688th Meeting*, 24.
[638] Foot, 'Institutional Adaptation', 510.

politico-strategic approach, reflecting a sustained commitment to engaging with counterterrorism through strengthened horizontal, intra- and inter-organisational ties.

CTC briefings' summary 2003

In 2003, the CTC briefed the Security Council five times, with several recurring themes (see Table 20). From a politico-strategic perspective, MS advocated for a comprehensive counterterrorism framework with a "clear strategic vision."[639] The CTC Chair highlighted the body's role as a central, catalytic entity influencing international law, though the absence of a universal UN terrorism definition remained a key issue.[640] Council members stressed the need for a universal convention on terrorism from the General Assembly's Ad Hoc Committee.[641] Greece, representing the EU, mentioned that the EU has adopted a "common definition of terrorist acts and terrorist groups," demonstrating that the legal challenge is possible to overcome within an international organisation.[642] Human rights considerations were prominent, with multiple states emphasising the need to balance human rights and security.[643] The CTC committed to remaining cognizant of human rights and humanitarian obligations, with Mexico commending the inclusion of human rights information on its website, particularly from OHCHR.[644] Procedurally, technical assistance was prioritised, supported by tools like the Directory of Counterterrorism Information and Sources of Assistance and the Assistance Matrix, designed to promote cooperation and measure implementation.[645] Organisationally, MS continued to call for better coordination with the UN and regional agencies to avoid duplication, with the CTC functioning as a key focal point for cooperation.[646] Discussions also addressed potential expansion of the CTC's mandate to include listing powers; however, the 1267 Committee's role in listings was reaffirmed.[647] The disparity in reporting, a large number of MS reports to the CTC versus 41 to the MG, was noted, urging States to submit information to both bodies.[648]

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[639] *Security Council Fifty-eighth year: 4734th meeting, Friday, 4 April 2003: Hearing on S/PV.4734 before the UNSC* (2003), 10–11.
[640] *Ibid*, 4.
[641] *Ibid*, 20.
[642] *Ibid*, 11.
[643] *Security Council Fifty-eighth year: 4710th meeting, Thursday, 20 February 2003: Hearing on S/PV.4710* (2003), 20.
[644] *Security Council Fifty-eighth Year: 4845th Meeting, Thursday, 16 October 2003: Hearing on S/PV.4845* (2003), 7.
[645] *Security Council Fifty-eighth Year: 4792nd Meeting, Wednesday, 23 July 2003: Hearing on S/PV.4792* (2003), 2.
[646] *4845th Meeting*, 6.
[647] *4734th Meeting*, 20.
[648] *Security Council Fifty-eighth Year: 4752nd Meeting, Tuesday, 6 May 2003: Hearing on S/PV.4752 before the UNSC* (2003), 5.

UN Human Rights Norms Entrepreneurs in 2003

While the primary responsibility for countering terrorism in 2003 lay with the UN Security Council, similar to the scope of UNGA resolutions and reports, several other UN human rights norm entrepreneurs also contributed their findings and analyses regarding the UN counterterrorism sanctions regime.

On June 19, 2003, HRC Vice-chair Sir Nigel Rodley briefed the CTC on the security-liberty balance in counterterrorism, expressing concern that Resolution 1373 (2001) could undermine MS's human rights obligations.[649] He welcomed Resolution 1456 (2003) but noted it signalled a shift toward depoliticisation and professionalisation of terrorism discourse.[650] While UN bodies monitor human rights, their legal influence remains less binding than Security Council resolutions under Chapter VII.[651] Addressing the International Covenant on Civil and Political Rights, he highlighted concerns over counterterrorism measures in Egypt, Estonia, Moldova, New Zealand, Sweden, and the UK.[652] He urged the inclusion of human rights experts in the CTC.[653]

The Secretary-General's HR Protection within CT (8 August 2003) report examined MS responses to an OHCHR letter on the security-human rights balance in counterterrorism.[654] Sweden's response noted that targeted UN sanctions sparked debate, leading to discussions with UN and EU entities on safeguarding human rights.[655] The report highlighted norms convergence among international, regional, and subregional organisations in 2003, emphasising their complementary roles rather than viewing human rights and security as mutually exclusive.[656] It also discussed counterterrorism sanctions-related issues, such as the joint global condemnation of terrorism adopted in June 2003, which expressed "profound concern at the multiplication" of counterterrorism legislation infringing human rights.[657] The UNHCR echoed security concerns under Resolution 1373 (2001) regarding asylum seekers.[658] In

[649] OHCHR, 'Security Council Counter-Terrorism Committee UN Headquarters, 19 June 2003, Briefing by Sir Nigel Rodley, Vice-Chairperson Human Rights Committee', United Nations Human Rights Office of the High Commissioner, 19 June 2003.
[650] Ibid.
[651] Ibid.
[652] Ibid.
[653] Ibid.
[654] UNGA, *Report of the Secretary-General: Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/58/266 (UNGA, 2003), 3.
[655] Ibid, 6.
[656] Ibid, 16.
[657] Ibid, 7–8.
[658] Ibid, 8.

conclusion, the report states that counterterrorism measures have significantly pressured human rights worldwide.[659]

In late 2003, the Office of the High Commissioner for Human Rights (OHCHR) released a comprehensive digest that synthesised judicial findings from various UN bodies and international organisations concerning the protection of human rights within the context of counterterrorism.[660] It asserted that counterterrorism efforts can have far-reaching, negative consequences for human rights.[661] This 108-page document aimed to help policy-makers in "developing a vision of counterterrorism strategies that are fully respectful of human rights."[662]

6.6. 2004

6.6.1. Resolution 1526 (2004): Analytical Support and Sanctions Monitoring Team (MT)

In 2004, significant structural and procedural reforms were introduced to sanctions committees. The expiration of the MG's mandate on January 17, 2004, was accompanied by critiques of its methods, notably its naming-and-shaming approach towards non-compliant states.[663] Subsequently, Resolution 1526 (2004) was adopted unanimously under Chapter VII, establishing the Analytical Support and Sanctions Monitoring Team (MT) with an expanded mandate to enhance its capacity.[664] This resolution reinforced the 1267 sanctions regime, encompassing financial freezes, travel bans, and arms embargoes targeting al-Qaeda, Taliban, and bin Laden.[665] The mandate of the 1267 Committee was expanded to include oversight, evaluation, and policy recommendations.[666] The Security Council also called on international and regional organisations to improve reporting, provide technical assistance, and foster capacity-building through increased collaboration.[667] The resolution further directed the Secretary-General to appoint up to eight members to the MT, responsible for monitoring, reporting, and advising on implementation, as well as coordinating with the CTC.[668] The 1267 Committee was tasked with assessing sanctions enforcement, recognising successes and challenges.[669] MS were also asked to submit identifying

[659] Ibid, 16.
[660] Office of the High Commissioner for Human Rights, *Digest of Jurisprudence of the UN and Regional Organizations on the Protection of Human Rights While Countering Terrorism*, ST/HR/PUB/03/1 (OHCHR, 2003), 1–108.
[661] Ibid.
[662] Ibid, 3.
[663] International Federation for Human Rights, *The UNCT Complex*, 27.
[664] Ibid.
[665] UN Security Council Resolution 1526 (2004), S/RES/1526 (2004), Para.2.
[666] Ibid.
[667] Ibid, Paras.5 & 24.
[668] Ibid, Annex.
[669] Ibid, Para.13.

information for new names, as per the Committee's guidelines, and to inform listed individuals and entities of their status.[670]

From a politico-strategic perspective, the Resolution reflected the Council's commitment to enhancing counterterrorism sanctions. Organisationally, it promoted cooperation between the 1267 Committee, the CTC, and other international and regional bodies, fostering norms convergence. Procedurally, it incorporated the 1267 Committee guidelines, supported capacity-building, and encouraged technical assistance, aiming to improve sanctions measures. Legally, it urged States to inform individuals and entities about their listed status, advancing human rights protections.[671]

6.6.2. Resolution 1535 (2004): Counterterrorism Executive Directorate (CTED)

In 2004, alongside the 1267 Committee, the CTC underwent structural changes following the Security Council's unanimous adoption of Resolution 1535.[672] This Resolution urged states to adhere to international human rights norms and called on international and regional organisations to intensify assistance in implementing Resolution 1373 (2001).[673] It also highlighted the potential need for country visits to enhance understanding of implementation efforts and promoted cooperation with the UN Office of Drugs and Crime and its Terrorism Prevention Branch.[674] From an organisational and procedural perspective, the Council responded to the CTC's report of challenges by establishing the Counterterrorism Executive Directorate (CTED) as a special political mission to enhance monitoring and capacity-building.[675] The CTC's structure was reorganised into the Plenary (including all UNSC MS) and the Bureau (composed of the Chair and Vice-Chairs, assisted by CTED).[676] Additionally, the Council mandated the future CTED Executive Director to develop an organisational plan for an effective management structure staffed with experts, reflecting the Council's commitment to institutionalising counterterrorism efforts as specified in Resolution 1373 (2001).[677]

6.6.3. Resolution 1566 (2004): operational definition, Working Group for victims of terrorism

In 2004, the Security Council established a counterterrorism subsidiary organ via Resolution 1566, adopted unanimously and proposed by Russia.[678] The associated

[670] Ibid, Paras.17-18.
[671] Ibid, Para.18.
[672] Resolution 1535 (2004), S/RES/1535 (2004).
[673] Ibid, 1.
[674] Ibid, 2.
[675] Ibid, Para.2.
[676] Ibid.
[677] Ibid, Para.4.
[678] UN Security Council Resolution 1566 (2004), S/RES/1566.

Working Group, comprising all UNSC MS, was tasked with developing practical recommendations concerning sanctions measures beyond those designated by the 1267 Committee, and exploring the creation of a victims' compensation fund.[679] Notably, under Chapter VII authority, paragraph 3 of the resolution implicitly offers an operational definition of terrorism:

> "Recalls that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organisation to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature."[680]

This move was unconventional, with Martin Scheinin highlighting that the resolution's close approach to defining terrorism was atypical for the Security Council, and this paragraph is now considered an operational de facto definition.[681]

1267 Committee activities in 2004

The 1267 Committee published two annual reports in 2004, covering 2003 (Table 21) and 2004 (Table 22). Both reports' summaries indicate that the Committee's activities addressed all four norms convergence pathways of the security-liberty balance. Notably, efforts focused on developing guidelines for MS and establishing cooperation channels with the CTC, while maintaining distinctions in mandates, objectives, and reporting standards.[682] Additionally, Resolution 1526 (2004) restructured the Committee by creating the Monitoring Team, thereby emphasising its central role. Legally, during country visits, MS queries often focused on adherence to the rule of law and due process, as well as clarification of exception procedures.[683]

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[679] Ibid, Paras.9-10.
[680] Ibid, Para.3.
[681] Martin Scheinin, 'A Proposal for a Kantian Definition of Terrorism: Leading the World Requires Cosmopolitan Ethos', in *9/11 and the Rise of Global Anti-Terrorism Law: How the UN Security Council Rules the World*, ed. Arianna Vedaschi and Kim Lane Scheppele (Cambridge University Press, 2021), 16.
[682] UNSC, *Report of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2004/1039 (2004), 1–12.
[683] Confirmed by Interviews H & L.

Politically and strategically, the reports highlighted deficiencies in MS reporting, citing possible causes such as reporting fatigue, stigma, and resource limitations.[684]

The 1267 Committee briefed the UN Security Council five times, addressing themes such as human rights, due process, international cooperation, delisting procedures, and key definitions including 'terrorism' and 'dual-use' materials (see Table 23). Discussions also covered the arms embargo, the management of the assets of deceased individuals, and the need to clarify dual-use material regulations to improve sanctions enforcement.[685] MS emphasised the importance of human rights protections within counterterrorism measures, raising concerns about humanitarian impacts and advocating for transparent delisting processes.[686] Ireland, representing the EU, highlighted the workshop's findings on terrorism financing, including the need for legal standards, criteria for listings, and for informing listed individuals about their status and their right to be heard.[687] The Committee engaged with reports, the Report of the High-level Panel on Threats, Challenges and Change[688] on potential human rights violations, while the Chair countered that the Report "does not conform to reality, as the Committee already has a process in its guidelines to de-list individuals or entities."[689] The briefings reflect an ongoing dialogue aimed at refining sanctions implementation and guidelines, underscoring the Council's view of these measures as adaptable instruments in the evolving landscape of global counterterrorism efforts. Overall, 2004 marked an increased focus on integrating human rights considerations and strengthening the sanctions regime.

2004 CTC activities

In early 2004, the CTC submitted a report on challenges in implementing Resolution 1373 (2001), stating that it was viewed as a landmark resolution in counterterrorism and was expanded by subsequent Resolutions such as 1456 (2003).[690] The Committee faced difficulties due to the broad international context. Key findings, summarised in Table 24, included proposals to address these issues. A primary concern

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[684] UNSC, *Report of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2004/281 (2004), 1–21.
[685] *Security Council: Fifty-ninth Year: 4892nd Meeting, Monday, 12 January 2004: Hearing on S/PV.4892* (2004).
[686] *Security Council: Fifty-ninth year: 4976th meeting, Tuesday, 25 May 2004: Hearing on S/PV.4976* (2004), 15.
[687] *4892nd Meeting*, 23.
[688] High-level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, A/59/565 (UNSC, 2004), 1–99.
[689] *Security Council Fifty-ninth Year: 5106th meeting, Wednesday, 22 December 2004: Hearing on S/PV.5106* (2004), 4–5.
[690] UNSC, *Report by the Chair of the Counter-Terrorism Committee on the Problems Encountered in the Implementation of Security Council Resolution 1373 (2001)*, S/2004/70 (New York, 2004), 4.

was financial accountability, as the original CTC structure lacked oversight of costs and resources.[691] This, along with other structural problems, led the CTC to recommend revitalisation to improve accountability, reduce logistical burdens, and enhance international cooperation for technical assistance.[692] Consequently, the Security Council undertook significant restructuring efforts.

CTC briefings predominantly centred on revitalising the Committee.[693] The CTC Chair outlined key goals, including enhancing MS dialogues for implementation oversight, strengthening technical assistance facilitation, improving coordination with other bodies, promoting capacity-building for more concrete recommendations, and simplifying procedures.[694] Throughout the year, briefings paralleled those of the 1267 Committee, emphasising human rights protections, increased cooperation with UN entities and international organisations, and the CTC's engagement with MS. Notably, inadequate outreach was identified as a factor in low public awareness, prompting commitments to improve communication.[695] The final briefing of 2004 revealed dissatisfaction among non-Council MS with the language of Resolution 1566 (2004), with Switzerland criticising it for not aligning with draft convention definitions,[696] and Costa Rica highlighting the importance of a collective international normative framework.[697]

UN Human Rights Norms Entrepreneurs in 2004

In 2004, middle-range states pressured the CTC and 1267 Committee to incorporate human rights protections, criticising counterterrorism structures. Actors such as Secretariat officials, UN experts, and regional organisations from Europe and Latin America consistently raised human rights concerns, with the EU advocating notably strong stances on human rights.[698] The Commission on Human Rights (CHR) adopted Resolution (2004/87) to safeguard human rights amid counterterrorism efforts, emphasising states' obligations under international law.[699] An Independent Expert on the Protection of Human Rights and Fundamental Freedoms while Countering

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[691] Ibid, 12.
[692] Ibid, 13.
[693] *Security Council: Fifty-ninth year: 5006th meeting, Monday, 19 July 2004: Hearing on S/PV.5006* (2004).
[694] *UN Security Council: Fifty-ninth year: 4921st meeting, Thursday, 4 March 2004: Hearing on S/PV.4921* (2004), 4.
[695] *5006th Meeting*, 3.
[696] *Security Council: Fifty-ninth year: 5059th meeting, Tuesday, 19 October 2004: Hearing on S/PV.5059* (2004), 24–25.
[697] *Ibid*, 49.
[698] Foot, 'Institutional Adaptation', 513.
[699] Protection of Human Rights and Fundamental Freedoms While Countering Terrorism: Commission on Human Rights Resolution: 2004/87, 2004/87 1 (2004), Para.1.

Terrorism, Robert Goldman, was appointed to advise on human rights protections and to produce a report identifying barriers and recommending improvements.[700]

Following the Millennium Summit, the Secretary-General established a High-level Panel to evaluate threats to international peace and security.[701] The Report of the High-level Panel on Threats, Challenges and Change A/59/565 recommended developing a principled counterterrorism strategy that upholds the rule of law and human rights.[702] The Secretary-General highlighted the core challenge: the lack of a universally accepted definition of terrorism.[703] While the UN has established key counterterrorism norms, MS' adoption of related conventions and legislation has been sluggish.[704] The panel emphasised the need for the 1267 Committee to implement a delisting process[705] and improve humanitarian exception provisions in sanctions regimes.[706] It also proposed a precise definition of terrorism and urged the General Assembly to reach consensus.[707]

2004 overview

In 2004, increased pressure from mid-range MS and other human rights norms entrepreneurs within the UN led to significant restructuring of the CTC and 1267 Committee. These reforms aimed to improve efficiency, foster greater cooperation with UN bodies and regional organisations, and enhance transparency and accountability. 2004 was a year during which the security-liberty balance of counterterrorism sanctions edged towards focusing on human rights protections, if not through concrete operative clauses of binding resolutions, at least through discourse.

6.7. 2005

6.7.1. Resolution 1617 (2005)

On July 29, 2005, the Security Council adopted Resolution 1617 (2005) under Chapter VII, defining 'associated with' to include those "participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of; supplying, selling or transferring arms and related material to; recruiting for; or otherwise supporting acts or activities of" al-Qaeda, Usama bin Laden or the Taliban, or any cell, affiliate, splinter group or derivative thereof.[708] While this definition provided technical criteria for identification,

[700] International Federation for Human Rights, *The UNCT Complex*, 83.
[701] High-level Panel on Threats, Challenges and Change, *Report*, 1.
[702] Ibid, 3.
[703] High-level Panel on Threats, Challenges and Change, *Report*, 3.
[704] Ibid, Para.149.
[705] Ibid, Para.152.
[706] Ibid, Paras.181-182. Also confirmed by Interview A.
[707] Ibid, Paras.163-164.
[708] UN Security Council Resolution 1617 (2005), S/RES/1617, Para.2.

it omitted discussion of potential political motives for association.[709] The resolution required MS to submit explanatory statements for proposed additions to the sanctions list and to inform designated individuals and entities of their status, though with less emphasis on the latter.[710] The preamble highlighted cooperation with organisations such as ICAO and Interpol, while the operative clauses called for ongoing collaboration with the CTC, the 1540 Committee, and others, including the implementation of FATF recommendations.[711] Procedurally, the resolution mandated that the 1267 Committee refine its listing guidelines and included annexes detailing the MT's mandate and the Committee's checklist for recent listings.[712]

6.7.2. Resolution 1624 (2005)

Following the London bombings in 2005, the UN unanimously adopted Resolution 1624, emphasising the need to counter incitement to terrorism and prevent terrorist influence on educational, cultural, and religious institutions.[713] The resolution reiterated the rights to freedom of expression, governed by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and to seek and enjoy asylum, governed by the Universal Declaration and the Convention relating to the Status of Refugees and its Protocol.[714] Moreover, Resolution 1624 (2005) "stresses that States must ensure that any measures taken to implement […] this resolution comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law."[715] Notably, it took nearly four years after Resolution 1373 (2001) for the Security Council to explicitly incorporate human rights considerations into the operative clauses of counterterrorism measures.

UNSC subsidiary organs' activity in 2005

The Monitoring Team's (MT) reports from August 2004 to September 2005 analysed the challenges and updates related to the 1267 sanctions regime (see Table 25 for a summary). The first report outlined themes and reporting impediments, suggesting removing vague entries.[716] The second report examined legal challenges, highlighting at least 13 lawsuits across various jurisdictions related to due process, the right to

[709] Barak Mendelsohn, 'Threat Analysis and the UN's 1267 Sanctions Committee', *Terrorism and Political Violence* 27(4), (2015): 616.
[710] Resolution 1617 (2005), Paras.4-5.
[711] Resolution 1617 (2005).
[712] Ibid, 6–8.
[713] UN Security Council Resolution 1624 (2005), S/RES/1624, Para.3.
[714] Ibid, 1–2.
[715] Ibid, Para.4.
[716] UNSC Monitoring Team, *First Report of the Analytical Support and Sanctions Monitoring Team Appointed Pursuant to Resolution 1526 (2004) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2004/697 (2004), 1–23.

property, and freedom of association, with 5 cases before the European Court of Justice and others before the European Court of Human Rights, Italy, Pakistan, Turkey, and the US.[717] These challenges claimed that the implementing authority failed to uphold human rights.[718] The MT included an overview of relevant cases, including Al Barakaat and Kadi.[719] The third report further addressed legal issues, [720] referencing the Belgian court's decision in the Al-Haramain case and emphasising the need for a clear definition of 'associated with' to enhance the regime's effectiveness.[721] Notably, discussions on this term may have influenced Security Council Resolution 1617 (2005), indicating active UN multilateral engagement and normative convergence in counterterrorism efforts.

In 2005, the CTC, 1267, and 1540 Committees conducted joint Council briefings, focusing on technical assistance, inter-committee cooperation, and procedural enhancements such as guidelines and human rights protections (see Table 26). The 1267 Committee Chair indicated that a new resolution under Resolution 1526 (2004) was to be adopted by July, initiating drafting and signalling improved communication on sanctions.[722] The Philippines proposed a joint reports database to alleviate MS reporting fatigue.[723] In July, MS welcomed the CHR's appointment of a Special Rapporteur,[724] while Liechtenstein addressed legal challenges to sanctions, citing the European Court's decision in Bosphorus Airways v. Ireland, which highlighted potential conflicts between UN sanctions and rights under the European Convention.[725] Concerns regarding human rights protections and procedure improvements persisted.[726] The final 2005 briefing noted the adoption of Resolution 1617 (2005) and emphasised the importance of active MS dialogue.[727] The 1267 Committee observed that four individuals listed in 2005 participated in Afghanistan's parliamentary elections, prompting engagement with the

[717] UNSC Monitoring Team, *Second Report of the Analytical Support and Sanctions Monitoring Team Appointed Pursuant to Resolution 1526 (2004) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2005/83 (2005), Para.51.
[718] Ibid, Para.50.
[719] Ibid, 52.
[720] UNSC Monitoring Team, *Third Report of the Analytical Support and Sanctions Monitoring Team Appointed Pursuant to Resolution 1526 (2004) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2005/572 (2005), Para.50.
[721] UNSC Monitoring Team, *MT Report 3*, Paragraph 27.
[722] *Security Council: Sixtieth year: 5293rd meeting, Wednesday, 26 October 2005: Hearing on S/PV.5293* (2005), 4.
[723] *Ibid*, 12.
[724] *Security Council: Sixtieth year: 5229th meeting, Wednesday, 20 July 2005: Hearing on S/PV.5229* (2005), 13.
[725] *Ibid*, 8.
[726] *Ibid*.
[727] *Ibid*, 2.

Afghan government.[728] These developments underscored ongoing procedural gaps and the need for enhanced monitoring of UN sanctions implementation.

In late 2005, the CTC Chair submitted a CTED review to the Security Council, noting CTED's recent operational status and limited mandate execution time.[729] The review outlined key actions for CTED, including monitoring Resolution 1373 (2001) through analysis, improving dialogue with MS, updating reporting processes, and collaborating with relevant bodies.[730] Additionally, it emphasised capacity-building via technical assistance, sharing best practices, and cooperation with international and regional organisations.[731] The CTC also highlighted that CTED should ensure that States comply with human rights obligations when implementing Resolution 1373 (2001).[732] While some mandate aspects are well-defined, the CTC sought clarification on reporting lines and CTED's cooperation with the Secretary-General under Resolution 1535 (2004).[733] Importantly, the CTC urged CTED to recommend measures to streamline reporting procedures of the 600 MS reports and required aid in its "effort in clearing the backlog," demonstrating that procedural assistance was also a large part of CTED's programme of work.[734]

In 2005, the 1267 Committee submitted an assessment report reviewing implementation efforts, noting both successes and challenges among MS.[735] The report highlighted key changes, including clarified guidelines on statements of cases under Resolution 1617 (2005) and the transliteration of names alongside their original-language versions.[736] A significant finding was the widespread misunderstanding among MS regarding the necessity of criminal proceedings before asset freezing; the Committee emphasised that assets must be frozen upon inclusion of a name on the Consolidated List.[737] Statistical data indicated variability in MS actions (see Table 27): 140 MS reported to the 1267 Committee, a stark contrast to CTC reports, which received submissions from all MS, some up to five times.[738] Additionally, 117 MS confirmed a

[728] *Ibid*.
[729] UNSC, *Report of the Counter-Terrorism Committee to the Security Council for Its Consideration as Part of Its Comprehensive Review of the Counter-Terrorism Committee Executive Directorate*, S/2005/800 (2005), Para.6.
[730] UNSC, *CTED Review 2005*, Paragraph 43.
[731] Ibid, Para.44.
[732] Ibid, Para.13.
[733] Ibid, Para.10.
[734] Ibid, Para.30.
[735] UNSC, *Letter Dated 1 December 2005 from the Chairman of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities Addressed to the President of the Security Council*, S/2005/761 (2005), 1–22.
[736] Ibid, 2–3.
[737] Ibid, 3.
[738] Ibid, Paras.5 & 14.

legal basis for asset freezes, 130 had the means to enforce travel bans, and 140 had protections against designees obtaining arms.[739] The report identified issues such as insufficient identifiers on the List, concerns regarding due process and transparency, and capacity-building difficulties, underscoring the need for procedural improvements.[740]

UN Human Rights Norms Entrepreneurs in 2005

In February 2005, Robert K. Goldman, the Independent Expert on the Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, reported on the limitations to human rights in counterterrorism efforts.[741] He noted that Resolution 1373 (2001) lacked a human rights framework, but Resolution 1456 (2003) addressed this gap by rejecting the trade-off between security and human rights.[742] Goldman observed progress within the UN human rights system but identified monitoring deficiencies.[743] He recommended establishing a special CHR procedure with "a multidimensional mandate to monitor States' counterterrorism" actions and ensure compliance with international human rights law, provide technical assistance, cooperate with relevant bodies, and report directly to the CHR.[744]

In March, UN Secretary-General Kofi Annan outlined a comprehensive counterterrorism strategy in his report, "In larger freedom: towards development, security and human rights for all."[745] This 5D counterterrorism strategy emphasises dissuading groups from terrorism, denying operational means, deterring state support, developing national prevention capacities, and defending human rights.[746] While noting existing measures like UN conventions and Security Council sanctions, he urged their rigorous enforcement and adoption of FATF's eight Special Recommendations on Terrorist Financing. Annan underscored the importance of protecting human rights in counterterrorism, advocating for a special rapporteur's office to report to the CHR on the compatibility of counterterrorism measures with international human rights law.[747] He affirmed that human rights and security are mutually reinforcing, calling for regional cooperation and a consensus on terrorism definitions in an international treaty.[748]

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[739] Ibid, Paras.20-29.
[740] Ibid, Paras.37-39.
[741] Robert K. Goldman, *Report of the Independent Expert on the Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, E/CN.4/2005/103 (Commission on Human Rights, 2005), 2.
[742] Ibid, Para.6.
[743] Ibid, Para.91.
[744] Ibid.
[745] UNGA, *Report of the Secretary-General: In Larger Freedom: Towards Development, Security and Human Rights for All*, A/59/2005 (2005), 1–62.
[746] 'Secretary-General's Keynote Address to the Closing Plenary of the International Summit on Democracy, Terrorism and Security - "A Global Strategy for Fighting Terrorism"', with Kofi Annan, 10 March 2005.
[747] Ibid.
[748] UNGA, *In Larger Freedom*, Paras.16 & 21 & 84.

In April, the CHR adopted Resolution 2005/80: Protection of human rights and fundamental freedoms while countering terrorism, reaffirming States' obligation to uphold human rights in counterterrorism efforts.[749] Building on prior actions, including the Independent Expert's report and the Digest of Jurisprudence, the Commission requested the High Commissioner for Human Rights to appoint a Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (hereinafter: Special Rapporteur).[750] The appointed Special Rapporteur's three-year mandate includes providing recommendations, advice, and technical assistance to States, as well as promoting best practices.[751] The Special Rapporteur was tasked with engaging in ongoing dialogue with MS, UN bodies, and relevant agencies, such as CTC, to coordinate efforts and avoid duplication.[752]

In July, the Commission appointed Finnish law professor Martin Scheinin as Special Rapporteur, who submitted his first report in September 2005.[753] He identified four key aspects of his mandate: complementarity, comprehensiveness, proactivity, and thematic focus.[754] Acknowledging prior efforts by other mandate holders and human rights bodies, he emphasised focusing on areas not yet covered to complement existing work.[755] The comprehensive nature of his mandate was supported by the Independent Expert's report, which advocated for a multidimensional mechanism, and the Commission's framing of human rights as interconnected, highlighting the need to assess counterterrorism impacts cumulatively across various rights.[756] The Special Rapporteur proposed country visits to investigate violations and thematic studies on issues like freedom of assembly and the challenges posed by suicide attacks to human rights protections.[757]

At the 2005 UNGA High-Level Week, heads of state and government adopted Resolution 60/1, addressing key counterterrorism issues.[758] The resolution reaffirmed the UN's commitment to recognising that "development, peace, security and human rights are mutually reinforcing,"[759] welcomed the Secretary-General's counterterrorism

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[749] Human Rights Resolution 2005/80: Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, E.CN/4.RES.2005/80 1 (2005).
[750] Ibid, Para.14.
[751] Ibid.
[752] Ibid.
[753] Romaniuk, *Multilateral Counter-Terrorism*, 82.
[754] Martin Scheinin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/60/270 (UNGA, 2005), 2.
[755] Ibid, Para.7.
[756] Ibid, Para.8.
[757] Ibid, Paras.9-10.
[758] Resolution Adopted by the General Assembly on 16 September 2005: 60/1. World Summit Outcome, A/RES/60/1 1 (2005).
[759] Ibid, Para.72.

strategy proposal, and urged the Assembly to develop a strategy consistent with international human rights law.[760] It also called for the Security Council to strengthen monitoring and enforcement and to collaborate with subsidiary bodies,[761] emphasising the importance of regional and subregional cooperation.[762]

In December, the General Assembly adopted Resolution 60/158 (2005), emphasising human rights protection in counterterrorism efforts.[763] The resolution reiterated MS' international obligations and urged compliance with human rights, refugee, and humanitarian law.[764] It also advocated for enhanced cooperation among the Security Council, CTED, CTC, OHCHR, and relevant mechanisms to safeguard human rights within counterterrorism policies.[765]

The different roles of norms entrepreneurs

By 2005, numerous resolutions, reports, and briefings highlighted persistent calls for human rights protections in counterterrorism efforts. Some addressed specific issues, such as the definition of 'associated with,' while others focused on broader legal obligations and enhanced inter-organ cooperation. During this period, several norms entrepreneurs emerged, expressly influencing UN counterterrorism work. The Secretary-General advocated a comprehensive counterterrorism strategy, and the High Commissioner for Human Rights appointed a series of special procedures, including the Independent Expert and, later, the Special Rapporteur, who became influential voices in critiquing Security Council measures. Impactful contributions also came from human rights experts and MS, who played key roles in negotiating security and liberty norms within counterterrorism sanctions.

The Chairs of the CTC and 1267 Committee have become influential actors in counterterrorism, with their alternating chairmanships affecting subsidiary organs like the Monitoring Group, Monitoring Team, and CTED. The first four chairs notably shaped the CTC's development: Sir Jeremy Greenstock established "a record of political evenhandedness," while Ambassador Arias was less active, stalling the CTC's momentum.[766] In 2004, Russian Ambassador Andrey Denisov sought to revitalise efforts, followed by Danish Ambassador Ellen Loj in 2005, focusing on technical assistance and human rights, aligned with Resolution 1624.[767] By 2005, the impact of

[760] Ibid, Paras.82-85.
[761] Ibid, Para.90.
[762] Ibid, Para.170.
[763] Resolution Adopted by the General Assembly on 16 December 2005: 60/158: Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, A/RES/60/158 1 (2005).
[764] Ibid, Para.1.
[765] Ibid, Para.10.
[766] Foot, 'Institutional Adaptation', 511.
[767] International Federation for Human Rights, *The UNCT Complex*, 86.

norms entrepreneurs on counterterrorism perspectives was clear, although their impact lagged behind the immediate post-9/11 security priorities.

6.8. 2006

Joint CTC & 1267 Committee briefings in 2006:

In 2006, the joint counterterrorism committee continued briefings, reiterating themes (see Table 28) such as enhancing the technical assistance capabilities of the CTC, improving the quality of the Consolidated List of the 1267 Committee, and refining listing and delisting procedures to uphold due process standards and reduce judicial challenges globally. Notably, in May, the CTC Chair broke precedent and made a statement in her national capacity, publicly articulating Denmark's stance on due process within the sanctions regime, proposing to establish an "independent review mechanism – an ombudsman – to which individuals and entities on the Committee's list would have direct access."[768] France suggested establishing a Secretariat focal point for the direct receipt from listed individuals of their requests for delisting or exemption.[769] Switzerland presented the Watson report, commissioned by Germany, Sweden, and Switzerland, a continuation of multiple regional processes, highlighting legal challenges and human rights considerations in sanctions enforcement.[770] The report advocated for reforms, including refining the listing criteria, developing standards for statements of case, establishing status notification processes, implementing periodic reviews, creating an administrative focal point, standardising sanctions committee practices, and developing a review mechanism for designees.[771]

The Danish presidency's initiative, along with the Watson and Fassbender reports and the Like-Minded States' activism, illustrates how legal and procedural concerns about due process and human rights were channelled through expert symposia, commissioned studies, and ad hoc coalitions, transforming abstract critiques into concrete reform proposals such as the focal point and the Ombudsperson's Office.

6.8.1. Resolution 1699 (2006)

The Security Council's first resolution of 2006 regarding the counterterrorism sanctions regime was adopted only in August 2006, focusing on the 1267 Committee's cooperation with Interpol and creating the Interpol-UNSC Special Notices system.[772] Resolution 1699 (2006) requested the Secretary-General to increase UN-Interpol

[768] *Security Council Sixty-first year: 5446th meeting, Tuesday, 30 May 2006: Hearing on S/PV.5446* (2006), 8.
[769] *Ibid*, 22.
[770] *Ibid*, 28.
[771] *Ibid*, 28–29.
[772] UN Security Council Resolution 1699 (2006), S/RES/1699, 1.

cooperation to provide the counterterrorism committees and MS with better sanctions implementation tools.[773]

6.8.2. Resolution 1730 (2006)

Following the MS proposal, Watson and Fassbender reports, and the 2006 UNSC Presidential statement, the Security Council adopted Resolution 1730 (2006) in December. This resolution established procedures for the fair and transparent listing and delisting of individuals and entities for sanctions, including a dedicated delisting procedure via a new focal point within the Secretariat's Security Council Subsidiary Organs Branch.[774] Sanctions committees were instructed to update their guidelines accordingly.[775] The focal point handled delisting requests, which it forwarded to the designating Member State(s) for consideration; once a decision had been made on the request, the focal point was assigned to convey the information to the petitioner.[776] States could allow their citizens or residents to submit requests directly or through their governments.[777] France, Hungary, Albania, and the UAE opted not to forward requests.[778] Criticism persisted, with some dismissing the focal point as merely "an administrative mailbox,"[779] staffed part-time and others criticising its lack of transparency.[780]

6.8.3. Resolution 1732 (2006)

On December 21, 2006, the Security Council adopted a short Resolution (1732) stating that the Informal Working Group on General Issues of Sanctions had fulfilled its mandate and took note of the best practices and methods of the Group's 2006 report and requested subsidiary sanctions bodies to consider the report for their programmes of work.[781]

6.8.4. Resolution 1735 (2006)

The following day, the Council unanimously adopted Resolution 1735 (2006) under Chapter VII, addressing issues including measures, listing and delisting procedures, exemptions, Taliban-related matters, coordination, outreach, and Monitoring Team reviews.[782] Procedurally, the resolution responded to prior discussions on proposing names to the Consolidated List, requiring States to include a

[773] Ibid, Paras.1-2.
[774] UN Security Council Resolution 1730 (2006), S/RES/1730, Para.1.
[775] Ibid, Para.2.
[776] Ibid, 2–3.
[777] Ibid, 2.
[778] UNSC, *Procedures of the Focal Point for De-Listing: De-Listing Requests*, 2024.
[779] Sullivan, *The Law of the List*, 169, 209–10. Also confimed by Interviews C, G, & I.
[780] International Federation for Human Rights, *The UNCT Complex*, 92.
[781] UN Security Council Resolution 1732 (2006), S/RES/1732, 1.
[782] UN Security Council Resolution 1735 (2006), S/RES/1735.

detailed statement of case and supporting documents demonstrating how designees meet listing criteria.[783] States were also asked to specify which information could be publicly released,[784] and a standardised cover sheet was provided to streamline submissions.[785]

With regards to the delisting procedure, the Council included a list of criteria for determining whether to remove names from the list, including being listed by mistake, no longer meeting the listing criteria, being deceased, and having shown that the designee has severed all associations.[786] This was also important from a politico-strategic perspective, as Resolution 1735 (2006) stated that a change of behaviour can lead to delisting.[787] From a legal perspective, addressing due process concerns, the Council clarified which information could be publicly disclosed.[788] From an organisational perspective, the Monitoring Team's mandate was extended by 18 months and expanded to include consultation with intelligence and security agencies and engagement with scholarly bodies.[789]

Counterterrorism Committees and subsidiary organs' reporting in 2006

In 2006, the 1267 Committee, Monitoring Team, CTC, and CTED adopted a streamlined reporting process for their activities to the Security Council. The 1267 Committee's 2005 annual report highlighted key developments, including the clarification of 'associated with' in Resolution 1617 (2005) and enhanced cooperation with international and regional organisations, notably the Interpol notices scheme.[790] The report also outlined the 2006 work programme, emphasising revisions to guidelines concerning listing and delisting procedures as mandated by Resolution 1617 (2005).[791]

The MT's fourth report, released in March 2006, acknowledged that sanctions have "an important though limited" impact, hindered by inconsistent implementation, inaccuracies in the Consolidated List, and vulnerabilities of listed individuals.[792] It noted that at least 55% of al-Qaeda associates have been arrested for, or convicted of, a

[783] Ibid, Paras.5-6.
[784] Ibid, Para.6.
[785] Ibid, Annex I.
[786] Ibid, Para.14.
[787] Van Den Herik, 'The Security Council's Targeted Sanctions Regimes', 805.
[788] Romaniuk, *Multilateral Counter-Terrorism*, 95.
[789] Resolution 1735 (2006), Paragraph 32 & Annex II.
[790] UNSC, *Report of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2006/22 (2006), 1–11.
[791] Ibid, Para.11.
[792] UNSC Monitoring Team, *Fourth Report of the Analytical Support and Sanctions Monitoring Team Appointed Pursuant to Security Council Resolutions 1526 (2004) and 1617 (2005) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2006/154 (2006), Para.21.

criminal offence, with 21% at large.[793] The report highlighted greater tracking difficulties among Taliban affiliates due to ongoing reconciliation efforts in Afghanistan.[794] The report also reported that over 50 MS had called for enhanced due process and transparency in the UNSC 1267 Committee's listing procedures, issues previously discussed by the UNSC, UN General Assembly, Secretary-General, and courts.[795] Of these challenges, the MT highlighted a 2005 European Court of First Instance ruling that upheld sanctions and Security Council primacy but affirmed the judiciary's role in ensuring decisions comply with human rights standards, as seen in the Kadi and al Barakaat cases, pending appeal at the European Court of Justice.[796]

The fifth MT report continued to discuss listing and delisting, noting that the related activity "has reached a crescendo during the six months."[797] The report reviewed the Watson report and the Council of Europe's Committee of Legal Advisers on Public International Law (CAHDI) report, which indicated that State parties to the European Convention on Human Rights may violate their obligations when implementing UNSC sanctions.[798] The report also referenced a UN Legal Counsel address titled 'Strengthening International Law: Rule of Law and the Maintenance of International Peace and Security' as well as the Office of Legal Affairs (OLA) commissioning of the Fassbender study.[799] The Fassbender study emphasised that measures impacting human rights must be necessary and proportionate.[800] The MT recommended discontinuing publication of delisted individuals' names to prevent stigmatisation.[801]

In December, the CTC issued a review of CTED, outlining guidelines on human rights policy, best practices, organisational cooperation, preliminary assessment, and communication strategies.[802] The report detailed CTED's activities related to human rights, emphasising the CTC's directive that CTED should provide advice to the Committee on international human rights, refugee, and humanitarian law as needed to support effective measures.[803] Additionally, CTED maintained liaison with OHCHR,

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[793] Ibid, Paras.33-34.
[794] Ibid, Para.35.
[795] Ibid, Para.40.
[796] Ibid, Para.42.
[797] UNSC Monitoring Team, *Fifth Report of the Analytical Support and Sanctions Monitoring Team Appointed Pursuant to Resolutions 1526 (2004) and 1617 (2005) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2006/750 (2006), Para.37.
[798] Ibid, Paras.38-39.
[799] Ibid, Paras.40-42.
[800] Ibid, Para.42.
[801] Ibid, Para.28.
[802] UNSC, *Report of the Counter-Terrorism Committee to the Security Council for Its Consideration as Part of Its Comprehensive Review of the Counter-Terrorism Committee Executive Directorate*, S/2006/989 (2006), Para.8.
[803] Ibid, Annex.

UNHCR, and other human rights entities regarding counterterrorism, engaging with the Council of the European Union Working Party on Terrorism (COTER), the EU Counter Terrorism Working Group (CTWG), and the Council of Europe Committee of Experts on Terrorism (CODEXTER) meeting.[804] The document primarily addressed procedural and organisational norms convergence related to CTED's 2006 activities.

UNSC rebalancing in 2006

In 2006, the Security Council experienced a notable shift towards integrating human rights considerations into its sanctions regime, particularly through its 1267 measures. This period marked an increase in engagement from MS, counterterrorism committees, expert groups, judicial bodies, and academia, all advocating for greater protection of human rights within the counterterrorism framework. The shift was driven by a politico-strategic convergence of norms, influencing procedural, organisational, and legal dimensions, including a peak in due-process discussions during that year.[805] Notably, during Denmark's presidency, a Security Council meeting focused on strengthening international law and examined due-process concerns, featuring insights from UN Legal Counsel Michel and International Court of Justice President Judge Rosalyn Higgins.[806]

MS criticised the sanctions for undermining the Security Council's credibility and efficiency, with Russia highlighting the evolving role of the Security Council's legislative capacity in shaping international law.[807] At the same time, Qatar underscored the "legal and judicial impasse" created by the European court review of sanctions.[808] Emphasising the need for a balance, MS urged the Council to harmonise security needs with human rights protections, leading to a call for revisions to the 1267 Committee's procedures.[809]

Subsequently, Resolution 1730 (2006) institutionalised some procedural reforms, such as establishing a sanctions focal point, which was regarded variably as a "positive first step" by Greece or the best possible outcome at the time, according to Denmark.[810] Qatar criticised the annexe as a "very modest and weak attempt by the Council to improve delisting procedures" and claimed that the focal point lacked independence and neutrality; thus, there is a need for further revisions and

[804] Ibid.
[805] UNSC Monitoring Team, *MT Report 5*, Para.37.
[806] *Security Council: Sixty-first year: 5474th meeting, Thursday, 22 June 2006, 10.15: Hearing on S/PV.5474* (2006), 4–6.
[807] *Ibid*, 16.
[808] *Ibid*, 21.
[809] UNSC, 'Statement by the President of the Security Council (S/PRST/2006/28)', 22 June 2006.
[810] *Security Council: 5599th meeting, Tuesday, 19 December 2006: Hearing on S/PV.5599* (2006), 2–3.

improvements to the counterterrorism sanctions regimes.[811] Meeting records are crucial for analysing the security-liberty balance, as the unanimous resolutions do not represent all Security Council perspectives; resolutions adopted without negative votes stem from compromises acknowledged in MS interventions.

UN-system responses to the counterterrorism sanctions in 2006

In April 2006, the Secretary-General released a report titled 'Uniting against Terrorism: Recommendations for a Global Counterterrorism Strategy.'[812] He emphasised that effective counterterrorism measures and human rights protection are mutually reinforcing, not conflicting.[813] The report proposed institutionalising the Counterterrorism Implementation Task Force (CTITF) within the Secretariat to coordinate UN counterterrorism efforts.[814] It also included an inventory of existing UN counterterrorism activities (see Table 29) and addressed concerns about the sanctions regime's due process, commissioning the Office of Legal Affairs to draft guidelines for Security Council consideration.[815] Additionally, the report presented statistics on the status of all 13 universal counterterrorism instruments.[816]

In 2006, the UN adopted the Global Counterterrorism Strategy (GCTS), following a process initiated by the Secretary-General's report and facilitated by the President of the General Assembly, Swedish Foreign Minister Jan Eliasson, along with ambassadors from Spain and Singapore.[817] This marked the first time that all Member States agreed to adopt a common strategic and operational approach to counterterrorism.[818] The GCTS was grounded in the "five Ds" (dissuasion, denial, deterrence, development, and defending human rights) as articulated in the 2005 'In Larger Freedom' report,[819] and was structured around four pillars: (1) addressing conditions conducive to terrorism, (2) prevention and combating terrorism, (3) capacity-building of states and UN agencies, and (4) safeguarding human rights and the rule of law.[820] The strategy emphasised multilateral cooperation, involving a range of UN agencies and international organisations, UNESCO, CTED, UNODC and its Terrorism Prevention Branch, Interpol, FATF, CTC, ICAO, WCO, 1267 Committee, CTITF, IMF,

[811] *Ibid*, 3–4.
[812] UNGA, *Report of the Secretary-General: Follow-up to the Outcome of the Millennium Summit Uniting against Terrorism: Recommendations for a Global Counter-Terrorism Strategy*, A/60/825 (2006), 1–32.
[813] Ibid, Para.5.
[814] Ibid, Para.109.
[815] Ibid, Paras.114-117.
[816] Ibid, Annex II.
[817] Resolution Adopted by the General Assembly on 8 September 2006: 60/288: The United Nations Global Counter-Terrorism Strategy, A/RES/60/288 1 (2006).
[818] International Federation for Human Rights, *The UNCT Complex*, 35.
[819] UNGA, *In Larger Freedom*.
[820] GCTS, Annex.

World Bank, IAEA, Organisation for the Prohibition of Chemical Weapons, WHO, IMO, HRC, OHCHR, and the UN Special Rapporteur, to foster norms organisational convergence and enhance coordination.[821] Furthermore, the GCTS signified a politico-strategic normative shift from a security-centric, Security Council-dominated paradigm toward a broader, multilevel approach that balances security concerns with human rights and civil liberties.

6.9. 2007

In 2007, UN counterterrorism sanctions activity was relatively limited compared to 2006, a year marked by significant developments. The 1267 Committee's annual report reflected on the regime's modifications in 2006 and outlined efforts to enhance listing and delisting procedures, including the establishment of a focal point within the Secretariat.[822]

The Monitoring Team submitted two reports in 2007. The first, initially circulated in November 2006 and publicly available in March 2007, assessed the effectiveness of sanctions implementation, focusing on legal, administrative, and political measures across MS.[823] The report also addressed legal challenges, noting 25 cases, including nine before the European Court of First Instance and the Court of Justice.[824] The seventh MT report underscored persistent weaknesses, for which the MT "makes no apology for raising them again."[825] Notably, the limitations of the sanctions list and limited MS engagement.[826] Despite procedural improvements, stakeholder enthusiasm waned, evidenced by the lowest annual addition of designees (five in 2007) since 1999.[827] The report identified key issues warranting further attention, including the implementation of Resolution 1617 (2005),[828] handling deceased designees,[829] and periodic review mechanisms.[830]

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[821] Ibid.
[822] UNSC, *Report of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2007/59 (2007), 1–11.
[823] UNSC Monitoring Team, *Sixth Report of the Analytical Support and Sanctions Monitoring Team Appointed Pursuant to Security Council Resolutions 1526 (2004) and 1617 (2005) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2007/132 (2007), Para.23.
[824] Ibid, Annex I., These specific 9 legal challenges were also highlighted in Interviews G & J.
[825] UNSC Monitoring Team, *Report of the Analytical Support and Sanctions Monitoring Team Appointed Pursuant to Security Council Resolutions 1617 (2005) and 1735 (2006) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities**, S/2007/677 (2007), Para.2.
[826] Ibid.
[827] Ibid, Para.25.
[828] Ibid, Para.34.
[829] Ibid, Para.37.
[830] Ibid, Paras.39-40.

In the first joint counterterrorism committees' briefing, the 1267 Committee Chair announced that the focal point has been operational since March 29, 2007.[831] The Chair outlined three priorities for 2007: oversight of Resolution 1373 (2001) implementation, enhancement of technical assistance, and dialogue with Member States regarding Resolution 1624 (2005).[832] While MS welcomed the focal point's establishment, Qatar, Lichtenstein, Argentina, and Switzerland expressed concerns about its lack of an impartial review mechanism for the rights of designees.[833] In November, the 1267 Chair reported 16 delisting and 21 humanitarian exemption requests processed through the focal point in 2017, noting potential improvements in the list's accuracy through better information on designees, addition of new entries, and removal of ineligible or deceased individuals.[834] Some Member States, notably South Africa, Qatar, Indonesia, Liechtenstein, and Switzerland, questioned the due process, whereas the EU, via Portugal, emphasised the importance of balancing counterterrorism efforts with human rights protections.[835]

In April 2007, Greece co-organised a symposium with the Joan B. Kroc Institute, the Fourth Freedom Forum, Brown University's Watson Institute, and Uppsala University's Stockholm Process on Targeted Sanctions.[836] The event gathered MS, experts, and academics to discuss reforms needed in the Security Council's sanctions approach, including procedures for listing and delisting to safeguard human rights, the creation of an information hub, capacity-building, and improved communication for public awareness.[837] The report also advocated for enhanced cooperation between the CTC and the 1267 Committee.[838]

While 2006 marked a pivotal year in the rebalancing of security and liberty norms, in 2007 MS have toned down their statements about human rights protections regarding counterterrorism sanctions. This decline can primarily be attributed to the limited operational capacity of the newly established focal point, which required time to become fully functional and begin its work earnestly. Nonetheless, it is possible that MS adopted a temporary pause to observe the implementation of the enhanced listing and delisting guidelines in collaboration with the focal point. During this period, the

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[831] *Security Council: Sixty-second year: 5679th meeting, Tuesday, 22 May 2007: Hearing on S/PV.5679* (2007), 2.
[832] *Ibid*, 3.
[833] *Ibid*, 33.
[834] *Security Council: Sixty-second year: 5779th meeting, Wednesday, 14 November 2007: Hearing on S/PV.5779* (2007), 5–7.
[835] *Ibid,* 33.
[836] UNSC, 'Letter Dated 12 December 2007 from the Permanent Representative of Greece to the United Nations Addressed to the President of the Security Council', personal communication, 13 December 2007.
[837] Ibid, 5.
[838] Ibid, 6.

number of legal challenges to the sanctions regime continued to rise, with several significant cases awaiting judicial decisions.

6.9.1. Resolution 1787 (2007)

In December, the Security Council adopted Resolution 1787 (2007), extending the mandate of CTED until March 31, 2008, and calling on the Executive Director to recommend organisational changes for the subsidiary organ within 60 days of the resolution's adoption.[839]

6.10. 2008

1267 sanctions evolution in 2008

At the beginning of 2008, the 1267 Committee reviewed its sanctions regime, committing to procedural improvements in response to identified issues.[840] Key actions included addressing non-compliance, combating criminal misuse of the Internet, and collaborating with financial institutions to enhance the regime's effectiveness.[841] The Chair provided MS with a standard delisting form, and the Committee considered removing deceased individuals and revising exemptions from asset freezes and travel bans.[842] MS, including Italy, emphasised refining listing procedures to balance security with fundamental rights amidst increasing legal challenges.[843]

In May 2008, the MT submitted its eighth report addressing ongoing issues with the 1267 sanctions list, including the lack of identifiers, the status of deceased designees, and the limited number of reports and checklists received under Resolution 1455 (2003): 153 and 58, respectively, two years past the deadline.[844] The report highlighted that "sanctions are at a legal crossroads" due to pending appeals before the Court of Justice of the European Communities (ECJ), notably the Kadi and Al Barakaat cases.[845] It discussed the implications of the January 2008 advisory opinion by Advocate General Maduro, which challenged the ECJ's authority to review the implementation of actions under UNSC Chapter VII resolutions.[846] The MT warned that if the ECJ adopted this position, EU sanctions could become invalid, prompting similar legal challenges.[847]

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[839] UN Security Council Resolution 1787 (2007), S/RES/1787.
[840] UNSC, *Report of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities* (2008), 1–12.
[841] Ibid, Paras.35-36.
[842] *Security Council: Sixty-third year: 5886th meeting, Tuesday, 6 May 2008: Hearing on S/PV.5886* (2008), 6.
[843] *Ibid*, 16.
[844] UNSC Monitoring Team, *Report of the Analytical Support and Sanctions Monitoring Team Pursuant to Resolution 1735 (2006) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2008/324 (2008), 1–39.
[845] Ibid, Para.39.
[846] Ibid.
[847] Ibid, Para.40.

Additionally, the report addressed the feasibility of establishing an independent review panel, noting that the Security Council would likely resist any mechanism perceived to "erode its absolute authority" over international peace and security matters.[848]

6.10.1. Resolution 1822 (2008)

The Security Council continued to refine the 1267 sanctions regime, notably through Resolution 1822 (2008), which introduced procedural enhancements and was dubbed the "mother of all listing resolutions."[849] Acting under Chapter VII, it mandated the publication of statements of cases, specified publicly shareable information, and required the 1267 Committee to publish reasons for listing on its website.[850] The resolution also called for a review of deceased individuals[851] and a comprehensive review of all listings by June 2010, with annual updates for older entries.[852] Additionally, the Committee was instructed to report on implementation and non-compliance,[853] while the Monitoring Team's mandate was extended by 18 months, with a scheduled regime review in that period.[854]

Resolution 1822 follow-up activities

In November, the counterterrorism committees convened their first joint briefing since the adoption of Resolution 1822. The 1267 Committee Chair emphasised focus on two new mechanisms: the review of all names and the publication of narrative summaries of reasons on the Committee's website.[855] The Chair also addressed the ECJ's September 3, 2008, rulings in the Kadi and al Barakaat cases, noting that the Committee provided narrative summaries for listed individuals "on a non-precedent basis."[856] Additionally, he discussed updates to the Committee's website and a recent meeting with the Special Rapporteur regarding the fairness and clarity of listing and delisting procedures.[857]

MS acknowledged the evolution of the sanctions regime and welcomed Resolution 1822 (2008).[858] France, representing the EU, emphasised the importance of its implementation post-ECJ Kadi ruling.[859] The US endorsed it as a "tremendous leap

[848] Ibid, Para.41.
[849] Cortright et al., *Action Agenda*, 21.
[850] UN Security Council Resolution 1822 (2008), S/RES/1822, Paras.12-13.
[851] Ibid, Para.22.
[852] Ibid, Para.25-26.
[853] Ibid, Paras.31-32.
[854] Ibid, Paras.39-40.
[855] *Security Council: Sixty-third year: 6015th meeting, Wednesday, 12 November 2008: Hearing on S/PV.6015* (2008), 6.
[856] *Ibid*, 6.
[857] *Ibid*, 7.
[858] *Ibid*, 10.
[859] *Ibid*.

forward" in ensuring fair procedures.[860] The UK noted its benefits for due process and highlighted the need for ongoing process improvements in response to court signals.[861] Countries such as Panama, Indonesia, South Africa, and Switzerland expressed disappointment with the current system and called for an independent review mechanism.[862]

In December, the Chair of the 1267 Committee concluded the year's briefing, acknowledging Resolution 1822 (2008) as a milestone but emphasising ongoing efforts to address international sanctions concerns.[863] The 2008 annual report indicated a significant increase in designated individuals, with 32 new names added compared to 8 in 2007.[864] Additionally, communication with MS improved, with points of contact rising from 300 to 550.[865] The Committee introduced a standard delisting form[866] and an annual statement of information to streamline updates and enhance due process.[867] In 2008, procedural reforms were implemented to improve the listing, delisting, and notification processes of the 1267 sanctions regime in response to concerns about due-process obligations.

CTC activities in 2008

In March 2008, pursuant to Resolution 1787 (2007), the CTED Executive Director proposed a renewal of its mandate, emphasising five thematic areas: technical assistance; terrorist financing; border control, arms trafficking, and law enforcement; general legal issues; and human rights considerations related to counterterrorism, as outlined in Resolution 1624 (2005).[868] The proposal also called for the establishment of two new units: a quality control unit reviewing outgoing documents, and a communications and outreach unit.[869] The programme of work prioritised a flexible approach to country visits, enhanced donor engagement, active participation in UN CTITF initiatives, and enhanced collaboration.[870] Additionally, two key CTED outputs were highlighted: the Preliminary Implementation Assessments (PIAs), which aimed to

[860] *Ibid*, 12.
[861] *Ibid*, 15.
[862] *Ibid*.
[863] *Security Council: Sixty-third year: 6043rd meeting, Monday, 15 December 2008: Hearing on S/PV.6043* (2008), 8–9.
[864] UNSC, *Report of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2008/848 (2008), Para.6.
[865] Ibid, Para.8.
[866] Ibid, Para.10.
[867] Ibid, Para.36.
[868] *Security Council: Sixty-third year: 5855th meeting, Wednesday, 19 March 2008: Hearing on S/PV.5855* (2008), 3.
[869] *Ibid*.
[870] *Ibid*.

foster dialogue with MS, and a survey on the implementation of Resolution 1373 (2001), scheduled for publication in 2008.[871]

6.10.2. Resolution 1805 (2008)

The following day, the Security Council unanimously adopted Resolution 1805 (2008), approving CTED's organisational proposal and extending its mandate as a special political mission until December 31, 2010, with an interim review by June 30, 2009.[872] The resolution urged enhanced cooperation among relevant international and regional bodies, including the CTC, 1267 Committee, 1540 Committee, and their expert groups, to better coordinate UN counterterrorism efforts.[873]

CTC report: Survey of the implementation of Security Council Resolution 1373 (2001)[874]

In June 2008, the CTC issued a report on Resolution 1373 (2001), analysing legislation, counterterrorism financing, border control, domestic security, law enforcement, international cooperation, and human rights protection.[875] The survey identified regional vulnerabilities and implementation challenges.[876] It highlighted concerns regarding vague legal definitions of terrorist acts that may infringe on freedoms of opinion and association,[877] issues in justice administration such as presumption of innocence, torture prevention, and due process,[878] as well as potential conflicts with non-refoulement in suspect transfers.[879] Recommendations included enhanced cooperation with OHCHR and the Special Rapporteur, focusing on rule-of-law issues.[880]

UN Special Rapporteur's Report

In August 2008, the Special Rapporteur's report examined the judiciary's vital role in safeguarding the right to a fair trial.[881] The report's thematic focus emerged from increased complaints about counterterrorism laws that hindered access to independent courts.[882] The report highlighted concerns about the impact of listing individuals or

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[871] *Ibid*, 3–4.
[872] UN Security Council Resolution 1805 (2008), S/RES/1805, Para.2.
[873] Ibid, Paras.6 & 10.
[874] UNSC, *Report of the Counter-Terrorism Committee: Survey of the Implementation of Security Council Resolution 1373 (2001)*, S/2008/379 (2008), 1–37.
[875] Ibid, Para.4.
[876] Ibid, Para.8.
[877] Ibid, Para.163.
[878] Ibid, Para.164.
[879] Ibid, Para.165.
[880] Ibid, Para.166.
[881] Martin Scheinin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/63/223 (UNGA, 2008), 2.
[882] Ibid, Para.13.

entities by the UN Security Council, the EU, or national agencies on access to justice.[883] It concluded that this practice significantly undermined due process rights for suspected terrorists and their families.[884] Additionally, the report addressed the Special Rapporteur's visit to Guantanamo Bay, reaffirming that the US Military Commissions Act conflicts with international fair trial standards.[885]

In conclusion, although the UNSC briefings and open debates have emphasised incremental procedural modifications concerning human rights protections, portraying a comparatively optimistic view of the security-liberty balance in the context of counterterrorism sanctions, human rights experts and judicial bodies held a contrasting perspective in 2008, persistently raising concerns regarding due process.

6.11. 2009

In early 2009, the 1267 Committee, in conjunction with the Monitoring Team, focused on implementing the mandates outlined in Resolution 1822 (2008), while MS awaited the results of ongoing procedural enhancements.

In 2009, the MT submitted two reports (in May[886] and October),[887] praising procedural reforms from Resolution 1822 (2008), such as strengthened review mechanisms, improved notification procedures, and publicly available statements of cases and narrative summaries, which enhanced fairness and transparency.[888] Nonetheless, these improvements arrived too late "to prevent challenges to the regime in courts,"[889] notably from the European Court of Justice and the European Court of Human Rights, which threatened the Security Council's authority to impose sanctions.[890] The Kadi case exemplified how legal challenges complicated efforts to establish an independent review process.[891] The MT cautioned against inaction amid legal challenges and criticism of the 1267 sanctions regime's due process issues.[892] The MT highlighted proposals from various organisations, including the International Commission of Jurists and the Group of Like-Minded States, advocating for a review

[883] Ibid, Para.16.
[884] Ibid.
[885] Ibid, Para.5.
[886] UNSC Monitoring Team, *Ninth Report of the Analytical Support and Sanctions Monitoring Team, Submitted Pursuant to Resolution 1822 (2008) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2009/245 (2009), 1–40.
[887] UNSC Monitoring Team, *Tenth Report of the Analytical Support and Sanctions Implementation Monitoring Team Submitted Pursuant to Resolution 1822 (2008) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2009/502 (2009), 1–35.
[888] UNSC Monitoring Team, *MT Report 9*, Para.17.
[889] Ibid.
[890] UNSC Monitoring Team, *MT Report 10*, 5.
[891] UNSC Monitoring Team, *MT Report 9*, Para.27.
[892] UNSC Monitoring Team, *MT Report 10*, 5.

panel, an ombudsperson, time-limited listings, and regular reviews to address due process concerns.[893]

A decade after establishing the 1267 sanctions regime, both the Chair of the 1267 Committee and MS devoted considerable effort to discussing its evolution.[894] In May, committee briefings centred on legal challenges and recent European court rulings affecting the region.[895] MS such as Argentina and Liechtenstein emphasised that "human rights standards inherently balance sometimes competing interests," noting a recent imbalance favouring security over liberty in counterterrorism efforts.[896] By November, the committees continued to examine legal challenges, with the Chair highlighting the delisting of individuals, such as Vinck, Sayadi, and Nada, and entities, including al Barakaat, via the review process mandated by Resolution 1822 (2008).[897] Both the Chair and MS called for enhancements in the upcoming resolution review by 2009 to better address due-process concerns within the sanctions regime.[898]

During the joint committee briefing, the Netherlands, representing the Group of Like-Minded States, outlined its activities, tracing the group's origins to the 2006 Watson Report, which included Germany, Sweden, and Switzerland.[899] By 2008, the group, comprising Denmark, Germany, Liechtenstein, the Netherlands, Sweden, and Switzerland, advocated for an independent expert panel for effective reviews.[900] Membership expanded in 2009 to Belgium, Costa Rica, Finland, and Norway, which submitted a paper on strengthening sanctions review mechanisms, emphasising impartiality and effective remedies.[901] By late 2009, the Security Council faced deadlines for resolution review amid judicial rulings, legal challenges, and increased calls for procedural improvements.

6.11.1. Resolution 1904 (2009)

Resolution 1904 (2009), drafted by Austria, Burkina Faso, Croatia, France, Japan, Mexico, Turkey, the UK, and the US, was adopted on December 17, 2009.[902] It substantially improved sanctions procedures, addressing due process concerns and

[893] UNSC Monitoring Team, *MT Report 10*, Para.39. Interview M also discussed the proposal of the International Commission of Jurists.
[894] *Security Council: Sixty-fourth year: 6128th meeting, Tuesday, 26 May 2009: Hearing on S/PV.6128* (2009).
[895] *Ibid*, 27.
[896] *Ibid*, 46.
[897] *Security Council: Sixty-fourth year: 6217th meeting, Friday, 13 November 2009: Hearing on S/PV.6217* (2009), 10.
[898] *Ibid*.
[899] *Ibid,* 39.
[900] *Ibid*.
[901] *Ibid.*
[902] UN Security Council Resolution 1904 (2009), S/RES/1904.

promoting transparency and fairness.[903] The resolution emphasised integrating international human rights, refugee, and humanitarian law into counterterrorism efforts and acknowledged challenges to measures, including legal and procedural issues.[904] Acting under Chapter VII, the Security Council established the Office of the Ombudsperson for 18 months, appointing "an eminent individual of high moral character, impartiality, and integrity with high qualifications and experience" to assist with delisting requests, replacing the Focal Point for 1267 sanctions requests.[905] The resolution outlined the Ombudsperson's tasks and associated timelines for review, ranging between 6 and 10 months.[906] Additionally, the resolution extended the Monitoring Team's mandate by 18 months, tasking it with supporting the Ombudsperson.[907] The sanctions measures were subject to review in 18 months or sooner if necessary.[908]

Resolution 1904 (2009) marked the "most meaningful qualitative improvement" for those on the Consolidated list, primarily through establishing the Office of the Ombudsperson.[909] From a legal norms convergence perspective, it reflected dialogue between the Security Council and the courts, addressing due process and legal challenges to sanctions, topics discussed at UN briefings and within the broader system. Organisationally, creating an independent Ombudsperson office demonstrated that the calls for a separate entity's involvement were incorporated into the UN counterterrorism sanctions regime. Procedurally, it emphasised notification procedures and the importance of detailed statements of cases and narrative summaries.[910] From a politico-strategic perspective, the resolution signalled that escalating criticisms, particularly from MS, experts, human rights advocates, and courts, had influenced Security Council action. Legal concerns, notably from European courts, threatened the Council's legitimacy and questioned its authority in balancing security and liberty in counterterrorism measures.

6.12. 2010

In a similar manner to the year after the adoption of Resolution 1730 (2006), which established the Focal Point mechanism, the year following the establishment of

[903] *Security Council: Sixty-fourth year: 6247th meeting, Thursday, 17 December 2009: Hearing on S/PV.6247* (2009), 2.
[904] Resolution 1904 (2009), Preamble.
[905] Ibid, Paras.20-21.
[906] Ibid, Annex II.
[907] Ibid, Para.47.
[908] Ibid, Para.48.
[909] E. de Wet, 'From Kadi to Nada: Judicial Techniques Favouring Human Rights over United Nations Security Council Sanctions', *Chinese Journal of International Law* 12(4), (2013): 789.
[910] Martins, 'The Political-Legal Nexus', 189.

the Office of the Ombudsperson through Resolution 1904 (2009) commenced with fewer actions taken regarding UN counterterrorism sanctions, as MS and the relevant organisations anticipated the full implementation of Resolution 1904 (2009).

In May, at the joint counterterrorism committees' briefing, the 1267 Committee Chair disclosed that several candidates had applied for the Ombudsperson position, with appointments imminent in consultation with the Secretary-General.[911] Concurrently, the CTC Chair discussed efforts to streamline its assessment procedures for Resolution 1373 (2001).[912] In September, under Turkey's Security Council presidency, a high-level counterterrorism meeting was held, where Secretary-General Ban Ki-moon emphasised the need for a comprehensive approach that upholds human rights while strengthening legal counterterrorism regimes.[913] MS acknowledged progress on sanctions but identified persistent challenges, including implementation gaps, lack of political will, capacity deficits, and resource limitations.[914] The CTC Chair outlined future priorities, including stakeholder coordination, provision of expertise, developing global norms to address the comprehensive nature of terrorism, and monitoring of resolution implementation.[915] The Security Council reaffirmed the interdependence of development, peace, security, and human rights and thus should not be prioritised over one another.[916]

In August 2010, Special Rapporteur Martin Scheinin submitted his final report to the General Assembly, asserting that Chapter VII lacks a solid legal foundation for enforcing the current framework of mandatory Security Council resolutions "of a quasi-legislative or quasi-judicial nature."[917] He analysed key UN entities involved in counterterrorism and human rights, including the General Assembly, CTITF, Human Rights Council, OHCHR, Security Council, CTC, CTED, and the 1267 Committee. Scheinin criticised the Security Council's authority, stating that the permanent Chapter VII implementation of the 1373 and 1267 regimes went "beyond the powers conferred on the Council."[918] He highlighted the limitations of Chapter VII due to the absence of a universally accepted, precise definition of terrorism.[919] The report also noted the

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[911] *Security Council: Sixty-fifth year: 6310th meeting, Tuesday, 11 May 2010: Hearing on S/PV.6310* (2010), 6–7.
[912] *Ibid*, 8.
[913] *Security Council: Sixty-fifth year: 6390th meeting, Monday, 27 September 2010: Hearing on S/PV.6390* (2010), 3.
[914] *Ibid,* 20.
[915] *Ibid.*
[916] UNSC, 'Statement by the President of the Security Council (S/PRST/2010/19)', 27 September 2010, 2.
[917] Martin Scheinin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/65/258 (2010), 2.
[918] Ibid, Para.39.
[919] Ibid, Para.37.

Ombudsperson's limited mandate, which did not extend to altering listings or advising the 1267 Committee.[920] It recommended that, on the tenth anniversary of resolution 1373 (2001), the Security Council consider consolidating resolutions 1373, 1624 (2005), and 1267 (1999, as amended), into a single non-Chapter VII resolution.[921]

In September 2010, the Monitoring Team's 11th report provided the first overarching review of the Consolidated List.[922] It drew significant public attention and led to the removal of 45 entries from 488,[923] with entries having fewer than four identifiers decreasing from 77 to 39.[924] The report commended the "remarkable level of engagement" between MS and the 1267 Committee, underscoring the sanctions regime's symbolic and practical significance.[925]

In November 2010, the counterterrorism committee chairs concluded their final briefings, during which they reported to the Security Council and shared their personal views on future UN counterterrorism efforts.[926] They emphasised the importance of co-location for their expert groups, as outlined in Resolution 1904 (2009) and reiterated in the 2010 presidential statement, urging the Secretary-General to facilitate such cooperation.[927] The Chair of the 1267 Committee announced Judge Kimberly Prost's appointment as Ombudsperson effective June 3, 2010, and called for her mandate's extension.[928] The Security Council responded to legal challenges against the sanctions regime through resolutions 1822 (2008) and 1904 (2009), though subsequent Kadi II case judgments revealed ongoing legal difficulties.[929] The EU representative acknowledged these challenges but reaffirmed the EU's commitment to UN principles.[930] Regarding the CTC and CTED, the Chair highlighted that effective counterterrorism measures should align with respect for human rights.[931] Member States echoed this sentiment and urged closer cooperation with other UN bodies, such as the CTITF.[932]

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[920] Ibid, Para.56.
[921] Ibid, 2.
[922] UNSC Monitoring Team, *Report of the Analytical Support and Sanctions Monitoring Team on the Outcome of the Review Described in Paragraph 25 of Resolution 1822 (2008) Submitted Pursuant to Paragraph 30 of Resolution 1904 (2009)*, S/2010./497 (2010), 1–22.
[923] Ibid, Para.2.
[924] Ibid, Para.91.
[925] Ibid, Para.3.
[926] *Security Council: Sixty-fifth year: 6424th meeting, Monday, 15 November 2010: Hearing on S/PV.6424* (2010).
[927] *Ibid,* 3.
[928] *Ibid*, 5–6.
[929] *Ibid*, 5.
[930] *Ibid*, 32–33.
[931] *Ibid*, 8.
[932] *Ibid*.

The 2010 report from the 1267 Committee noted that the Focal Point had ceased receiving sanctions-related delisting requests as of June 3, 2010.[933] Over its 3.5-year tenure, it received 25 requests from 18 individuals and 22 entities, resulting in the delisting of 5 individuals and 19 entities.[934] The report also indicated that the Committee would review the first comprehensive report from the Ombudsperson in early 2011, which would be "of particular importance in the light of recent legal challenges."[935] Throughout the year, both the 1267 Committee and the CTC focused on implementing prior resolutions but also adopted a forward-looking stance for 2011, emphasising the 10th anniversary of 9/11, Resolution 1373 (2001), and the hearing of the first delisting case before the Ombudsperson. These actions underscored the evolving nature of counterterrorism efforts and the ongoing tension between security and civil liberties within the Security Council.

6.12.1. Resolution 1963 (2010)

In December 2010, the Security Council unanimously extended CTED's mandate until December 2013 via Resolution 1963, emphasising the need to enhance human rights considerations in counterterrorism.[936] The resolution also mandated CTED to update the Global Implementation Survey for Resolutions 1373 (2001) and 1624 (2005) by the end of 2011.[937] Additionally, it called for future activities of the CTC and CTED to incorporate the 10-year anniversary of Resolution 1373 (2001), marked by a commemorative open meeting in 2011.[938]

Conclusion

This chapter employed event history, document, and network analyses to process trace the evolution of the 1267 counterterrorism sanctions regime from 2002 to 2010. It argued that the balance between security and liberty norms is a dynamic, ever-changing relationship when examined through the lens of norms convergence across politico-strategic, organisational, and procedural pathways. Findings indicate active involvement by various norms entrepreneurs and actors, with network analysis revealing heterogeneity in interests and motivations behind counterterrorism efforts. Document analysis of resolutions, reports, and meeting records shows that, despite apparent unanimity in voting, some MS voiced concerns, reflecting divergent politico-strategic influences within the UNSC. Overall, the convergence across these pathways

[933] UNSC, *Report of the Security Council Committee Established Pursuant to Resolution 1267 (1999) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2010/685 (2010), 1–18.
[934] Ibid, Para.59.
[935] Ibid.
[936] UN Security Council Resolution 1963 (2010), S/RES/1963, Para.10.
[937] Ibid, Paras.12-13.
[938] Ibid, Para.11.

demonstrates that the security-liberty balance is not static but continuously shifting, underscoring the importance of an added time qualifier in understanding norms evolution.

This chapter demonstrated that the security-liberty balance of the UN counterterrorism sanctions regime cannot be adequately described or analysed by looking at a single point in time. The balance is an ever-changing, dynamic relationship between the two norms, where numerous norms entrepreneurs and policy actors bring various interests and objectives to the negotiating table. Therefore, it is necessary to examine the convergence of the norms of security and liberty over a longer period to fully understand the numerous shifts in direction the sanctions regime has undergone since it first entered into force (Table 30). Significant events like 9/11 can lead to changes in the priorities and objectives of the norms entrepreneurs involved in the counterterrorism sanctions community. Therefore, these events should be examined in-depth to fully understand not only their short-term but also their long-term impact on the balance of security and human rights. By the end of 2010, organisational convergence around the 1267 regime and related counterterrorism structures had established a complex network of committees, expert bodies, focal points, and review mechanisms. While these arrangements did not resolve due-process and human rights issues, they laid an institutional foundation that facilitated later procedural reforms, such as the appointment of an Ombudsperson. This convergence from 2001 to 2010 thus set the stage for subsequent legal and procedural enhancements.

Chapter 7: Procedural Convergence: UN 2011-2020

Introduction

Since the establishment of the Office of the Ombudsperson in 2009 (Resolution 1904) and the implementation of the review process in 2010, the balance between security and liberty in UN counterterrorism sanctions has shifted significantly towards prioritising liberty. This marked a new phase in sanctions development, starting in 2011. This chapter analyses the ongoing evolution of this balance through document, network, and event history analysis, highlighting how various norms entrepreneurs and UN counterterrorism actors influenced the convergence of security and liberty norms. By extending the temporal scope and examining convergence pathways, politico-strategic, organisational, procedural, and legal, the chapter demonstrates that changing interests among competing norms entrepreneurs led to a dynamic, multilayered interplay between these norms from 2011 to 2020. Understanding this relationship requires long-term analysis to avoid perceiving it as static.

This chapter focuses on procedural norms convergence and its interaction with increasing legal contestation. It analyses the formalisation and standardisation of listing, delisting, review, and notification procedures, particularly concerning the Office of the Ombudsperson, narrative summaries, and review timelines. These procedural developments are contextualised within the broader landscape of escalating legal challenges in European and other courts, which partially compelled the Security Council to enhance due process safeguards and adjust the balance between security measures and individual rights.

7.1. 2011

In January 2011, Judge Kimberly Prost submitted her inaugural report as Ombudsperson, following her appointment on July 14, 2010.[939] The office received its first delisting request shortly thereafter, on July 28.[940] By January 2011, six requests from five individuals and one entity had been accepted, with three requests submitted by individuals represented by legal counsel demonstrating that they regarded the Office as a judicial entity.[941] Prost highlighted several challenges during her first six months, including limited access to classified information, the absence of a mandate for the 1267 Committee to provide reasons for delisting, and a lack of administrative and support

[939] Kimberly Prost, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 1904 (2009)*, S/2011/29 (UNSC, 2011), 1–17.
[940] Ibid, Para.2.
[941] Ibid, Paras.20-21.

staff and travel resources.[942] The Security Council acknowledged the report and indicated plans to address these issues during the June 2011 mandate renewal.[943]

The April 2011 Monitoring Team report discussed the courts' initial response to the Ombudsperson, explicitly mentioning the decision of the General Court of the European Union in the Kadi case, which stated that the "Security Council has still not deemed it appropriate to establish an independent and impartial body responsible for hearing and determining (…) actions against individual decisions taken by the 1267 Sanctions Committee."[944] The General Court ruled that EU law is distinct and equal in authority of UNSC resolutions adopted under Chapter VII, thus challenging the legal authority of the Security Council "in all matters."[945] The report identified criticisms of the Ombudsperson's mandate, particularly the lack of recommendation requirements and the non-binding nature of her observations.[946]

On May 2, 2011, the Security Council recognised the death of Osama bin Laden as a "critical development" in counterterrorism.[947] Subsequent briefings indicated that, despite this event, both the CTC and 1267 Committee chairs, alongside MS, recognised that terrorism and al-Qaeda persisted.[948] Discussions ensued regarding proposals by the Like-Minded Group and Human Security Network to distinguish between Taliban and al-Qaeda sanctions classifications, although Russia regarded such differentiation as "premature and unjustified."[949] In June, the Council enacted Resolutions 1988 and 1989 under Chapter VII, splitting the 1267 sanctions regime into two distinct regimes: one targeting the Taliban as a nationalist entity, the other al-Qaeda as a global actor.[950]

7.1.1. Resolution 1988 (2011)

Resolution 1988 (2011) governed the newly established list concerning the Taliban, which the Council created as recognition that some Taliban members "reconciled with the Government of Afghanistan" and rejected terrorism.[951] The resolution distinguished between individual and entity listings from the original 1267

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[942] Ibid, Paras.35-54.
[943] UNSC, 'Statement by the President of the Security Council (S/PRST/2011/5)', 28 February 2011, 1.
[944] UNSC Monitoring Team, *Eleventh Report of the Analytical Support and Sanctions Implementation Monitoring Team Established Pursuant to Security Council Resolution 1526 (2004) and Extended by Resolution 1904 (2009) Concerning Al-Qaida and the Taliban and Associated Individuals and Entities*, S/2011/245 (2011), Para.29.
[945] Ibid, Para.30.
[946] Ibid, Para.33.
[947] UNSC, 'Statement by the President of the Security Council (S/PRST/2011/9)', 2 May 2011.
[948] *Security Council: Sixty-sixth year: 6536th meeting, Monday, 16 May 2011: Hearing on S/PV.6536* (2011), 8.
[949] *Ibid*, 12.
[950] Feinberg, 'International Counterterrorism', 392–93.
[951] UN Security Council Resolution 1988 (2011), S/RES/1988, 1.

list, maintaining the same measures.[952] Affected individuals no longer had access to the Office of the Ombudsperson and had to utilise the Focal Point for delisting requests.[953]

7.1.2. Resolution 1989 (2011)

Resolution 1989 (2011) emphasised sanctions while acknowledging legal and practical challenges.[954] It retained al-Qaeda listings[955] and extended the Ombudsperson's mandate to include delisting recommendations, introducing a reverse consensus process for disagreements.[956] In July, the Ombudsperson report highlighted two successful delistings and an increased caseload (14 total), with half of the requests supported by legal counsel.[957] The Ombudsperson welcomed the addition of recommendations to her mandate and the Committee's requirement to provide reasons for rejecting delisting requests, as they were "of critical importance" to the process.[958]

UN-system responses to the counterterrorism sanctions in 2011

During the summer of 2011, a personnel change occurred within the mandate of the Special Rapporteur, as Ben Emmerson succeeded Martin Scheinin in August.[959] The Special Rapporteur further delineated two additional focal areas for his three-year mandate: the protection of victims of terrorism and the prevention of terrorism.[960]

The 10th anniversary of the September 11 attacks and the adoption of Resolution 1373 (2001) prompted the UN Secretary-General to establish the United Nations Centre for Counterterrorism (UNCCT) on the margins of the Symposium on International Counterterrorism Cooperation.[961] The UNCCT was formally constituted through a contribution agreement with Saudi Arabia and integrated into the UN Counterterrorism Implementation Task Force (CTITF) under the Secretary-General's authority.[962]

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[952] Ibid, Para.1.
[953] Ibid, Para.20.
[954] UN Security Council Resolution 1989 (2011), S/RES/1989, 2.
[955] Ibid, Para.1.
[956] Ibid, Paras.21-23.
[957] Kimberly Prost, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 1989 (2011)*, S/2011/447 (UNSC, 2011), Paras.16-18.
[958] Ibid, Para.44.
[959] Ben Emmerson, *Report of the Special Rapporteur: Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/66/310 (2011), Para.2.
[960] Ibid, 2.
[961] UNGA, 'Secretary-General Hails Symposium on International Counter-Terrorism Cooperation as Recognition that States "Are All in this Fight Together"', 19 September 2011.
[962] Resolution Adopted by the General Assembly on 18 November 18: 66/10. United National Counter-Terrorism Centre, A/RES/66/10 1 (2011).

The year concluded with key briefings on counterterrorism sanctions regimes,[963] presenting the Monitoring Team's report, which emphasised the continued relevance of the 1988 list for political processes in Afghanistan and highlighted the importance of the 1267 list in global efforts.[964] Between 2002 and 2011, only eight Taliban entities were newly listed, compared to 301 additions to al-Qaeda entries,[965] highlighting persistent concerns about dual listings, which, despite being permissible under Resolutions 1988 and 1989, signalled the Security Council's view of Taliban and al-Qaeda as substantively linked.[966]

2011 was marked by the Ombudsperson's inaugural full-year review mechanism for delisting petitions, enhancing procedural liberty.[967] The separation of Taliban and al-Qaeda sanctions through Resolutions 1988 and 1989 (2010) reflected renewed political will from a politico-strategic perspective, while the establishment of the UNCCT signified organisational development within the UN's counterterrorism architecture.

7.2. 2012

At the beginning of 2012, the Ombudsperson's third report highlighted ongoing concerns from delisted individuals regarding persistent sanctions, which she deemed unjustified.[968] In May, UN Secretary-General Ban Ki-moon emphasised the importance of human rights and the rule of law in "sustainable counterterrorism" efforts,[969] noting the UNCCT's operational status and proposing the establishment of a UN counterterrorism coordinator.[970] Member States welcomed these developments, with discussions focusing on the implementation of the Global Counterterrorism Forum and the Security Council's emphasis on effective, rights-respecting sanctions.[971]

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[963] *Security Council: Sixty-sixth year: 6658th meeting, Monday, 14 November 2011: Hearing on S/PV.6658* (2011).
[964] UNSC Monitoring Team, *Report of the Analytical Support and Sanctions Monitoring Team Pursuant to Security Council Resolutions 1267 (1999), 1988 (2011) and 1989 (2011) Concerning Linkages between Al-Qaida and the Taliban as Well as Other Individuals, Groups, Undertakings and Entities Associated with the Taliban in Constituting a Threat to the Peace, Stability and Security of Afghanistan*, S/2011/790 (2011), Para.3.
[965] *Ibid*, Para.9.
[966] Ibid, Para.44.
[967] Highlighted by Interview I.
[968] Kimberly Prost, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 1989 (2011)*, S/2012/49 (2012), 1–18.
[969] *Security Council: Sixty-seventh year: 6765th meeting, Friday, 4 May 2012: Hearing on S/PV.6765* (2012), 2.
[970] *Ibid.*
[971] *Ibid*, 6.

In May, the 1267 Committee introduced a new listing format to enhance procedural harmonisation,[972] while the CTC chair addressed challenges, such as internet-related incitement under Resolution 1624 (2005), and MS proposed reforms, including transparency in designation processes, sunset clauses, and extended Ombudsperson mandates.[973] Russia cautioned against procedural overreach,[974] while most members supported appointing a UN counterterrorism coordinator to improve coordination.[975] In June, the Ombudsperson stressed the need for better follow-up on delisted individuals' restrictions,[976] and CTED faced staffing issues undermining its mandate, with high turnover impeding effective oversight.[977]

UN-wide dialogue among norm entrepreneurs

During the summer, the Special Rapporteur submitted two reports. The first addressed deficiencies in human rights protections for victims of terrorism.[978] The second assessed the Ombudsperson's mandate, highlighting its incompatibility with international human rights norms, especially regarding due process.[979] He noted that the 1267 sanctions regime has evolved into a permanent enforcement tool akin to an international law-enforcement system, attracting ongoing criticism.[980] The report examined recent court rulings, such as the Nada case at the European Court of Human Rights, which held that in the absence of effective UN judicial review, MS must provide effective remedies.[981] The Rapporteur likened this to the Kadi decision but emphasised its broader implications across all 47 Council of Europe states, including three permanent Security Council members.[982] He concluded that, despite revisions in Resolution 1989 (2011), the Ombudsperson's mandate still lacked objective independence from the Committee.[983] The report also addressed issues surrounding the

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[972] *Security Council: Sixty-seventh year: 6767th meeting, Thursday, 10 May 2012: Hearing on S/PV.6767* (2012), 3.
[973] *Ibid*, 29.
[974] *Ibid*, 12–13.
[975] *Ibid,* 32.
[976] Kimberly Prost, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 1989 (2011)*, S/2012/590 (2012), Para.46.
[977] UNSC, *Report of the Counter-Terrorism Committee Executive Directorate on the Activities and Achievements of the Counter-Terrorism Committee and Executive Directorate from 2011 to 2012, Including Recommendations for Future Activities*, S/2012/465 (2012), Para.31.
[978] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/HRC/20/14 (2012), 1–21.
[979] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/67/396 (2012), 2.
[980] Ibid, Para.12.
[981] Ibid, Para.21.
[982] Ibid.
[983] Ibid, Para.35.

use of torture-derived information, the non-publication of Ombudsperson's reports and recommendations, and the need for time limits to address courts' criticism of the indeterminate length of designation being of a punitive nature.[984]

The Monitoring Team published its report within one week of the Special Rapporteur's, which the MT introduced as "the first report of the Team in several years in which due process issues have not taken centre stage."[985] It highlighted that improvements to the Ombudsperson's mandate have shifted the legal focus on delisting from judicial bodies to the Security Council, despite ongoing legal challenges.[986] The report advocated for moving beyond court challenges to focus on effective implementation and changing the perception that implementation was a static concept.[987]

The second MT report of 2012 responded to the Special Rapporteur, stating that the issue of structural due process was "particularly challenging" because the Ombudsperson's office design was perhaps the only acceptable option for all Council members.[988] It acknowledged that this mechanism signified a subtle erosion of the Council's authority by entrusting decision-making influence to an individual.[989] Additionally, the report assessed al-Qaeda's evolution over the previous decade, including its weakening leadership and regional diversification, which correlated with reduced financial resources and diminished operational influence.[990]

7.2.1. Resolutions 2082 and 2083 (2012)

In December, the Security Council adopted Resolutions 2082 and 2083 (2012), following extensive discussions throughout the year on improvements to the sanctions regime and the Ombudsperson's mandate.[991] These Resolutions, under Chapter VII, reaffirmed existing measures, including travel bans, arms embargoes, and financial freezes, on Taliban and al-Qaeda affiliates, while extending the Monitoring Team's mandate for an additional 30 months to aid the 1267 and 1988 Committees.[992]

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[984] Ibid, Paras.46-58.
[985] UNSC Monitoring Team, *Twelfth Report of the Analytical Support and Sanctions Implementation Monitoring Team, Submitted Pursuant to Resolution 1989 (2011) Concerning Al-Qaida and Associated Individuals and Entities*, S/2012/729 (2012), 4.
[986] Ibid, Para.30.
[987] Ibid, Para.9.
[988] UNSC Monitoring Team, *Thirteenth Report of the Analytical Support and Sanctions Implementation Monitoring Team Submitted Pursuant to Resolution 1989 (2011) Concerning Al-Qaida and Associated Individuals and Entities*, S/2012/968 (2012), Para.21.
[989] Ibid, Para.13.
[990] Ibid, Paras.1-2.
[991] *Security Council: Sixty-seventh year: 6862nd meeting, Wednesday, 14 November 2012: Hearing on S/PV.6862* (2012).
[992] UN Security Council Resolution 2082 (2012), S/RES/2082; UN Security Council Resolution 2083 (2012), S/RES/2083.

Resolution 2083 (2012) also renewed the Ombudsperson's mandate for 30 months and reversed the assumption of confidentiality of designating States when proposing new designations.[993] However, the Resolutions did not broaden the Ombudsperson's role to other sanctions or allow follow-up with delisted entities. Although less impactful on security-liberty balances than earlier measures, these Resolutions introduced significant procedural and politico-strategic adjustments, notably extending mandate durations from 18 to 30 months, thus supporting a more sustained sanctions framework.

7.3. 2013

In January, UN Secretary-General Ban Ki-moon addressed the Security Council, reaffirming the UN's commitment to a counterterrorism strategy grounded in human rights.[994] Discussions among MS, including EU nations and the EU representative, highlighted the need for enhanced international cooperation, respect for human rights, countering online terrorist recruitment, and transparent sanctions procedures.[995] The UK and Switzerland proposed establishing a UN-wide counterterrorism coordinator overseeing all 31 related UN entities.[996] Subsequently, the Council adopted a Presidential Statement advocating a comprehensive, multilateral approach that emphasises human rights, particularly the right to life and humane treatment of detainees, while addressing online freedom of expression.[997] The Statement also underscored the importance of sanctions, inter-agency cooperation, procedural fairness, and the Ombudsperson's role.[998]

UN-system responses to the counterterrorism sanctions in 2013

In 2013, counterterrorism norms entrepreneurs, such as the Ombudsperson, the Special Rapporteur, and various subsidiary organs, including the Monitoring Group, CTED, the Like-Minded Group, the ECJ, ECtHR, and the EU Counterterrorism Coordinator, have interacted with one another to an extraordinary degree.[999] Their interactions encompassed participating in shared events and panels hosted by UN offices and MS, consulting with sanctions experts and interest groups, and conducting open-source research with journalists and academics.[1000]

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[993] Resolution 2083 (2012), Para.12.
[994] *Security Council: Sixty-eighth Year: 6900th Meeting, Tuesday, 15 January 2013: Threats to international peace and security caused by terrorist acts, Comprehensive approach to counter-terrorism: Hearing on S/PV.6900* (2013), 2.
[995] *Ibid.*
[996] *Ibid*, 8–9.
[997] UNSC, 'Statement by the President of the Security Council (S/PRST/2013/1)', 15 January 2013, 2–4.
[998] UNSC, 'Statement of the President', 15 January 2013, 4–5.
[999] Confirmed by Interviews B & H.
[1000] Kimberly Prost, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 2083 (2012)*, S/2013/71 (2013), 1–30.

The Ombudsperson addressed activities related to counterterrorism sanctions research and discussed Resolution 2083 (2012), which enhanced the fairness and independence of the Ombudsperson system, including an extension of the mandate from 18 to 30 months.[1001] The report noted only marginal progress in transparency issues, such as information disclosure to petitioners and the public.[1002] Additionally, the Ombudsperson responded to the Special Rapporteur's report on handling information obtained through torture, affirming that her approach aligns with international standards.[1003] This exchange signifies an elevated, multi-staged dialogue among stakeholders concerning the balance between security and liberty in counterterrorism sanctions.

The Special Rapporteur's reports continued this dialogue and addressed transparency, adding new dimensions, such as the ECHR's ruling in El-Masri v. Macedonia on the right to truth, which was acknowledged in jurisprudence for the first time.[1004] Both the Court and the Rapporteur emphasised victims' and the public's right to information regarding counterterrorism cases.[1005] In his 2013 second report, Emmerson highlighted that the lack of transparency fosters an "accountability vacuum."[1006]

The Monitoring Team noted an improved legal stance of the UN counterterrorism sanctions regime, emphasising the significance of Advocate General Yves Bot's opinion in the *Kadi case*.[1007] Should the Court of Justice of the EU adopt the Advocate General's view, most legal challenges to listing decisions may be deemed insufficient.[1008] The report also highlighted increased interaction between counterterrorism entities, such as the UNSC, CTC, CTED, UNODC, INTERPOL, and others, and various stakeholders, indicating a shift toward a multilayered, multi-stakeholder model that influences the security-liberty balance.[1009]

Throughout the year, the 1267 Committee and the CTC briefed the Security Council twice, submitted a review of the CTC Executive Directorate, and presented its

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[1001] Ibid, Para.30.
[1002] Ibid, Paras.40-45.
[1003] Ibid, Para.57.
[1004] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/HRC/22/52 (2013), Para.32.
[1005] Ibid, Para.33.
[1006] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/68/389 (2013), Para.41.
[1007] UNSC Monitoring Team, *Fourteenth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2083 (2012) Concerning Al-Qaida and Associated Individuals and Entities*, S/2013/467 (2013), Para.29.
[1008] Ibid, Para.33.
[1009] Ibid, Paras.78-92.

annual 1267 report. Key themes included transparency and enhanced coordination, exemplified by discussions on appointing a UN counterterrorism coordinator, as proposed by the Secretary-General.[1010] Politico-strategically, both the CTC and sanctions regimes were recognised as vital tools in the global counterterrorism effort.[1011] Procedurally, the Ombudsperson's role was highlighted as a cornerstone of human rights protections in counterterrorism sanctions.[1012] Organisationally, engagement by the Monitoring Team and CTED with various counterterrorism stakeholders, through conferences, briefings, workshops, and training, underscored the importance of international cooperation with bodies such as the EU, INTERPOL, OSCE, and ICAO.[1013] Additionally, the succession of CTED's Executive Director from Mike Smith (Australia) to Jean-Paul Laborde (France) in July signalled potential shifts in organisational approach.[1014] From a legal perspective, anticipation mounted around the European Court of Justice's ruling in the Kadi case, issued in July 2013.[1015]

A longstanding procedural concern was underscored by the 2013 delisting of Osama bin Laden, highlighting the need for clear procedures for deceased designees and the safeguarding of assets to prevent misuse for terrorism.[1016] This issue was addressed in Resolution 2083 (2012), emphasising the importance of ongoing vigilance post-death of listed individuals. During 2012-2013, Security Council activity diminished in both volume and scope. While procedural and legal issues, such as transparency of the Ombudsperson's mechanism and calls for an integrated counterterrorism strategy, were raised, the period showed limited focus on balancing human rights and security in counterterrorism measures.

7.3.1. Resolution 2129 (2013)

The Security Council adopted Resolution 2129 (2013) in December, reaffirming several principles outlined in its preamble concerning the obligation of MS to enforce existing sanctions while concurrently upholding the rule of law and

[1010] *Security Council: Sixty-eighth year: 6964th meeting, Friday, 10 May 2013: Hearing on S/PV.6964* (2013), 10.
[1011] *Security Council: Sixty-eighth year: 7071st meeting, Wednesday, 27 November 2013: Hearing on S/PV.7071* (2013), 11.
[1012] *Ibid*, 31.
[1013] UNSC, *Report of the Security Council Committee Pursuant to Resolutions 1267 (1999) and 1989 (2011) Concerning Al-Qaida and Associated Individuals and Entities*, S/2013/792 (2013), Paras.13 & 33.
[1014] UNSC, *Report of the Security Council Committee Established Pursuant to Resolution 1373 (2001) Concerning Counter-Terrorism to the Security Council for Its Comprehensive Consideration of the Work of the Committee and Its Executive Directorate from 2011 to 2013*, S/2013/722 (2013), Para.57.
[1015] *7071st Meeting*, 31.
[1016] *6964th Meeting*, 7.

safeguarding human rights and fundamental freedoms.[1017] The Resolution extended CTED's mandate as a special political mission until the end of 2017, directing it to monitor and identify emerging developments within the framework of relevant UNSC resolutions.[1018]

7.4. 2014

Compared to previous years, 2014 was a unique year for UN counterterrorism sanctions, as the Security Council adopted a total of six related resolutions, surpassing the cumulative total from all prior years.

7.4.1. Resolution 2133 (2014)

In January, the Council adopted Resolution 2133 (2014), addressing hostage-taking and kidnappings by terrorist groups for financial or political gains.[1019] The resolution highlighted the roles of the Financial Action Task Force (FATF) and the Global Counterterrorism Forum (GCTF) in countering terrorist financing and kidnapping-related activities.[1020] It called on UN entities, such as the CTC, CTED, and the MT, to incorporate the expertise of these bodies.[1021] This marks a shift towards greater organisational norm convergence and enhanced cooperation through cross-referrals, urging MS and UN entities to align their counterterrorism strategies with FATF and GCTF directives.[1022]

7.4.2. Resolutions 2160 and 2161 (2014)

Resolutions 2160[1023] and 2161[1024] (2014), adopted under Chapter VII, reaffirmed sanctions targeting Taliban and al-Qaeda affiliates. The mandates for the Monitoring Team and the Ombudsperson's Office[1025] were extended by 30 months.[1026] Both Resolutions emphasised measures against kidnapping for ransom and advocated for tighter alignment with FATF financial sanctions. Notably, these resolutions omit references to MS' international human rights obligations.

7.4.3. Resolution 2170 (2014)

In August, the Council adopted Resolution 2170 (2014), designating the Islamic State in Iraq and the Levant (ISIL) and Al Nusrah Front (ANF) as al-Qaeda affiliates.[1027]

[1017] UN Security Council Resolution 2129 (2013), Pub. L. No. S/RES/2129 (2013), 1 (2013), 1–4.
[1018] Resolution 2129 (2013), Paras.2 & 5.
[1019] UN Security Council Resolution 2133 (2014), S/RES/2133.
[1020] Ibid, 2–3.
[1021] Ibid.
[1022] De Londras, *Practice and Problems*, 60.
[1023] UN Security Council Resolution 2160 (2014), S/RES/2160.
[1024] UN Security Council Resolution 2161 (2014), S/RES/2161.
[1025] Ibid, Para.41.
[1026] Ibid, Para.73.
[1027] UN Security Council Resolution 2170 (2014), S/RES/2170, 1.

Consequently, asset freezes, travel bans, and arms embargoes under the al-Qaeda sanctions regime apply to related individuals and entities.[1028] The Council also reaffirmed MS' obligations under Resolution 1373 (2001) to restrict foreign terrorist fighter movements.[1029]

7.4.4. Resolution 2178 (2014)

The emergence of ISIL and other groups in the Middle East, alongside increased foreign fighter movement, prompted the adoption of Resolutions 2170 and 2178 in September 2014.[1030] Championed by France and sponsored by 104 MS, Resolution 2178 was adopted unanimously under Chapter VII, marking the largest support for a Security Council resolution.[1031] It aimed to address the threat of foreign terrorist fighters, focusing on radicalisation, recruitment, cross-border travel, and financial disruption, while reaffirming obligations under Resolutions 1267 (1999) and 1373 (2001).[1032]

Resolutions 2178 (2014) and 1373 (2001) shared structural similarities and established a "set of far-reaching legislative obligations" but differ in scope.[1033] While 1373 (2001) criminalised conduct already defined by prior UN and international agreements, Resolution 2178 (2014) introduced criminalisation of travel with terrorist intent, an area lacking prior international consensus.[1034] This shift altered the Security Council's role in legislating the "pre-crime space," expanding counterterrorism measures but raising concerns about human rights protections within the UN sanctions framework.[1035] Both Resolutions marked pivotal moments, with 2178 (2014) exemplifying a move toward preemptive security measures that challenge traditional legal norms.

7.4.5. Resolution 2195 (2014)

In December, UNSC Resolution 2195 (2014) acknowledged MS's capacity and coordination challenges in counterterrorism, urging increased cooperation at domestic, regional, and global levels to enhance assistance and capacity-building.[1036]

[1028] Ibid.
[1029] Ibid, Paras.5-8.
[1030] Ní Aoláin, 'Legislative Supremacy', 37–38.
[1031] Kim Lane Scheppele, 'Common Template, Diverse Agendas: The Futility (and Danger) of Legislating for the World', in *9/11 and the Rise of Global Anti-Terrorism Law: How the UN Security Council Rules the World*, 1st edn, ed. Arianna Vedaschi and Kim Lane Scheppele (Cambridge University Press, 2021), 57.
[1032] UN Security Council Resolution 2178 (2014), S/RES/2178.
[1033] Ní Aoláin, 'Legislative Supremacy', 37–38.
[1034] Ibid, 51.
[1035] Ginsborg, 'Criminalization of "Pre-Crime",' 152.
[1036] UN Security Council Resolution 2195 (2014), S/RES/2195, Para.15.

UN-system responses to the counterterrorism sanctions in 2014

In 2014, the Monitoring Team produced three reports examining various aspects of the counterterrorism sanctions regime through different norms convergence lenses. The January report analysed structural, generational, regional, and operational changes within al-Qaeda and its affiliates,[1037] proposing procedural enhancements such as biometric data use to strengthen travel bans.[1038] From a legal norms convergence perspective, the MT examined EU court developments, notably the CJEU's ruling in Kadi II, which differed from the MT's previous opinion of potentially upholding the Advocate General's opinion.[1039] The Court emphasised the necessity for EU courts to assess the factual basis of designees' listings to ensure legal robustness.[1040]

In October, the MT summarised the 15-year evolution of the sanctions regime, highlighting significant reforms such as due process enhancements and support mechanisms via committees.[1041] The report engaged with ongoing scholarly and public debates on legal and ethical issues, criticising the Council for establishing a global regime without adequate safeguards.[1042] It also noted the rise in norms entrepreneurs involved in UN counterterrorism sanctions since Resolution 1267 (1999), suggesting organisational norms convergence through active discussions.[1043]

In November, the MT reported making substantive recommendations to the Committee and Security Council, including new sanctions measures targeting ISIL and ANF threats.[1044] These measures encompassed the seizure of oil tankers, a limited moratorium on antiquities trade, and a preventative flight embargo.[1045] The MT, taking on a leading role within the politico-strategic sphere, acknowledged deviations from its standard reporting procedures and addressed the risks associated with new sanctions, asserting their necessity to counter evolving threats.[1046]

In 2014, Ombudsperson Prost submitted two reports recognising that while the Office's fair process enhanced the credibility of the 1267 sanctions regime, its lack of

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[1037] UNSC Monitoring Team, *Fifteenth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2083 (2012) Concerning Al-Qaida and Associated Individuals and Entities*, S/2014/41 (2014), 17.
[1038] Ibid, Para.1.
[1039] Ibid, Para.26.
[1040] Ibid.
[1041] UNSC Monitoring Team, *Sixteenth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2161 (2014) Concerning Al Qaida and Associated Individuals and Entities*, S/2014/770 (2014), Para.40.
[1042] Ibid, Para.43.
[1043] Ibid, Para.44.
[1044] UNSC Monitoring Team, *The Islamic State in Iraq and the Levant and the Al Nusrah Front for the People of the Levant: Report and Recommendations Submitted Pursuant to Resolution 2170 (2014)*, S/2014/815 (2014), 1–35.
[1045] Ibid, Para.95.
[1046] Ibid.

transparency compromised perceptions of fairness.[1047] The reports also highlighted ongoing expert engagement, including with academics, NGOs, MS, regional entities like the EU, and UN bodies such as the Special Rapporteur and OHCHR, regarding the security-liberty balance and cases like Kadi, emphasising the need to examine the norm convergence among organisational actors in this context.[1048]

In 2014, Special Rapporteur Emmerson submitted two reports detailing interactions with counterterrorism norm actors, including the Ombudsperson, academia, MS, and legal experts, focused on judicial review in UNSC sanctions and the Kadi II decisions.[1049] These reports demonstrate that both the legal and organisational norms convergence pathways remained visible and active.

Other counterterrorism-related Security Council activity in 2014

In 2014, the Security Council's sombre tone reflected growing concern, with briefings indicating a troubling outlook on terrorism. In November, Secretary-General Ban Ki-moon reported on UN efforts following Resolution 2178 (2014), highlighting activities by various bodies: the MT's briefing to the 1267 Committee on foreign terrorist fighters; CTED's analysis of MS implementation capacity gaps; CTITF's coordination mechanisms; UNCTC's inter-agency projects; and UNODC's legal capacity strengthening in MENA.[1050] The Secretary-General emphasised that counterterrorism measures must align with human rights obligations, warning against a rights-centric approach being an afterthought.[1051] The 1267 Committee Chair acknowledged that "sanctions alone are clearly not sufficient,"[1052] while the CTC Chair identified gaps in legislative capacity, surveillance, information exchange, border control, and human rights adherence in implementing relevant resolutions.[1053]

In December, the 1267 Committee Chair briefed the Council on a high-level review of UN sanctions conducted with Finland, Germany, Greece, Sweden, and Australia.[1054] The review emphasised the need for greater transparency, enhanced MS

[1047] Kimberly Prost, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 2083 (2012)*, S/2014/73 (2014), 1–30.
[1048] Kimberly Prost, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 2161 (2014)*, S/2014/553 (2014), 1–27.
[1049] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/HRC/25/29 (2014), 1–20; Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/69/397 (2014), 1–22.
[1050] *Security Council: Sixty-ninth year: 7316th meeting, Wednesday, 19 November 2014: Hearing on S/PV.7316* (2014), 3.
[1051] *Ibid*.
[1052] *Ibid*, 5.
[1053] *Ibid*, 5–7.
[1054] *Security Council: Sixty-ninth year: 7331st meeting, Tuesday, 9 December 2014: Hearing on S/PV.7331* (2014), 4.

engagement, improved coordination among sanctions committees, and underscored the vital role of expert groups.[1055]

After 15 years of the creation of the 1267 sanctions regime, 2014 marked a pivotal year in the security-liberty balance of UN counterterrorism. From a politico-strategic perspective, the Council adopted more security-focused measures, including designations of ISIL and ANF as al-Qaeda affiliates, and Resolution 2178 (2014) addressing foreign terrorist fighters. Organisationally, inter-agency coordination expanded, strengthening MS' capacities. Procedurally, calls for transparency persisted, influenced by norms entrepreneurs, with the Kadi II case continuing to shape legal convergence in sanctions law.[1056]

7.5. 2015

In 2015, the Security Council continued to address the threat of foreign terrorist fighters and ISIL affiliates by adopting multiple resolutions, thereby broadening the scope of the existing sanctions regime.

7.5.1. Resolution 2199 (2015)

Resolution 2199 (2015) condemned ISIL, ANF, and al-Qaeda associates for sexual abuse, aligning with the Council's Chapter VII framework and the Women, Peace, and Security agenda of Resolution 1325 (2000).[1057] Although not part of the counterterrorism strategy, it reflected a multifaceted approach to peace and security, addressing gender implications in terrorism; it mandated MS to block resources funding these groups, including oil and cultural heritage items, and to report to the 1267 Committee within 120 days.[1058]

7.5.2. Resolution 2214 (2015)

In March, the Council expanded the scope of sanctions to include groups aligned with ISIL, Ansar Al Charia, and other entities associated with al-Qaeda in Libya, making them eligible for sanctions listing consideration under Resolutions 1267 (1999) and 1989 (2011).[1059] The resolution aimed to balance security and liberty, noting that non-compliance with human rights obligations contributes to radicalisation and impunity.[1060] This addition reflected a shift towards a rights-based approach in UN counterterrorism sanctions.

[1055] *Ibid,* 4–5.
[1056] Confirmed by Interview C.
[1057] UN Security Council Resolution 2199 (2015), S/RES/2199, 2.
[1058] Ibid, Paras.2-16 & 29.
[1059] UN Security Council Resolution 2214 (2015), S/RES/2214, Para.2.
[1060] Ibid, Para.6.

7.5.3. Resolution 2249 (2015)

Following terrorist attacks in Sousse, Ankara, Sinai, Beirut, and Paris, the Security Council adopted Resolution 2249 (2015), unequivocally condemning ISIL's actions and recognising its ongoing threat.[1061] The Resolution emphasised the Council's intention to update the 1267 sanctions to address ISIL's evolving capabilities and called for intensified efforts to halt foreign fighters reaching Iraq and Syria.[1062]

7.5.4. Resolution 2253 (2015)

Under Chapter VII, Resolution 2253 (2015) expanded the sanctions list to include supporters of ISIL (Da'esh) and renamed it the "ISIL (Da'esh) and Al Qaida Sanctions List," reflecting the evolving threat.[1063] The UNSC also expressed concern over the inadequate implementation of Resolutions 1267 (1999), 1989 (2011), and 2199 (2015), as well as insufficient MS reporting.[1064] The Resolution called for enhanced cooperation with UN bodies, FATF, and the private sector to combat terrorist financing.[1065] It extended the mandates of the Ombudsperson and Monitoring Team through December 2019, with additional experts appointed to improve analysis of ISIL's financing and activities.[1066]

7.5.5. Resolution 2255 (2015)

Following Resolution 2253 on al-Qaeda, the Security Council adopted Resolution 2255 (2015) under Chapter VII, addressing the Taliban and Afghanistan.[1067] It expressed concern over ISIL's rising presence and condemned weapons and material flow to the Taliban.[1068] The Resolution promoted the Focal Point mechanism for delisting requests and urged MS to consult the Afghan government prior to submitting listing proposals.[1069] It emphasised collaboration with bodies such as the 1267 Committee, CTC, CTED, UNODC, FATF, and UNAMA, noting al-Qaeda's influence in the region.[1070]

Other Security Council activities in 2015

The Security Council's 2015 agenda included increased high-level meetings and counterterrorism initiatives, responding to heightened threats from ISIL and al-Qaeda affiliates in the MENA region. MS criticised sanctions as the "least transparent and democratic" method, citing inadequate consultations and neglect of long-term

[1061] UN Security Council Resolution 2249 (2015), S/RES/2249, Para.1.
[1062] Ibid, Paras.6-7.
[1063] Security Council Resolution 2253 (2015), S/RES/2253, Para.1.
[1064] Ibid, Para.15.
[1065] Ibid, Paras.16-24.
[1066] Ibid, Paras.71-90.
[1067] UN Security Councill Resolution 2255 (2015), S/RES/2255.
[1068] Ibid, Para.14.
[1069] Ibid, Paras.22-29.
[1070] Ibid, Para.53.

impacts.[1071] Calls for the enforcement of resolutions such as 1267 (1999) and 1373 (2001) underscored the need for better implementation.

The Secretary-General briefed the Council multiple times, advocating for Resolution 2178 (2014) compliance while respecting human rights.[1072] Discussions highlighted insufficient MS reporting,[1073] prompting the CTC Chair to urge greater engagement and transparency among MS and in subsidiary organs,[1074] including collaborations with civil society and academia via the Global Counterterrorism Research Network.[1075]

2015 marked the first high-level briefing by INTERPOL's Secretary-General, who reported an increase in the dataset of foreign terrorist fighters from 800 to 4,000 in a year, despite noted implementation challenges.[1076] The EU and Council of Europe also contributed via their first-ever briefings to the CTC on early responses to terrorist threats.[1077] Amid expanding threats from al-Qaeda affiliates such as ISIL, ANF, and Boko Haram, norms entrepreneurs emphasised the necessity of a balanced approach, anchored in human rights and addressing root causes.[1078] The CTC Chair's final briefing of 2015 reaffirmed that sanctions are a component of a broader, multifaceted counterterrorism strategy; however, they are "not a cure-all."[1079]

UN-system responses to the counterterrorism sanctions in 2015

In 2015, UN bodies, including the Monitoring Team, Ombudsperson, and Special Rapporteur, underscored the importance of multifaceted counterterrorism strategies. The MT evaluated the enduring threat of ISIL, al-Qaeda,[1080] and foreign terrorist fighters,[1081] emphasising that sanctions are vital but must be part of an "integrated international and national response."[1082] Following Resolution 2199 (2015), the MT identified six challenges faced by MS in preventing ISIL and ANF networks

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[1071] *Security Council: Seventieth year: 7389th meeting, Monday, 23 February 2015: Hearing on S/PV.7389* (2015), 31.
[1072] *Security Council: Seventieth year: 7453rd meeting, Friday, 29 May 2015: Hearing on S/PV.7453* (2015), 3.
[1073] UNSC, 'Statement by the President of the Security Council (S/PRST/2015/11)', 29 May 2015.
[1074] *Security Council: Seventieth year: 7586th meeting, Thursday, 17 December 2015: Hearing on S/PV.7586* (2015), 7.
[1075] *Ibid*, 10.
[1076] *Ibid*, 6–7.
[1077] *Ibid*, 8.
[1078] *Security Council: Seventieth year: 7527th meeting, Wednesday, 30 September 2015: Hearing on S/PV.7527* (2015), 3.
[1079] *Ibid*, 9.
[1080] UNSC Monitoring Team, *Seventeenth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2161 (2014) Concerning Al Qaida and Associated Individuals and Entities*, S/2015/441 (2015), 1–25.
[1081] UNSC Monitoring Team, *Analysis and Recommendations with Regard to the Global Threat from Foreign Terrorist Fighters*, S/2015/358 (2015), 1–25.
[1082] Ibid, Para.2.

from exploiting antiquities trade: insufficient documentation of cultural heritage items; poor engagement with collectors and art dealers; risks of terrorist financing from illicit artefact trading; potential safe havens for items outside Iraq and Syria; no mandatory reporting on artefact seizures compared to oil; and the need for new listings of ISIL and ANF associates involved in illegal antiquities trade.[1083] The report urged MS to focus on countering terrorism financing in Libya, where implementation of resolutions lags behind those in Syria and Iraq.[1084]

The 2015 CTED review outlined key counterterrorism trends, including foreign fighters, violent extremism, online terrorist activities, kidnapping for ransom, lone actors, the nexus of terrorism and organised crime, and the role of women in (counter)terrorism.[1085] The Special Rapporteur acknowledged progress in integrating human rights frameworks, citing Resolution 2178 (2014), but criticised the lack of precise definitions for terms like "terrorism" and "extremism," which risk justifying repressive measures against civil society.[1086] He also stated that the Council's approach to foreign terrorist fighters could "create legal uncertainty" as the Council have yet to define "terrorism."[1087] The Special Rapporteur recognised that the Council had shifted its approach to counterterrorism in certain respects, noting that "a response confined to security alone is insufficient;" however, MS continued to implement legislation raising significant human rights concerns.[1088]

In July, Ombudsperson Prost submitted her final report, offering a scathing overview of the UN structure.[1089] She claimed that, in practice, the office "fulfilled in a robustly independent manner the mandate," but this was not due to structural capacity

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[1083] UNSC Monitoring Team, *Assessment by the Analytical Support and Sanctions Monitoring Team of the Impact of the Measures Imposed in Security Council Resolution 2199 (2015), Pursuant to Paragraph 30 of the Resolution: Chair's Summary*, S/2015/739 (2015), 1–4.
[1084] UNSC Monitoring Team, *Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Paragraph 13 of Security Council Resolution 2214 (2015) Concerning the Terrorism Threat in Libya Posed by the Islamic State in Iraq and the Levant, Ansar al Charia, and All Other Al Qaida Associates*, S/2015/891 (2015), Para.54.
[1085] UNSC, *Report of the Counter Terrorism Committee Executive Directorate on Its Activities and Achievements during the Period from 2014 to 2015*, S/2015/984 (2015), Para.4.
[1086] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/HRC/29/51 (2015), Para.42.
[1087] Ibid, Para.44.
[1088] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/70/371 (2015), Para.14.
[1089] Kimberly Prost, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 2161 (2014)*, S/2015/533 (2015), Para.68.

or protections for independence.[1090] Instead, the administrative arrangements for the Ombudsperson role limited autonomy, enforcing a rigid five-year contract period without a transitional phase.[1091] Prost highlighted the lack of a successor or extension at her departure, which jeopardised the efficacy and credibility of the sanctions process. Catherine Marchi-Uhel was appointed on 13 July 2015 and began on 27 July, with Prost assisting in pending cases.[1092] The absence of transitional arrangements threatened the independence and transparency of the mechanism, undermining fairness in a process already criticised for a lack of transparency.

7.6. 2016

In 2016, the Council saw the first failed draft resolution containing sanctions elements, illustrating the growing divergence in politico-strategic motivations and objectives among Security Council members, especially among the P5.

7.6.1. Resolution 2309 (2016)

Following a productive year in 2015, the Security Council adopted Resolution 2309 in September 2016, which emphasised enhanced cooperation among ICAO, CTED, CTITF, CTC, and MS to bolster global aviation security and combat terrorism.[1093] The Resolution highlighted the use of APIs to track individuals on the 1267 sanctions list.[1094]

S/2016/1026: Failed Draft Resolution

On December 5, 2016, Egypt, New Zealand, and Spain submitted a draft resolution to the Security Council proposing a seven-day ceasefire in Syria to facilitate humanitarian access.[1095] The draft exempted counterterrorism operations against ISIL, ANF, and other designated groups,[1096] and urged MS to implement resolutions 2253 (2015) and 1373 (2001) to combat terrorist financing and foreign fighters.[1097] The draft was vetoed by China and Russia, with Angola abstaining and Venezuela voting against, marking the first veto of a counterterrorism-related resolution with explicit references to prior counterterrorism mandates.[1098] While the Russian veto stemmed from procedural disagreements, the meeting quickly deteriorated into a heated discussion

[1090] Ibid.
[1091] Ibid, Para.73.
[1092] UNSC, 'Security Council Al-Qaida Sanctions Committee Welcomes Appointment of Catherine Marchi-Uhel to Serve as Ombudsperson | Meetings Coverage and Press Releases', accessed 4 November 2025.
[1093] UN Security Council Resolution 2309 (2016), S/RES/2309.
[1094] Ibid, Para.6(g).
[1095] UNSC, 'Egypt, New Zealand and Spain: Draft Resolution (S/2016/1026)', 5 December 2016, Paras.1-2.
[1096] Ibid, Para.2.
[1097] Ibid, Para.6.
[1098] *Security Council: Seventy-first year: 7825th meeting, Monday, 5 December 2016: Hearing on S/PV.7825* (2016).

among the P5, demonstrating serious differences of opinion and shifting away from the traditional united voice, one UN motto in counterterrorism-related resolutions.[1099] The Council's discussion underscored the politicisation of the humanitarian crisis and the neglect of Syrian victims.[1100]

7.6.2. Resolution 2322 (2016)

On 12 December, the Council adopted Resolution 2322 (2016), urging MS to amend domestic laws to bolster international judicial and law enforcement cooperation against terrorism financing.[1101] The Resolution highlighted the 2015 Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, which established a 24/7 cooperation network to support Resolution 2178 (2014).[1102] While prior resolutions addressed other international bodies such as FATF and ICAO, the explicit mention of the regional protocol signified normative convergence in UN counterterrorism efforts. By referencing this regional system, the Council positioned the Protocol as a model for other MS and organisations, illustrating a reciprocal relationship between the UN and regional entities such as the Council of Europe and the EU (both signatories to the Protocol).[1103]

7.6.3. Resolution 2331 (2016)

A week later, the Council adopted a Resolution addressing human trafficking by terrorist groups such as ISIL, ANF, Boko Haram, Al-Shabaab, and the Lord's Resistance Army (LRA), which engage in sexual slavery and forced labour to fund their activities.[1104] The Resolution expressed the Council's intent to impose targeted sanctions on traffickers in conflict zones and mandated CTED to incorporate assessments of national efforts to combat trafficking linked to terrorism.[1105]

UN-system responses to the counterterrorism sanctions in 2016

As the majority of UNSC Resolutions were adopted in December, the rest of the year focused on themes such as ISIL's evolving threat, foreign terrorist fighters returning, the limitations of security-only counterterrorism, and procedural improvements to the sanctions regime.

Under Resolution 2253 (2015), the Secretary-General reported on ISIL's threats. The February report noted ISIL's capacity to mobilise resources via oil, looting,

[1099] *Ibid*, 2.
[1100] *Ibid*, 8.
[1101] UN Security Council Resolution 2322 (2016), S/RES/2322, Para.4.
[1102] Ibid, Para.18.
[1103] Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, CETS 217 (2015).
[1104] UN Security Council Resolution 2331 (2016), S/RES/2331.
[1105] Ibid, Paras.12-16.

and ransom.[1106] It identified approximately 30,000 foreign terrorists from over 100 states, leveraging the Internet for recruitment, planning, and education on arms and IED manufacturing.[1107] The MT reported that the EU collaborated with tech companies to counter online misuse.[1108] In May, the 1267 Committee discussed ISIL's territorial losses and shift toward supporting global affiliates, affecting sanctions regimes.[1109] July's MT report emphasised the need for international efforts to curb terrorist financing, noting that both ISIL and ANF received millions in donations.[1110] The subsequent UNSG report highlighted the growing number of returning foreign fighters, posing increased security risks.[1111]

Foreign terrorist fighters returning to Europe constituted approximately 10-30% of all foreign fighters.[1112] The 2016 Special Rapporteur's report examined the impact of these returnees on migrant and refugee processes and on human rights protections.[1113] He noted that Resolution 2170 (2014) required MS to curb the flow of fighters, while Resolution 2178 (2015) required them to bring foreign terrorist fighters to justice and to make efforts to prevent terrorist financing.[1114] In fact, the Special Rapporteur described Resolution 2178 (2015) as a "legislative resolution, with teeth," forming the basis for a preventive criminal justice approach to counterterrorism.[1115] He also expressed concern over its implementation and emphasised the need for fairness in judicial processes, including the right to a fair trial and protection against reliance on torture-derived evidence.[1116]

In 2016, the recognition that "terrorism cannot be defeated with security measures alone" marked a significant shift, emphasising a balanced, comprehensive

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[1106] *Security Council: Seventy-first year: 7618th meeting, Tuesday, 9 February 2016: Hearing on S/PV.7618* (2016), 2–3.
[1107] *Ibid.*
[1108] UNSC Monitoring Team, *Recommendations of the Analytical Support and Sanctions Monitoring Team Pursuant to Security Council Resolutions 1526 (2004) and 2253 (2015) Concerning Islamic State in Iraq and the Levant (ISIL) (Da'esh), Al Qaida and the Taliban and Associated Individuals and Entities, Submitted Pursuant to Paragraph 95 of Resolution 2253 (2015)*, S/2016/210 (2016), Para.15.
[1109] *Security Council: Seventy-first year: 768th meeting, Wednesday, 4 May 201: Hearing on S/PV.7686* (2016), 2.
[1110] UNSC Monitoring Team, *Eighteenth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2253 (2015) Concerning Islamic State in Iraq and the Levant (Da'esh), Al Qaida and Associated Individuals and Entities*, S/2016/629 (2016), Para.56.
[1111] *Security Council: Seventy-first year: 7708th meeting, Wednesday, 8 June 2016: Hearing on S/PV.7808* (2016), 2.
[1112] UNSC Monitoring Team, *MT Report 26*, Para.45.
[1113] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/71/384 (2016), 1–23.
[1114] Ibid, Para.43.
[1115] Ibid.
[1116] Ibid, Para.49.

approach.[1117] The Special Rapporteur highlighted that "the demonstratable inadequacy" of strict security strategies prompted the international community to focus on addressing underlying grievances that fuel violent extremism.[1118] This was not a novel concept; Resolution 1624 (2005) addressed incitement, and Resolution 2178 (2015) underscored countering violent extremism.[1119] The launch of the Secretary-General's Plan of Action to Prevent Violent Extremism in January 2016 brought this issue to the forefront of global counterterrorism efforts.[1120] The UN High Commissioner for Human Rights emphasised the importance of integrating human rights protections into national legislation.[1121] The Special Rapporteur also cautioned against the malleability of definitions of extremism and the potential adverse human rights implications of broad, undefined measures within UN frameworks, which could disrupt the security-liberty balance.[1122]

The evolving threat of ISIL and the rise in returning foreign fighters have prompted procedural recommendations to enhance the 1267 sanctions regime and curb terrorist financing. The Monitoring Team, citing Resolution 1333 (2000), suggested establishing lists of oilfields under ISIL, al-Qaeda, and affiliated groups to facilitate targeted sanctions.[1123] It also recommended including artefacts and market participants in the sanctions framework, emphasising the need for specialised awareness given their relative novelty in counterterrorism.[1124] Additionally, the MT highlighted the need for the sanctions regime to adapt to emerging challenges, including ISIL's misuse of information, fraudulent travel documents, diversified income sources, and new recruitment methods.[1125]

The trend of procedural improvements was evident in the Ombudsperson's mechanism, which introduced an initiative to update the statement for petitioners, thereby enhancing transparency in the Ombudsperson process. A new online tool was

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[1117] *Security Council: Seventy-first year: 7670th meeting, Thursday, 14 April 2016: Hearing on S/PV.7670* (2016), 40.
[1118] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/HRC/31/65 (2016), Para.9.
[1119] Resolution 2178 (2014).
[1120] Emmerson, *Special Rapporteur Report 11*, Para.8.
[1121] Ibid.
[1122] Ibid, Para.54.
[1123] UNSC Monitoring Team, *Challenges Business Entities Face in Implementing Security Council Resolution 2199 (2015): Report of the Analytical Support and Sanctions Monitoring Team Pursuant to Security Council Resolutions 1526 (2004) and 2253 (2015) Concerning Islamic State in Iraq and the Levant (ISIL) (Da'esh), Al Qaida and the Taliban and Associated Individuals and Entities*, S/2016/213 (2016), Para.9.
[1124] UNSC Monitoring Team, *MT Report 25*, Para.54.
[1125] UNSC Monitoring Team, *MT Report 26*, 3.

also published to bolster confidence among petitioners and legal counsel.[1126] Ombudsperson Marchi-Uhel reaffirmed concerns about the process' transparency, describing it as "unnecessarily shrouded in mystery,"[1127] and indicated a move towards greater collaboration, engaging with the Council of Europe and the EU on legal issues.[1128] EU representatives welcomed these transparency efforts, noting they would reference this information in court to illustrate progress.[1129]

2016 was characterised by mixed UN sanctions activities, with intensified efforts against foreign terrorist fighters amid disagreements on Syria policy. From a procedural and legal perspective, the Ombudsperson's mechanism advanced toward liberty norms within the security-liberty balance, though transparency issues persisted. Organisationally, norms entrepreneurs involved in counterterrorism sanctions increased, advocating for a comprehensive strategy that also addressed counter-violent extremism.

7.7. 2017

2017 marked the most productive year for counterterrorism sanctions-related Security Council resolutions, expanding beyond prior focuses on the 1267 sanctions regime and foreign terrorist fighters to address a broader range of issues.

7.7.1. Resolution 2341 (2017)

In February, the Council adopted Resolution 2341 (2017), urging MS to enhance their strategies for safeguarding critical infrastructure against terrorism.[1130] The Resolution reaffirmed MS's obligations under Resolution 1373 (2001), mandating the establishment of "criminal responsibility for terrorist attacks intended to destroy or disable critical infrastructure," including planning, training, financing, and logistical support.[1131] Additionally, the Council instructed the CTC to review MS efforts, identifying best practices and assessing vulnerabilities.[1132]

7.7.2. Resolution 2347 (2017)

In Resolution 2347 (2017), the Council further expanded MS obligations to prevent the trade of cultural property with ISIL, ANF, al-Qaeda, and affiliates, indicating that such engagement could lead to sanctions listing.[1133] It emphasised that attacks on cultural heritage may constitute war crimes[1134] and called on organisations like

[1126] Catherine Marchi-Uhel, *Report of the Office of the Ombudsperson, Submitted Pursuant to Security Council Resolution 2253 (2015)*, S/2016/96 (2016), Para.36.
[1127] Ibid, Para.52.
[1128] Catherine Marchi-Uhel, *Report of the Office of the Ombudsperson, Submitted Pursuant to Security Council Resolution 2253 (2015)*, S/2016/671 (2016), Para.18.
[1129] Ibid, Para.29.
[1130] UN Security Council Resolution 2341 (2017), S/RES/2341, Para.2.
[1131] Ibid, Para.3.
[1132] Ibid, Para.10.
[1133] UN Security Council Resolution 2347 (2017), S/RES/2347, Para.2.
[1134] Ibid, Para.4.

UNESCO, UNODC, INTERPOL, and WCO to assist in safeguarding cultural property.[1135] Additionally, the Resolution recognised the Council of Europe's efforts to establish a legal framework for combating illicit trafficking in cultural property, highlighting organisational norms convergence.[1136]

7.7.3. Resolution 2354 (2017)

The Council welcomed the CTC's Comprehensive International Framework to Counter Terrorist Narratives through Resolution 2354 (2017), urging MS to adhere to guidelines aimed at countering terrorist narratives and extremist messages.[1137]

7.7.4. Resolution 2368 (2017)

In July, the Security Council reaffirmed extensive sanctions on ISIL, al-Qaeda, and affiliates under Chapter VII, reiterating points from resolutions 1267 (1999), 1989 (2011), 2199 (2015), and 2253 (2015).[1138] It expressed concerns over inadequate enforcement and MS reporting.[1139] Resolution 2368 (2017) called for improved efforts to combat terrorist financing, including adherence to FATF recommendations and development of Passenger Name Record (PNR) processing capabilities.[1140] The mandates of the Ombudsperson and Monitoring Team were extended until December 2021, with MS required to report enforcement actions within 120 days.[1141] Responding to previous Ombudsperson's reports, the Council affirmed that the Focal Point may receive claims of false identification on the sanctions list and requested the Secretary-General to ensure the Office's independence.[1142] Notably, Resolution 2368 included a list of individuals and entities to be added to the sanctions in Annex III,[1143] a rare instance of agreement between the US and Russia, who previously resisted such additions.[1144]

7.7.5. Resolution 2370 (2017)

In August, the Council adopted Resolution 2370 (2017) to strengthen arms embargo monitoring and prevent terrorist use of IEDs and unconventional weapons.[1145] The Resolution emphasised enhanced cooperation among agencies such as CTC, CTED, INTERPOL, WCO, UNODA, UNODC, UNMAS, and UNOCT, and highlighted the importance of public-private partnerships and civil society engagement

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[1135] Ibid, Para.20.
[1136] Ibid, 2.
[1137] UN Security Council Resolution 2354 (2017), S/RES/2354, Para.1.
[1138] UN Security Council 2368 (2017), S/RES/2368.
[1139] Ibid, Para.16.
[1140] Ibid, Para.22.
[1141] Ibid, Paras.44, 60, 94.
[1142] Ibid, Paras.65 & 83.
[1143] Ibid, Annex III.
[1144] De Londras, *Practice and Problems*, 67.
[1145] UN Security Council Resolution 2370 (2017), S/RES/2370.

to bolster the 1267 sanctions regime.[1146] Although adopted without Chapter VII authority, the Resolution's call for increased cooperation with civil society and the private sector clearly demonstrates a widening of the organisational norms convergence pathway regarding the security-liberty balance of the sanctions regime.

7.7.6. Resolution 2379 (2017)

In September, the Council established the Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD), led by a Special Advisor responsible for collecting and preserving evidence of war crimes, crimes against humanity, or genocide committed by ISIL in Iraq for use in judicial proceedings.[1147] The Resolution also tasked the Special Advisor with fostering global accountability.[1148] This development indicates a shift in the legal balance between security and liberty in counterterrorism sanctions.

7.7.7. Resolution 2388 (2017)

In November, the Council adopted Resolution 2388 (2017), reiterating its condemnation of human trafficking, particularly by ISIL, Boko Haram, Al-Shabaab, the LRA, and other terrorist groups.[1149] It urged MS to ratify relevant international instruments, including the UN Convention against Transnational Organised Crime and its Protocol Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.[1150] The Resolution also called for analysing links between human trafficking and terrorist financing and for enhancing MS compliance with counterterrorism financing standards.[1151]

7.7.8. Resolution 2395 (2017)

In December, the Council extended CTED's mandate as a special political mission under the CTC until December 2021, urging close cooperation with UNOCT to support the implementation of Resolutions 1373 (2001), 1624 (2005), 2178 (2014), and the GCTS.[1152]

7.7.9. Resolution 2396 (2017)

On the same day, the Security Council adopted Resolution 2396 (2017), under Chapter VII, to enhance measures against foreign terrorist fighters, including border control, criminal justice, information-sharing, and counter extremist narratives.[1153] MS

[1146] Ibid, Para.13.
[1147] UN Security Council Resolution 2379 (2017), S/RES/2379.
[1148] Ibid, Para.3.
[1149]UN Security Council Resolution 2388 (2017), S/RES/2388.
[1150] Ibid, Para.2.
[1151] Ibid, Para.7.
[1152] UN Security Council Resolution 2395 (2017), S/RES/2395.
[1153] UN Security Council Resolution 2396 (2017), S/RES/2396.

were mandated to establish API systems aligned with ICAO standards and to require airlines to provide API data for terrorist identification,[1154] while developing watchlists and biometric data systems, such as fingerprints and facial recognition, in accordance with human rights obligations.[1155] Noting that the implementation of these aspects is resource-sensitive and timely to operationalise, the Council directed CTED to facilitate technical assistance.[1156]

With the adoption of Resolution 2396 (2017), the Security Council moved beyond its prior approach to 'upgrading' agreed upon Treaties to Chapter VII obligations and entered into "the realm of pure law-making" by specifying the actions MS shall take such as developing sensitive information inclusive databases without allowing meaningful domestic discussion on the proportionality, necessity, and usefulness of such databases.[1157] By bypassing treaty negotiations, such law-making was carried out in an exclusive, non-participatory process within the confines of the Security Council.[1158] While human rights protections and other international obligations were mentioned in generic terms, the focus of the Resolution was on the security aspect of the balance of counterterrorism actions and sanctions.[1159]

UN-system responses to the counterterrorism sanctions in 2017

In 2017, the Security Council issued a record number of sanctions-related resolutions amid significant institutional and personnel changes. Special Rapporteur Ben Emmerson's final report highlighted the widespread consensus within the UN that purely security-focused counterterrorism strategies are often counterproductive to human rights.[1160] He argued that an effective, balanced approach incorporating human rights cannot be achieved given the absence of a central body overseeing the 38 UN entities involved in counterterrorism.[1161] Emmerson recommended a comprehensive overhaul of the UN counterterrorism architecture, endorsing the Secretary-General's proposal to create a new Office of the Under-Secretary-General for counterterrorism coordination.[1162]

Special Rapporteur Fionnuala Ní Aoláin, appointed in July 2017 and assuming office that August, analysed the institutional and legal expansion of counterterrorism

[1154] Ibid, Para.11.
[1155] Ibid, Para.15.
[1156] Ibid, Para.48.
[1157] De Londras, *Practice and Problems*, 126.
[1158] Ibid.
[1159] Resolution 2396 (2017).
[1160] Ben Emmerson, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/HRC/34/61 (2017), Para.8.
[1161] Ibid, Para.43.
[1162] Ibid, Para.69.

frameworks post-9/11.[1163] She emphasised the need to scrutinise normative developments to understand the interplay between legal and administrative norms and to address the marginalisation of human rights in counterterrorism policies.[1164]

On June 19, the UN Office of Counterterrorism (UNOCT) was established via UNGA Resolution 71/291, with Vladimir Voronkov as its inaugural Under-Secretary-General (USG).[1165] As UNSG Guterres' first reform initiative, UNOCT aimed to foster a unified, coordinated approach to counterterrorism.[1166] In his UNSC briefing, USG Voronkov outlined four main UN spheres of counterterrorism activity: the Security Council, which is in charge of peace and security; the General Assembly, which focuses on implementing the GCTS; the Secretary-General and the Secretariat, alongside UNOCT; and 38 UN entities contributing to UN counterterrorism efforts.[1167] In his second briefing to the Council, USG Voronkov discussed UNOCT's plans to develop comprehensive counterterrorism policies through a "human-rights-based and gender-sensitive approach;" however, he stated that, even with UNOCT providing 9 per cent of the funding alongside MS contributions, the plan is still only 41 per cent funded.[1168]

On CTED's leadership board, Executive Director Laborde of France served from 2013 to 2017 before being succeeded by Belgium's Michele Coninsx in November.[1169] Unlike the Special Rapporteur and the Executive Director of CTED, the Ombudsperson position remained vacant in the second half of 2017, following Ombudsperson Marchi-Uhel's appointment as Head of the International, Impartial, and Independent Mechanism to Investigate and Prosecute Crimes in Syria since March 2011, in August.[1170]

Before her departure, Ombudsperson Marchi-Uhel submitted two reports in 2017. The first expressed concern over the 1267 Committee's discontinuation of

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[1163] Fionnuala Ní Aoláin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/72/495 (2017), 1–12.
[1164] Ibid.
[1165] Resolution Adopted by the General Assembly on 15 June 2017, A/RES/71/291 1 (2017).
[1166] *Security Council: Seventy-second year: 8059th meeting, Thursday, 28 September 2017: Hearing on S/PV.8059* (2017).
[1167] *Ibid,* 3.
[1168] *Security Council: Seventy-second year: 8116th meeting, Tuesday, 28 November 2017: Hearing on S/PV.8116* (2017), 3. Funding concerns were also discussed during Interview K.
[1169] UNSC, *Report of the Counter-Terrorism Committee Executive Directorate on the Activities and Achievements of the Counter-Terrorism Committee and the Executive Directorate during the Period 2014–2017*, S/2017/1101 (2017), Para.3.
[1170] UNSC, *Report of the Security Council Committee Pursuant to Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) Concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and Associated Individuals, Groups, Undertakings and Entities*, S/2017/1084 (2017), 1–8.

providing excerpts of the Ombudsperson's analysis in listing or delisting statements, a transparency reduction she deemed ironic given recent judicial claims of the mechanism's improvement.[1171] Notably, a case by Al Ghabra against a European Union listing resulted in a court ruling favourable to the European Commission, highlighting the Ombudsperson's mechanism's remedial value.[1172] In response to concerns about the statement of reasons, the Security Council adopted Resolution 2368 (2017), permitting the sharing of a summary of the Ombudsperson's analysis with petitioners, subject to 1267 Committee approval.[1173] While acknowledging this as suboptimal for fairness and transparency, the Ombudsperson appreciated the Council's efforts to preserve fairness within the mechanism.[1174]

From a politico-strategic standpoint, the Monitoring Team, CTED, CTC, the 1267 Committee, and other reports examined the ongoing threat of ISIL, al-Qaeda, and their affiliates. Despite military setbacks and diminished territorial control, ISIL reportedly adapted and maintained influence over its networks.[1175] Sanctions measures appeared to be impacting ISIL's finances, notably through increased seizures of illicit antiquities.[1176] CTED Executive Director Coninsx updated the Council on progress since Resolution 2178 (2014), noting enhanced border screening by MS.[1177] However, as of November 2017, fewer than 60 MS had enacted legislation for API from airlines,[1178] and legal and human rights challenges hindered data sharing and cooperation.[1179]

2017 marked a significant convergence of norms from a politico-strategic perspective, as evidenced by nine Security Council resolutions adopted that year, reflecting consensus on counterterrorism. Organisationally, the UN experienced major reforms, including the establishment of UNOCT and key personnel changes in critical counterterrorism roles, indicating a commitment to coordinated approaches and the importance of extending mandates for norm entrepreneurs. Procedurally, the erosion of transparency in the Ombudsperson mechanism was swiftly addressed by Resolution

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[1171] Catherine Marchi-Uhel, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 2253 (2015)*, S/2017/60 (2017), Para.28.
[1172] UNSC Monitoring Team, *Nineteenth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2253 (2015) Concerning ISIL (Da'esh), Al Qaida and Associated Individuals and Entities*, S/2017/35 (2017), Paras.85-86.
[1173] Catherine Marchi-Uhel, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 2368 (2017)*, S/2017/685 (2017), Paras.25-26.
[1174] Ibid, Para.29.
[1175] *Security Council: Seventy-second year: 7877th meeting, Tuesday, 7 February 2017: Hearing on S/PV.7877* (2017), 2.
[1176] UNSC Monitoring Team, *MT Report 27*, 3.
[1177] *8116th Meeting*, 4.
[1178] *Ibid.*
[1179] *Ibid*, 5.

2368 (2017) under Chapter VII, demonstrating the Council's dedication to reform. European and regional courts recognised this commitment in delisting cases, which acknowledged the remedy provided by the Office of the Ombudsperson.

7.8. 2018

The Security Council, having previously established a framework for implementing key legislation, adopted a holding pattern in 2018. Although no new counterterrorism sanctions resolution was adopted that year, the Council maintained ongoing discussions through briefings, meetings, and reports.

The Security Council consistently addressed ISIL's evolving threat, with multiple briefings. In February, USG Voronkov characterised ISIL as a "global network with a flat hierarchy," noting an over 90% revenue decline since 2015, though they persisted through extortion and checkpoints.[1180] In July, the Monitoring Team reported that although ISIL was militarily defeated in Iraq and Syria in 2017, it rallied in early 2018, prompting renewed international military efforts.[1181] The report also highlighted al-Qaeda's resilience under Hamza bin Laden and suggested that ANF might have emerged as the strongest terrorist group.[1182]

Counterterrorism norms entrepreneurs discussed emerging concerns over the year. The Monitoring Team reported progress in curbing the flow of foreign fighters following the adoption of Resolution 2396 (2017).[1183] CTED Executive Director Coninsx identified three key challenges regarding return movements: the potential for in-prison radicalisation, the upcoming release of imprisoned fighters, and the involvement of women and minors linked to ISIL.[1184] Senior Research Fellow Joana Cook from the International Centre for the Study of Radicalisation and Political Violence highlighted the significant presence of women and minors among foreign fighters, with women constituting 12%.[1185] The briefing prompted the Council to

[1180] *Security Council: Seventy-third year: 8178th meeting, Thursday, 8 February, 2018: Hearing on S/PV.8178* (2018), 2.
[1181] UNSC Monitoring Team, *Twenty-Second Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2368 (2017) Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals and Entities*, S/2018/705 (2018), 3.
[1182] Ibid, Para.10-11.
[1183] UNSC Monitoring Team, *Twenty-First Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2368 (2017) Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals and Entities*, S/2018/14 (2018), 1-26.
[1184] *Security Council: Seventy-third year: 8330th meeting, Thursday, 23 August 2018: Hearing on S/PV.8330* (2018), 5.
[1185] *Ibid*, 6.

reassess the security risks posed by women and minors, moving beyond the view of women solely as victims of terrorism.[1186]

From a politico-strategic and organisational perspective, in 2018, the Secretary-General convened the inaugural UN summit of member-state heads of counterterrorism agencies and endorsed the UN Global Counterterrorism Coordination Compact to strengthen cooperation.[1187] The MT reported increased MS engagement with the sanctions list, leading to the listing of several high-profile ISIL and al-Qaeda foreign fighters and financiers.[1188] This collaboration significantly improved the sanctions list, transforming it into a strategic document that reflects the evolving threats of ISIL and al-Qaeda.[1189]

The 2018 period showed increased MS activity, indicating a positive trend in sanctions engagement. However, it was also marked by significant human rights critiques concerning independence, transparency, and accountability. From a procedural perspective, the chair of the 1267 Committee briefed the Security Council on substantial criticism regarding the Committee's lack of transparency and the Council's accountability, advocating for clearer processes to enhance objectivity and fairness.[1190] Nonetheless, transparency was not the primary concern in the delisting procedures of the sanctions regime.

The vacancy of the Ombudsperson position for 11 months and 10 days hindered petitioners' access to due process and compromised the Office's claim of independence and impartiality in reviewing 1267 counterterrorism sanctions, a process recently validated by courts.[1191] Appointed on 24th May and assuming office on 18th July 2018, Daniel Kiffer Fasciati's arrival marked the resumption of formal review activities,[1192] which Legal Officer Natacha Wexels-Riser had temporarily conducted during the vacancy.[1193] The absence of an acting mechanism delayed cases by over a year, exceeding the timeframe established in Resolution 2368 (2017).[1194] Additionally, the analysis of reasons, including the Ombudsperson's summary, was altered by the 1267 Committee during the vacancy, and no longer "accurately reflected the principal reasons

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[1186] *Security Council: Seventy-third year: 8364th meeting, Wednesday, 3 October 2018: Hearing on S/PV.8364* (2018), 7.
[1187] *Ibid*, 3.
[1188] UNSC Monitoring Team, *MT Report 29*, Para.88.
[1189] Ibid.
[1190] *Security Council: Seventy-third year: 8428th meeting, Monday, 17 December 2018: Hearing on S/PV.8428* (2018), 2–3.
[1191] Daniel Kipfer Fasciati, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 2368 (2017)*, S/2018/579 (2018), 1–10.
[1192] Ibid, Para.2.
[1193] Natacha Wexels-Riser, *Update of the Office of the Ombudsperson Pursuant to Security Council Resolution 2368 (2017) in Lieu of a Biannual Report*, S/2018/120 (2018), 1–32.
[1194] Kipfer Fasciati, *Ombudsperson Report 15*, Para.25.

for the recommendation of the Ombudsperson."[1195] These procedural disruptions highlight systemic organisational and procedural challenges, suggesting a potential erosion of human rights protections within the counterterrorism sanctions regime.

In 2018, the Special Rapporteur reviewed 17 years of UN counterterrorism efforts concerning human rights. She noted that extending counterterrorism norms into previously unregulated areas, such as post-9/11 terrorist financing, has created complex emergencies that erode non-derogable human rights and undermine protections.[1196] She highlighted the shift in the Security Council's approach, which, before 9/11, responded to specific incidents but adopted no counterterrorism resolutions under Chapter VII.[1197] Post-9/11 resolutions tended to be fast-tracked, with limited engagement from civil society, minimal accountability for human rights violations, and insufficient regard for their adverse human rights impacts.[1198]

The Special Rapporteur acknowledged certain improvements, such as humanitarian exemptions, listing guidelines, narrative summaries, and the Ombudsperson mechanism. However, these did not fully mitigate concerns regarding human rights protections, as the counterterrorism sanctions regime continued to prioritise security norms.[1199] She highlighted the "difficult and lengthy process it took to ameliorate the adverse human rights implications of the sanctions regime," which has yet to yield clear, specific guidance beyond generic references in UNSC resolutions.[1200] Notably, references to human rights obligations were far fewer in sanctions resolutions compared to other counterterrorism resolutions.[1201]

The Special Rapporteur assessed the adverse human rights impacts of Resolutions 2178 (2014) and 2396 (2017), which, unlike Resolution 1373 (2001), went beyond mere adoption of criminal conduct aligned with UN Conventions by criminalising new activities without multilateral negotiation.[1202] This marked a shift towards the Security Council's unilateral law-making in counterterrorism. The Special Rapporteur concluded that the "early assault on human rights may be traced to the immediate aftermath of the events of 11 September 2001;" the concerns for human

[1195] Wexels-Riser, *Ombudsperson Update 2018*, Para.26.
[1196] Fionnuala Ní Aoláin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism on the Human Rights Challenge of States of Emergency in the Context of Countering Terrorism*, A/HRC/37/52 (2018), 1–20.
[1197] Ibid.
[1198] Ibid, Para.13.
[1199] Ibid, Para.20.
[1200] Ibid, Para.21.
[1201] Ibid.
[1202] Ibid, Para.31.

rights gaps within UN counterterrorism remained pressing and substantial, requiring meaningful, whole-of-UN engagement to rectify.[1203]

The balance of security and liberty norms concerning the UN counterterrorism sanctions regime shifted towards security priorities following ISIL's rise. According to human rights norms entrepreneurs, the Security Council's response was more extensive and long-term detrimental to human rights than post-9/11 measures.

7.9. 2019

7.9.1. Resolution 2462 (2019)

In March, the Security Council adopted Resolution 2462 (2019) under Chapter VII, reinforcing and expanding MS obligations to prevent and combat terrorist financing.[1204] Noting the inefficient enforcement of Resolution 1373 (2001), the Council introduced new criminal obligations for MS:

> "all States shall, in a manner consistent with their obligations under international law, including international humanitarian law, international human rights law and international refugee law, ensure that their domestic laws and regulations establish serious criminal offenses sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offense the wilful provision or collection of funds, financial assets or economic resources or financial or other related services, directly or indirectly, with the intention that the funds should be used, or in the knowledge that they are to be used for the benefit of terrorist organisations or individual terrorists for any purpose, including but not limited to recruitment, training, or travel, even in the absence of a link to a specific terrorist act."[1205]

The Security Council's language increasingly encroached on "the pre-crime space" by advocating for criminalising conduct before a terrorism offence occurs.[1206] Resolution 2462 (2019) broadened the definition of terrorist financing under the Convention for the Suppression of the Financing of Terrorism, thereby expanding its influence in counterterrorism resolutions.[1207]

7.9.2. Resolution 2482 (2019)

In July, the Council adopted Resolution 2482 (2019), which linked international terrorism and organised crime, urging MS to enhance coordination and bolster the global response.[1208] The Resolution emphasised strict compliance with FATF's Forty

[1203] Ibid, Para.38.
[1204] UN Security Council Resolution 2462 (2019), S/RES/2462.
[1205] Ibid, Para.5.
[1206] Ginsborg, 'Criminalization of "Pre-Crime",' 152.
[1207] Ibid, 149.
[1208] UN Security Council Resolution 2482 (2019), S/RES/2482.

Recommendations on Combating Money Laundering, and the Financing of Terrorism and Proliferation, calling for expanded investigative capacities.[1209] It also advised MS to consider the humanitarian impacts of counterterrorism measures and to explore strategies to prevent prison radicalisation.[1210]

7.9.3. Resolution 2501 (2019)

In December, the Council reaffirmed measures from Resolution 2255 (2015) against Taliban associates and extended the Monitoring Team's mandate supporting the 1988 (2011) Taliban sanctions regime until December 2020.[1211]

UN-system responses to the counterterrorism sanctions in 2019

In recent years, from a politico-strategic perspective, norms entrepreneurs have focused on the evolving threat of ISIL and the long-term effects of the foreign fighter phenomenon. Following the fall of Baghuz in Syria in March 2019, marking the end of the territorial ISIL caliphate, the group transitioned into a covert network primarily based in Iraq.[1212] Despite this shift, ISIL continued to excel financially, in media presence, combat skills, and terrorism, surpassing al-Qaeda in 2019.[1213] Global attacks on soft targets and places of worship also increased. Concerns regarding returning foreign fighters include prison radicalisation, repatriation, rehabilitation, reintegration, and the issues involving affected children and women.[1214] USG Voronkov and CTED Executive Director Coninsx emphasised the need for human rights-compliant, gender-sensitive strategies to address these challenges.[1215]

Ombudsperson Kipfer Fasciati advocated for strengthening the Office's independence, including creating an acting Ombudsperson role during transitional periods to maintain fairness in delisting procedures.[1216] He noted progress in institutional independence since the Office assumed control of its budget in 2019.[1217] In his second report, he highlighted unresolved issues by the Security Council: the need for legal representation for petitioners and concerns over confidential report leaks.[1218]

[1209] Ibid, Para.9.
[1210] Ibid, Paras.16 & 20.
[1211] UN Security Council Resolution 2501 (2019), S/RES/2501.
[1212] UNSC Monitoring Team, *Twenty-Fourth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2368 (2017) Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals and Entities*, S/2019/570 (2019), 3.
[1213] Ibid.
[1214] *Security Council: Seventy-fourth year: 8605th meeting, Tuesday, 27 August 2019: Hearing on S/PV.8609* (2019), 3–5.
[1215] *Ibid*.
[1216] Daniel Kipfer Fasciati, *Report of the Office of the Ombudsperson Pursuant to Security Council Resolution 2368 (2017)*, S/2019/112 (2019), Paras.24-25.
[1217] Ibid, Para.38.
[1218] Daniel Kipfer Fasciati, *Report of the Office of the Ombudsperson, Submitted Pursuant to Security Council Resolution 2368 (2017)*, S/2019/621 (2019), 1–9.

He argued that Resolution 2368 (2017) did not specify whether the Ombudsperson should provide legal guidance, raising potential impartiality conflicts.[1219] Legal assistance for all cases would enhance the credibility and clarity of the Ombudsperson's procedures. The leak of reports undermined the Office's credibility and jeopardised petitioners' legal protections, potentially exposing them to self-incrimination. Ultimately, the Ombudsperson urged procedural and organisational reforms to better balance security and civil liberties within the counterterrorism sanctions framework.

In 2019, the Special Rapporteur examined two sanctions-related issues: the impact of counterterrorism legislation on civil society and the role of soft laws in regulating counterterrorism measures.[1220] Since 2001, over 140 governments have enacted counterterrorism legislation following Resolution 1373 (2001), with at least 47 countries implementing measures targeting foreign terrorist fighters since 2013, making it the largest wave of proliferation of counterterrorism measures since 9/11.[1221] The Special Rapporteur noted that post-9/11 approaches have restricted civil society spaces. While targeted sanctions are effective against terrorism financing, they also risk severely limiting humanitarian and civil society organisations and may be misused to target these groups unjustly.[1222] She expressed concerns about the "complete lack of accountability for global violations that are occurring" in counterterrorism sanctions regimes and their human rights implications since 2001.[1223]

In her 2019 report, the Special Rapporteur examined the marginalisation of human rights within soft law frameworks addressing counterterrorism.[1224] She noted that post-9/11, the UN experienced institutional expansion, leading to the creation of subsidiary organs that filled regulatory gaps.[1225] Since 2001, a shift from treaty-based agreements to new forms of law-making has marginalised human rights protections due to resource constraints.[1226] The Rapporteur is the only UN entity overseeing human rights impacts in counterterrorism, but operates "without a corresponding budget or adequate staff."[1227] She concluded that the legitimacy of sanctions regimes relies on informal standards developed through coordinated interactions between informal bodies

[1219] Ibid, Paras.26-28.
[1220] Fionnuala Ní Aoláin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/74/335 (2019), 1–23; Fionnuala Ní Aoláin, *Impact of Measures to Address Terrorism and Violent Extremism on Civic Space and the Rights of Civil Society Actors and Human Rights Defenders*, A/HRC/40/52 (2019), 1–21.
[1221] Ní Aoláin, *Special Rapporteur Report 17*, Para.3.
[1222] Ibid, Para.20.
[1223] Ibid, Para.66.
[1224] Ní Aoláin, *Special Rapporteur Report 18*.
[1225] Ibid, Para.11.
[1226] Ibid, Paras.16-21.
[1227] Ibid, Para.21.

and international organisations.[1228] Yet, the lack of full MS participation has perpetuated the exclusion of human rights considerations at all stages of norm development.[1229] She also raised concerns about incorporating FATF recommendations into UNSC resolutions, as these standards often conflict with UN-endorsed human rights norms.[1230]

In 2019, the Security Council expanded its legislative role through Resolution 2462 (2019), adopting pre-crime measures and broadening the scope of terrorist financing, thereby prioritising security over human rights.

7.10. 2020

It was in this context of prioritising extended security measures within the UN counterterrorism sanctions that the UN and the international community faced another global threat: the COVID-19 pandemic. The shift to remote work in March introduced various technical, procedural, and legal difficulties, complicating efforts to sustain counterterrorism initiatives amidst the global crisis.

7.10.1. Resolution 2557 (2020)

In December, the Security Council, under Chapter VII, reaffirmed the sanctions measures outlined in Resolution 2255 (2015) concerning the Taliban and their associates, and extended the mandate of the Monitoring Team until December 2021 to support the effective implementation of these sanctions.[1231]

7.10.2. Resolution 2560 (2020)

The Council adopted Resolution 2560 (2020) on December 29, 2020, urging MS to submit requests for listing on the 1267 Sanctions list and calling on the MT to consider enhancing exceptional exemptions procedures.[1232] The Resolution, in its preamble, recognised the 1267 Committee's role in identifying non-compliant MS and determining appropriate responses.[1233] It also emphasised the need to improve the fairness and effectiveness of the Committee's rules and procedures and highlighted the importance of the Office of the Ombudsperson.[1234]

S/2020/852: A Failed Draft Resolution

In 2020, the Security Council adopted only two resolutions, both reiterating previous measures. A draft resolution submitted by Indonesia in August aimed to reinforce existing sanctions and address foreign terrorist fighters through comprehensive prosecution, rehabilitation, and reintegration strategies, with a focus on

[1228] Ibid, Para.25.
[1229] Ibid.
[1230] Ibid, Para.46.
[1231] UN Security Council Resolution 2557 (2020), S/RES/2557.
[1232] UN Security Council 2560 (2020), S/RES/2560.
[1233] Ibid, 1.
[1234] Ibid, 2.

women and children.[1235] Despite support, the draft failed to pass, garnering 14 votes in favour and was vetoed by the US, which criticised it for not addressing repatriation.[1236] This rejection marked a significant diplomatic shift, indicating a rupture in the Council's consensus on counterterrorism and reflecting a broader change in UN-level counterterrorism efforts.[1237]

UN-system responses to the counterterrorism sanctions in 2020

In March 2020, the UN and the Security Council adapted their operations to incorporate remote work due to the COVID-19 pandemic. Key issues, such as ISIL, al-Qaeda, and affiliates, remained on the agenda, while norms entrepreneurs reflected on two decades of counterterrorism efforts.

ISIL reasserted itself in Syria and Iraq, attempting to free militants from detention.[1238] Concurrently, the US announced a troop drawdown, and Turkey launched Operation Peace Spring.[1239] The threat of foreign terrorist fighters persisted, presenting significant challenges for MS,[1240] especially in Europe, where approximately 1,000 terrorism-related prisoners were expected to be released, raising concerns about reintegration and rehabilitation.[1241]

Ombudsperson Kipfer Fasciati, in commemoration of the Office's 10th anniversary, examined longstanding concerns related to fairness, transparency, and due process.[1242] He observed that the Security Council had established, "at least de facto, an independent, impartial, and effective mechanism" that approved approximately 70% of delisting requests.[1243] Nonetheless, he argued that fair and transparent due process standards should be uniformly applied across the entire 1267 sanctions regime, as issues in the listing process cannot be rectified through review alone.[1244] The critique was reinforced by the Office's lack of authority to revisit original listings, a point frequently challenged in judicial proceedings.[1245] Additionally, he highlighted structural limitations, including the Office's limited institutional independence and the high

[1235] UNSC, 'Indonesia: Draft Resolution (S/2020/852)', 31 August 2020.
[1236] UNSC, 'Letters to the President of the Security Council (S/2020/870)', 31 August 2020.
[1237] Ibid, 28.
[1238] UNSC Monitoring Team, *Twenty-Fifth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2368 (2017) Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals and Entities*, S/2020/53 (2020), Para.2.
[1239] Ibid.
[1240] *Security Council: Seventy-fifth year: 8716th meeting, Friday, 7 February 2020: Hearing on S/PV.8716* (2020), 2.
[1241] *Ibid*.
[1242] Daniel Kipfer Fasciati, *Report of the Office of the Ombudsperson Submitted Pursuant to Security Council Resolution 2368 (2017)*, S/2020/106 (2020), Para.27.
[1243] Ibid, Para.25.
[1244] Ibid, Para.27.
[1245] Ibid, Para.28.

turnover within the 1267 Committee, which hampers the accumulation of institutional expertise.[1246] Ultimately, after a decade, the Office remained encumbered by "significant structural barriers," further impeding the delisting process.[1247]

In collaboration with CTED, the Monitoring Team analysed 112 MS responses regarding their implementation of counter-financing of terrorism standards (see Table 31).[1248] The findings indicated that most MS possessed a comprehensive understanding of their obligations under relevant UNSC resolutions, including asset-freezing and sanctions measures pursuant to Resolutions 1267 (1999) and 1373 (2001) and their successive resolutions.[1249] However, fewer than 60% addressed compliance with international human rights obligations related to terrorism financing, with only a minority detailing specific measures.[1250] Due to limited responses, it remains unclear whether human rights considerations were systematically integrated into MS counterterrorism efforts, highlighting the need for further research.[1251]

In the latter half of 2020, reports highlighted COVID-19's impact, notably how travel restrictions curtailed international terrorism and financial activity but potentially fuelled radicalisation and extremist narratives.[1252] By the end of 2020, 262 individuals and 89 entities were listed under the 1267 sanctions regime.[1253]

The Special Rapporteur analysed the topics of counter-violent extremism and human rights protection within counterterrorism regulation over the past two decades, which had evolved into a well-defined and consolidated global counterterrorism architecture since then.[1254] She emphasised that the "global promulgation of counterterrorism norms" should be recognised as a worldwide and internationalised

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[1246] Ibid, Para.30.
[1247] Ibid, Para.33.
[1248] UNSC Monitoring Team, *Joint Report of the Counter-Terrorism Committee Executive Directorate and the Analytical Support and Sanctions Monitoring Team Pursuant to Resolutions 1526 (2004) and 2253 (2015) Concerning Islamic State in Iraq and the Levant (ISIL) (Da'esh), Al-Qaida and the Taliban and Associated Individuals and Entities on Actions Taken by Member States to Disrupt Terrorist Financing, Prepared Pursuant to Paragraph 37 of Security Council Resolution 2462 (2019)*, S/2020/493 (2020), 1–37.
[1249] Ibid, 2.
[1250] Ibid, Paras.73-74.
[1251] Ibid, Para.74.
[1252] UNSC Monitoring Team, *Twenty-Sixth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2368 (2017) Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals and Entities*, S/2020/717 (2020), 1–24.
[1253] UNSC, *Report of the Security Council Committee Pursuant to Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) Concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and Associated Individuals, Groups, Undertakings and Entities*, S/2020/1212 (2020), Para.31.
[1254] Fionnuala Ní Aoláin, *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/HRC/43/46 (2020), Para.4.

process.[1255] Her concerns included the conflation of human rights and security norms and standards, and she continued advocating for stronger due process protections in sanctions regimes.[1256] She reviewed 19 international conventions on terrorism since 1963, noting only one addressed international humanitarian law before 1997.[1257] Of the Security Council resolutions related to counterterrorism, 34 referenced MS obligations concerning human rights and humanitarian law, indicating an awareness of their interdependence.[1258] However, she observed that most references remain vague, lacking concrete implementation measures.[1259] The roles of the CTC and CTED in monitoring and guiding MS were also examined, with emphasis on their potential to influence policy on balancing liberty and security.[1260] The Special Rapporteur concluded that the lack of transparency in MS assessments diminished internal consistency within the UN regarding the balance of security and liberty.[1261]

Conclusion

Between 2011 and 2020, several directional shifts occurred in the prioritisation of norms by counterterrorism norms entrepreneurs, affecting the security-liberty balance of the 1267 sanctions regime (see Table 32). Despite its creation via Resolution 1267 in 1999, the regime faced ongoing procedural and legal challenges, prompting organisational and procedural reforms such as the establishment of the Office of the Ombudsperson in the early 2010s, which emphasised human rights. The Kadi II decision acknowledged these rebalancing efforts, endorsing mechanisms that protect human rights and due process. The emergence of ISIS and foreign terrorist fighters redrew the politico-strategic landscape, leading to a securitisation of counterterrorism measures and extending the UN Security Council's law-making into pre-crime domains like terrorist financing. Table 33 offers an overview of all UN counterterrorism sanctions-related Resolutions between 1999 and 2020, including voting records, to demonstrate the continuous shift between the security-liberty balance from a politico-strategic, procedural, and organisational norms convergence perspective. Focusing on the legal pathway of norms convergence, Table 34 summarises the relevant Resolutions under Chapter VII.

By 2020, amid the COVID-19 pandemic, the regime's balance was further affected by context-specific factors, suggesting ongoing evolution. While the researcher believes that the security-liberty balance will continue to evolve, the COVID-19

[1255] Ibid.
[1256] Fionnuala Ní Aoláin, *Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism*, A/75/337 (2020), 2.
[1257] Ibid, Para.22.
[1258] Ibid, Para.24.
[1259] Ibid.
[1260] Ibid, Para.28.
[1261] Ibid.

pandemic's impact on the counterterrorism sanctions regime warrants examination through a different lens to account for context-specific changes in the balancing framework. Such a project would be a worthy continuation of implementing the added time qualifier within the security-liberty balancing framework and analysis through the different norms convergence pathways.

While the reforms undertaken by the UN between 2011 and 2020 markedly promoted procedural convergence and advanced the stabilisation of the security-liberty balance within the 1267 regime, the most pivotal developments in legal convergence manifested in the EU's implementation practices and jurisprudence, which constitute the central focus of the subsequent chapter.

Chapter 8: Legal Convergence: EU 1999-2020

Introduction

This chapter examines the evolution of the security-liberty balance within EU and UN counterterrorism sanctions regimes from 1999 to 2020, utilising norms convergence pathways (politico-strategic, organisational, legal, and procedural), to highlight the dynamic interplay between the organisations. It demonstrates that the EU has significantly influenced the UN's approach to human rights protections within international counterterrorism sanctions. While the previous chapters examined convergence within the UN across politico-strategic, organisational, and procedural pathways, this chapter concentrates on legal convergence in the EU. It analyses how European courts interpret and limit the enforcement of UN sanctions, with particular focus on the jurisprudence in the Kadi case. Although all four pathways are addressed, legal convergence remains central, with politico-strategic, organisational, and procedural aspects seen as both antecedents and effects of judicial rulings.

The chapter investigates EU counterterrorism action from 1999 to 2020 and demonstrates that, similarly to the UN, the EU's counterterrorism agenda can be described as proliferating through largely ad hoc, event-driven cycles under the leadership of numerous norms entrepreneurs, resulting in overlapping mandates, oversight, and influence. The four event-driven cycles are: (1) 9/11 and subsequent terrorism offence definition, (2) the London and Madrid bombings and the focus on home-grown terrorism, (3) the rise of ISIS, the threat of foreign terrorist fighters, and the Paris and Brussels attacks, and (4) the increase of lone wolf, small-scale attacks such as in Nice and Berlin, each prompting policy shifts. Throughout this period, EU counterterrorism remained fragmented, lacking a cohesive, top-down strategy related to sanctions or other measures. Its structure expanded through increased stakeholder involvement and reforms, notably post-Lisbon Treaty, which enhanced decision-making authority among EU agencies and norms entrepreneurs.

The EU, like the UN, is not a single actor engaged in counterterrorism; rather, it comprises a wide range of stakeholders. These include EU Member States (EUMS); all major EU institutions such as the European Council, Council of the European Union (hereinafter Council of the EU), European Parliament (EP), European Commission (Commission), European External Action Service (EEAS), and the Court of Justice of the European Union (CJEU); EU agencies such as Europol, Eurojust, Frontex; as well as several highly visible norms entrepreneurs such as the High Representative for Foreign Affairs and Vice President of the European Commission (HR/VP), and the EU

Counterterrorism Coordinator (EU CTC).[1262] This multi-level governance is further complicated by the EU's engagement with international actors such as the Council of Europe (CoE) and the United Nations.[1263]

It is in this ever-growing field of counterterrorism, with overlapping policies, expanding priorities, and "proliferation of actors involved" that this chapter explores the dynamic relationship between the EU and the UN regarding international counterterrorism sanctions since 1999 from the perspective of the EU to better understand how the balance of security and liberty norms converged between these two organisations over the last two decades.[1264] As highlighted throughout the previous chapters, focusing on the UN and EU counterterrorism, too, is a collection of complex dynamics taking place within an intricate institutional architecture.[1265] This chapter investigates EU-UN relations regarding counterterrorism sanctions, with a specific focus on the legal pathway of norms convergence, while also highlighting important milestones related to the other three pathways: politico-strategic, procedural, and organisational convergence.

While several scholars noted that both the EU and UN have "followed each other's lead, adopting and adapting [sanctions] lists at different points in time," this chapter asserts that the EU's influence on the UN's approach to counterterrorism sanctions is both analytically significant and has led to notable shifts in the security-liberty balance since 9/11.[1266] Post-9/11, the EU has emerged as a key global counterterrorism actor, impacting human rights protections. This evolution from norm-taker to norms entrepreneur is non-linear, resulting from complex factors such as the EU's law enforcement approach to counterterrorism, the historical context of the judiciary's ability to engage in judicial policy-making effectively, and the event-driven attitude of the international community and the EU towards terrorism.

As the event history analysis and process tracing demonstrate, the EU has consistently treated terrorism as a crime, adopting a law-enforcement approach that emphasises international law and conventions.[1267] This stance reflects a commitment to

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[1262] Martins, 'The Political-Legal Nexus', 181.
[1263] Den Boer and Wiegand, 'From Convergence to Deep Integration', 377–78.
[1264] Julia Burchett and Anne Weyembergh, *Counterterrorism Policies, Measures and Tools in the EU: An Assessment of the Effectiveness of the EU Counterterrorism Policy*, with Georgia Theodorakakou (2022), 9.
[1265] Ibid, 7.
[1266] Eva Herschinger and Martin Koch, 'Inter-Organizational Relations in Counterterrorism', in *Inter-Organizational Relations and World Order*, ed. Ulrich Franke and Martin Koch (Bristol University Press, 2023), 56.
[1267] Jörg Monar, 'The EU as an International Counter-Terrorism Actor: Progress and Constraints', *Intelligence and National Security* 30(2–3) (2015): 337.

international principles, as evidenced by foundational agreements.[1268] The European Court of Justice (ECJ) has played a key role in institutionalising human rights into the EU legal framework, expanding its competencies since its inception.[1269] Although not explicitly mandated to review EU institutions or EUMS' compliance with human rights, the ECJ has consistently undertaken such evaluations.[1270]

Judicial policymaking at the international level predominantly involves gap-filling to address missing or ambiguous rules, such as the "relation between conflicting norms" in counterterrorism sanctions, to interpret their application in specific cases while balancing security and human rights, including due process and fair hearings.[1271] Examining the evolution of the security-liberty balance within EU counterterrorism sanctions through a lens of legal norms convergence shows that international courts have emerged as influential norm entrepreneurs, promoting human rights protections over recent decades. Some scholars see EU courts as catalysts prompting the EU and UN to integrate human rights into sanctions regimes,[1272] whereas others note that case adjudication has also generated institutional conflicts between these actors and between security and human rights norms.[1273] This reflects how the EU's legal framework has positioned courts as key actors in the two-way diffusion and convergence of norms between the UN and EU regarding sanctions.[1274]

The judiciary has expanded the number of norms entrepreneurs involved in EU counterterrorism policy,[1275] driven mainly by evolving terrorist threats both within and without.[1276] Major incidents like 9/11, Madrid, and London bombings prompted EU norm entrepreneurs to adopt more proactive measures.[1277] However, periods of inertia often followed these surges, similar to patterns observed within the UN framework.

8.1. Pre-9/11 EU counterterrorism

Prior to analysing the EU's response to numerous terrorist attacks, it is essential to examine the evolution of counterterrorism policies pre-9/11, including the initial

[1268] Matej Avbelj and David Roth-Isigkeit, 'The UN, the EU, and the Kadi Case: A New Appeal for Genuine Institutional Cooperation', *German Law Journal* 17(2), (2016): 172.
[1269] Monika Heupel, 'Judicial Policymaking in the EU Courts: Safeguarding Due Process in EU Sanctions Policy Against Terror Suspects', *European Journal on Criminal Policy and Research* 18(4), (2012): 315–16.
[1270] Ibid, 316.
[1271] Ibid, 313.
[1272] Heupel, 'Multilateral Sanctions', 308.
[1273] Avbelj and Roth-Isigkeit, 'The UN, the EU, and the Kadi Case', 155–56.
[1274] Martins, 'The Political-Legal Nexus', 192.
[1275] Burchett and Weyembergh, *EU CT Assessment*, 18.
[1276] Christian Kaunert et al., *The European Union as a Global Counter-Terrorism Actor* (Edward Elgar Publishing, 2022), 16.
[1277] Paul Wilkinson, *Terrorism Versus Democracy: The Liberal State Response*, 3rd ed (Routledge, 2011), 180. Also confirmed by Interviews E, F, & G.

adoption of the 1267 sanctions regime through UNSC Resolution 1267 (1999). Before the 9/11 attacks, the evolution of European counterterrorism policy had its roots in the early 20th century. While the assassination of Duke Ferdinand in 1914 had profound consequences, collaborative European counterterrorism efforts began largely in the 1970s,[1278] notably following the 1972 Munich Olympics attack.[1279] The CoE, established in 1949 as the "continent's leading human rights organisation," and distinct from the European Council or the Council of the EU, laid early groundwork and created a common legal space for its 46 Member States across Europe.[1280] In 1977, the CoE drafted the Convention on the Suppression of Terrorism,[1281] building on the 1957 European Convention on Extradition;[1282] however, it did not define terrorism.[1283] Nonetheless, this Convention marked the first step toward minimum harmonisation of counterterrorism measures among European states (see Table 35: Overview of pre-9/11 European counterterrorism-related action).[1284]

Simultaneously, in the European Communities, which had fewer members than the CoE, the European Parliament called for direct anti-terrorism measures in 1976.[1285] The Council of Ministers of the European Communities, however, remained inactive until the 1978 kidnapping of former Italian Prime Minister Aldo Moro, prompting a declaration to strengthen cooperation and proposing a European judicial area.[1286] The TREVI group was established within the European Political Cooperation (EPC) as a forum for security exchanges, including five working groups, one of which focused on counterterrorism.[1287] Due to slow progress in ratifying the 1977 CoE Convention and the proposed judicial area, the European Communities adopted the 1979 Dublin Convention, binding members to the CoE Convention on the Suppression of Terrorism.[1288]

During the 1980s, European counterterrorism efforts primarily emphasised law enforcement approaches. Incidents such as the 1985 attacks on Vienna and Rome

[1278] Raphael Bossong, 'European Counter-Terrorism Cooperation before 9/11', in *The Evolution of EU Cunter-Terrorism: European Security Policy After 9/11* (Taylor & Francis Group, 2012), 25.
[1279] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 37.
[1280] Council of Europe, *The Council of Europe: Key Facts*, n.d.
[1281] European Convention on the Suppression of Terrorism, ETS 90 European Treaty Series 1 (1977).
[1282] European Convention on Extradition, ETS 24 European Treaty Series 1 (1957).
[1283] European Convention on the Suppression of Terrorism.
[1284] Den Boer and Wiegand, 'From Convergence to Deep Integration', 386–87.
[1285] Bossong, 'Pre-9/11', 26–27.
[1286] European Council, *Conclusions of the Presidency* (European Council, 1978), 21.
[1287] Bossong, 'Pre-9/11', 27.
[1288] Agreement Concerning the Application of the European Convention on the Suppression of Terrorism between the Member States of the European Communities (1979).

airports led the EPC to condemn "these barbaric acts of terrorism" and advocate for enhanced security cooperation.[1289] The 1986 Berlin bombings prompted the EPC to impose diplomatic sanctions and an arms embargo on Libya.[1290] The 1990s marked a transformative period with the Maastricht Treaty of 1992, which restructured the European Communities and the EP into the European Union, adopting a three-pillar framework.[1291] This included the Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA) as the two new pillars.[1292] Article K.1.9. of the Maastricht Treaty identified police cooperation against terrorism, drug trafficking, and other serious crimes as common EUMS interests,[1293] integrating groups like TREVI into the EU institutional structure.[1294]

In 1995, a series of terrorist attacks, including an attempted assassination of future Spanish Prime Minister Aznar and bombings in Paris, Tokyo, and Oklahoma City, highlighted the global threat of terrorism.[1295] In response, the European Council issued the La Gomera Declaration, a significant pre-9/11 statement on counterterrorism.[1296] The Declaration recognised terrorism as a threat to democracy and human rights, emphasising its transnational nature affecting EUMS.[1297] It prioritised counterterrorism efforts, advocating for enhanced police and judicial cooperation, as well as greater information sharing on terrorist financing and money laundering.[1298]

In 1997, the European Council ratified the Treaty of Amsterdam, establishing the Area of Freedom, Security, and Justice (ASFJ) as a political objective of the EU.[1299] The Treaty also established the position of the High Representative for the Common Foreign and Security Policy to assist the European Council and the Presidency of the Council of the EU in matters related to foreign and security policy.[1300]

[1289] Bossong, 'Pre-9/11', 31.
[1290] European Political Cooperation Presidency, *Statement by Ministers of Foreign Affairs of the Twelve on International Terrorism and the Crisis in the Mediterranean* (The Hague, 1986), 1.
[1291] Treaty on European Union, 92/C 191/01 1 (1992).
[1292] Maastricht Treaty.
[1293] Ibid.
[1294] Burchett and Weyembergh, *EU CT Assessment*, 14.
[1295] Bossong, 'Pre-9/11', 29–30.
[1296] Monar, 'The EU as an International Counter-Terrorism Actor', 334.
[1297] European Council, *Madrid European Council 15 and 16 December 1995 Presidency Conclusions* (1995), Annex III.
[1298] European Council, *La Gomera Declaration*.
[1299] Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts, 97/C 340/01 1 (1997).
[1300] Joana de Deus Pereira and Christian Kaunert, 'The High Representative's Role in EU Countering Terrorism: Policy Entrepreneurship and Thick, Thin and Global Europe', *European Politics and Society* 23(1), (2020): 7.

The EU's engagement with UN counterterrorism sanctions predates 9/11, following the adoption of UNSCR 1267 in 1999 (see Table 36 for an extensive overview of all EU counterterrorism sanctions-related legislation and activity between 1999 and 2020). On 15 November 1999, the Council of the EU adopted Common Position (CP) 1999/727/CFSP, implementing UNSC Resolution 1267 (1999) in the EU's territories, including measures such as an aviation embargo and financial asset freezes on the Taliban.[1301]

The Council of the EU adopted a CP (2001/56/CFSP) addressing the situation in Afghanistan and condemning terrorism in all its forms.[1302] On 26 February 2001, CP 2001/154/CFSP was enacted to enforce the arms embargo set out in UNSCR 1333 (2000) and to call for the withdrawal of EUMS personnel advising the Taliban on security or military matters.[1303] Subsequently, on 6 March 2001, Council Regulation 467/2001/EC defined 'funds' and 'freezing of funds,' applied arms and aviation embargoes pursuant to UN Security Council resolutions, and incorporated the UN Taliban Sanctions Committee's sanctions list.[1304] The Regulation emphasised cooperation with the Taliban Sanctions Committee, respecting the rights of Member States under the UN Charter, and the application of international agreements.[1305]

8.2. 9/11

On September 12, 2001, the European Commission President condemned the 9/11 attacks as "acts of barbaric crime," calling for a common approach to terrorism.[1306] Subsequently, on September 14, 2001, the European Community issued a Joint Declaration by the Heads of State and Government, the EP, the Commission presidents, and the HR/VP, emphasising the necessity of international cooperation to safeguard ethical values and human rights.[1307] The Declaration underscored the importance of enhanced police and judicial collaboration and proposed accelerating the development of a European judicial area, including initiatives such as a European warrant for arrests

[1301] Council Common Position of 15 November 1999 Concerning Restrictive Measures against the Taliban, 1999/727/CFSP 1 (1999).
[1302] Council Common Position of 22 January 2001 on Afghanistan, 2001/56/CFSP 1 (2001).
[1303] Council Common Position of 26 February 2001 Concerning Additional Restrictive Measures against the Taliban and Amending Common Position 96/746/CFSP, 2001/154/CFSP 1 (2001).
[1304] Council Regulation (EC) No 467/2001 of 6 March 2001, 467/2001 1 (2001).
[1305] Council Regulation 467/2001 (EC), 3.
[1306] European Commission, *Statement by President Prodi on the Attacks against the United States*, IP/01/1265 (Brussels, 2001), 1.
[1307] European Commission, *Joint Declaration by the Heads of State and Government of the European Union, the President of the European Parliament, the President of the European Commission, and the High Representative for the Common Foreign and Security Policy*, DOC/01/12 (2001), 1.

and extradition as well as the mutual recognition of legal decisions and verdicts.[1308] It also projected the imminent operationalisation of the European Security and Defence Policy.[1309]

On September 20, the Justice and Home Affairs (JHA) Council of the EU adopted conclusions outlining several actions, including accelerating Eurojust's establishment, creating a European Arrest Warrant (EAW) system for terrorism suspects, calling for a common definition of terrorist acts, pledging to adopt a Framework Decision on terrorism financing and asset freezes, and examining the nexus between security and international obligations such as human rights.[1310]

The European Council's extraordinary meeting the next day resulted in a comprehensive Plan of Action on counterterrorism.[1311] This Plan emphasised international cooperation under the UN, urging EUMS to implement relevant conventions. It advocated a coordinated, interdisciplinary approach that safeguards fundamental freedoms. Specific measures included enhancing aviation security via the Transport Council, expanding the EAW agreements through the JHA, and consolidating EU counterterrorism efforts within CFSP, led by the General Affairs Council (GAC).[1312]

In October 2001, the GAC of the Council of the EU published a Road map for the coordination of implementation of the Plan of Action, outlining objectives and progress in counterterrorism (see Table 37 for an excerpt of objectives).[1313] Responsibilities were divided among different Councils: Ecofin reported on terrorist financing; JHA and Ecofin addressed money laundering; JHA focused on the EAW and terrorism definition; and the Transport and Telecommunications Council aimed to strengthen aviation security.[1314] The GAC handled UN-related tasks, including follow-up on UNSCRs 1267 (1999) and 1373 (2001), negotiations for a UN General Convention on International Terrorism, and promoting international treaty ratification among EUMS.[1315]

The EU Council integrated UNSC Resolutions 1269 (1999) and 1368 (2001) through CP 2001/930/CFSP on 27 December 2001,[1316] establishing a foundational

[1308] Ibid.
[1309] Ibid, 2.
[1310] Council of the European Union, *Conclusions Adopted by the Justice and Home Affairs Council*, SN 3926/6/01 (Brussels, 2001), 1–12.
[1311] European Council, *Conclusions and Plan of Action Of the Extraordinary European Council Meeting on 21 September 2001*, SN/140/01 (2001), 1–5.
[1312] Ibid.
[1313] Council of the European Union, *Coordination of Implementation of the Plan of Action to Combat Terrorism*, no.12800/1/01 (General Affairs Council, 2001), 1–23.
[1314] Ibid.
[1315] Ibid.
[1316] Council Common Position of 27 December 2001 on Combating Terrorism, 2001/930/CFSP 1 (2001).

document for EU anti-terrorism financing efforts.[1317] The CP mandated that EUMS adopt relevant international conventions and protocols to effectively curb terrorist financing.[1318]

Common Position 2001/931/CFSP, adopted on the same day, focused on implementing measures to combat terrorism by establishing the EU's own list of individuals, groups, and entities associated with terrorist activities.[1319] Those listed faced financial asset freezes to prevent further terrorist acts.[1320] The position defined a 'terrorist act' as an intentional criminal act aimed at:

> "(i) seriously intimidating a population, or
>
> (ii) compelling a Government or an international organisation to perform or abstain from performing any act, or
>
> (iii) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation."[1321]

Additionally, CP 2001/931/CFSP broadly defined those 'persons, groups and entities involved in terrorist acts' and stated that listing decisions should be made by competent authorities, judicial or equivalent.[1322] The Council of the EU required biannual reviews of the list.[1323]

On the same day, the European Council adopted Council Regulation 2580/2001, which implemented CP 2001/931/CFSP and created the EU financial sanctions list for individuals and groups not addressed by UNSCR 1267 (1999) and 1333 (2000).[1324]

8.3. 2002

Between 1999 and 2002, the Council of the EU enacted legislation to implement UNSC counterterrorism sanctions, including asset freezes, travel bans, and arms embargoes. In 2002, it adopted Common Position 2002/402/CFSP[1325] and Regulation (EC) 881/2002,[1326] implementing UNSCR 1390 (2002). The Council of the EU called

[1317] Martins, 'The Political-Legal Nexus', 183.
[1318] CP 2001/930/CFSP.
[1319] Council Common Position of 27 December 2001 on the Application of Specific Measures to Combat Terrorism, 2001/931/CFSP 1 (2001).
[1320] Ibid.
[1321] Ibid, Art.1(3).
[1322] Ibid, Art.1(5).
[1323] Ibid, Art.1(6).
[1324] Council Regulation (EC) No 2580/2001 of 27 December 2001, 2580/2001 1 (2001).
[1325] Council Common Position of 27 May 2002, 2002/402/CFSP 1 (2002).
[1326] Council Regulation (EC) No 881/2002 of 27 May 2002, 881/2002/EC 1 (2002).

for a transparent process to amend the EU list[1327] and authorised the Commission to update it as advised by the UNSC, 1267 Committee, and EUMS.[1328]

In June 2002, the Council of the EU adopted the Framework Decision on Combating Terrorism, reaffirming the 1995 La Gomera Declaration, stating that terrorism is a threat to democracy and human rights.[1329] The Declaration referenced relevant Council of Europe Conventions, EU agreements, and action plans, notably including the European Convention for the Protection of Human Rights and Fundamental Freedoms.[1330] Article 1 delineates 'terrorist offences' as:

> "(a) attacks upon a person's life which may cause death;
>
> (b) attacks upon the physical integrity of a person;
>
> (c) kidnapping or hostage taking;
>
> (d) causing ex extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss;
>
> (e) seizure of aircraft, ships or other means of public or goods transport;
>
> (f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;
>
> (g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life;
>
> (h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life; threatening to commit any of the acts listed in (a) to (h)."[1331]

This was not the first attempt to define intentional acts as terrorist offences. On 19 September 2001, the Commission submitted to the Council of the EU a Proposal for a Framework Decision on Combating Terrorism in which the Commission clearly placed the fight against terrorism within the realm of criminal law and highlighted the EU's foundational concept of respect and protection of human rights.[1332] Furthermore, the 2001 Proposal provided a common definition of terrorist offences as "offences

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[1327] Ibid, 1.
[1328] Ibid, Art(7).
[1329] Council Framework Decision of 13 June 2002 on Combating Terrorism, 2002/475/JHA 1 (2002), 1.
[1330] Ibid, 1–2.
[1331] Ibid, Art.1.
[1332] European Commission, *Proposal for a COUNCIL FRAMEWORK DECISION on Combating Terrorism*, COM (2001) 521final (2001), 1–23.

intentionally committed by an individual or a group against one or more countries, their institutions or people, to intimidate them and seriously alter or destroying the political, economic, or social structures of a country."[1333] This Proposal influenced the 2002 Framework Decision, which outlined terrorist offences as: "(1) seriously intimidating a population, or (2) unduly compelling a Government or international organisation to perform or abstain from performing any act, or (3) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation."[1334]

The 2002 Framework Decision established the first common EU definition of terrorism, outlining specific criminal acts and a three-part structure of terrorist offences encompassing context, aim, and acts.[1335] This definition was a direct response to calls for a unified understanding of terrorism post-September 11, 2001. The 2002 Framework Decision also mandated respect for fundamental rights in countering terrorism through a criminal law approach, established specific sentencing guidelines for terrorist cases, and required EUMS to implement these measures domestically by late 2002. Additionally, EUMS had to report to the Secretariat and Commission by 2003 for compliance assessment.[1336]

In 2002, the Council of Europe addressed counterterrorism within a human rights framework. The Guidelines focused on defining the limits States should consider in their counterterrorism efforts.[1337] They emphasised the necessity of respecting human rights, affirming that all measures must be lawful and rights-compliant.[1338] They stipulated that suspects were entitled to a fair hearing before an impartial tribunal, and that freezing orders were subject to judicial review.[1339] The annex highlighted the ongoing balancing between defending democratic institutions and safeguarding individual rights, as emphasised by the Court.[1340] The Guidelines acknowledged that neither the European Convention on Human Rights nor the European Court of Human Rights had explicitly defined terrorism, but referred to the definitions of the Parliamentary Assembly and the Council of the European Union as examples.[1341]

In 2007, the Council of the EU declassified a 2002 document outlining the working method of the Clearing House, an ad hoc forum comprising EUMS, the

[1333] Ibid, 7.
[1334] Framework Decision 2002, Art(1).
[1335] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 43.
[1336] Framework Decision 2002.
[1337] Council of Europe, *Guidelines on Human Rights and the Fight against Terrorism*, H (2002) 4 (2002), 1–30.
[1338] Ibid, Arts.2-3.
[1339] Ibid, Arts.9 & 14.
[1340] Ibid, 9–10.
[1341] Ibid, 10.

Commission, and the General Secretariat.[1342] This forum met biannually to review the EU list associated with CP 2001/931/CFSP and 2580/2002/EC.[1343] The document's procedures were vague regarding the submission of listing designations by EUMS and non-EU states, paralleling UNSC procedures and failing to meet due process standards.[1344] It prescribed that in case of legal proceedings concerning listed entities, the Clearing House must convene to consider modifications to the list.[1345]

In October 2002, the European Council's Seville Presidency Conclusions acknowledged progress in EU counterterrorism, notably the operationalisation of the European Security and Defence Policy (ESDP).[1346] The Council emphasised the continued priority of counterterrorism and called for closer cooperation with the UN, NATO, OSCE, the US, and other states to bolster international efforts.[1347]

In 2002, the EU was notably active from a politico-strategic standpoint, mainly in establishing a common definition of terrorist offences, which at the time were still under drafting consultations at the UN.[1348] This initiative aimed to harmonise national counterterrorism measures, as many EUMS had yet to integrate terrorism into their legal frameworks.[1349] The move signalled a significant step towards rebalancing security concerns with human rights considerations, as reflected in documents emphasising both security and liberties. The common definition also served as the basis for counterterrorism operations by institutions such as Europol and Eurojust.[1350] Organisationally, the EU largely depended on the UNSC for sanctions guidance, though its Clearing House working methods indicated a move toward more direct review processes from a procedural perspective. Notably, neither the EU nor the UN faced substantial public pressure over security-liberty issues at this time, except for Sweden's opposition to listings involving its citizens connected to Al Barakaat (addressed later in this chapter).[1351] From a legal perspective, 2002 already witnessed court challenges by several listed individuals and entities, including Jose Maria Sison and the Organisation des Modjahedines du Peuple d'Iran (OPMI), both designated on the EU list, who filed claims against the Council of the EU at the Court of First Instance (CFI).[1352]

[1342] Council of the European Union, *Fight against the Financing of Terrorism - Follow-up of EU Measures Implementing UNSCR 1373 (2001)* (2002), 1–7.
[1343] Ibid.
[1344] Heupel, 'Multilateral Sanctions', 316.
[1345] Council of the European Union, *Clearing House Guidelines*.
[1346] European Council, *Presidency Conclusions*, no. 13463/02 (Seville, 2002), 1–42.
[1347] Ibid, 31.
[1348] Common definition also highlighted by Interview K.
[1349] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 43.
[1350] Raphael Bossong, *The Evolution of EU Counter-Terrorism: European Security Policy after 9/11* (Routledge, 2012), 62.
[1351] Heupel, 'Multilateral Sanctions', 321.
[1352] Heupel, 'Judicial Policymaking in the EU Courts', 318.

8.4. 2003

Procedurally, in 2003, the Commission prioritised establishing common minimum standards across European judiciaries to protect rights enshrined in the European Convention on Human Rights.[1353] In February 2003, a Green Paper was issued to evaluate procedural safeguards ahead of the 2004 EU enlargement, ensuring uniform minimum standards for all citizens.[1354] Following UNSCR 1452 (2002), the EU adopted CP 2003/140/CFSP[1355] and Council Regulation 561/2003/EC[1356] to implement humanitarian exemptions outlined in the UN resolution. In December 2003, a set of guidelines for EU sanctions was introduced to standardise implementation, emphasising adherence to UN resolutions, particularly under Chapter VII, and underscoring respect for human rights and due process in sanctions enforcement.[1357] The guidelines recognised potential conflicts between sanctions and international obligations, indicating a need for a unified approach to manage tensions between security measures and civil liberties within counterterrorism frameworks.[1358]

In 2003, a new norms entrepreneur emerged concerning the security-liberty balance in counterterrorism sanctions. Javier Solana has been the EU High Representative for the Common Foreign and Security Policy (HR/VP) since 1999.[1359] Before his appointment, Solana served as NATO Secretary General and has been recognised as a successful policy and norms entrepreneur.[1360] The HR/VP position, established by the Treaty of Amsterdam (1997), responded to the question famously posed by Kissinger of "what is Europe's phone number?"[1361] Solana actively collaborated with the European Council on post-9/11 counterterrorism measures, such as the Action Plan, and functioned as a mediator and external agenda-setter within EU institutions.[1362]

[1353] European Commission, *Green Paper on Procedural Safeguards for Suspects and Defendants in Criminal Proceedings throughout the European Union*, IP/03/245 (2003), 1–2.
[1354] Ibid.
[1355] Council Common Position 2003/140/CFSP of 27 February 2003, 2003/140/CFSP 1 (2003).
[1356] Council Regulation (EC) 561/2003 of 27 March 2003, 561/2003/EC 1 (2003).
[1357] Council of the European Union, *Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy*, no.15579/03 (2003), 7–8.
[1358] Ibid, 7.
[1359] **For the purposes of continuity, the researcher refers to the position as HR/VP even though the Vice-Presidential title was awarded in 2009.*
[1360] Raphael Bossong, *The Evolution of EU Counter-Terrorism: European Security Policy after 9/11*, First issued in paperback 2014, Contemporary Terrorism Studies (Routledge, 2014), 70.
[1361] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 65–66.
[1362] de Deus Pereira and Kaunert, 'The High Representative's Role in EU Countering Terrorism', 10.

In June 2003, HR/VP Solana presented a proposal titled "A Secure Europe in a Better World," emphasising the EU's role as a global security actor.[1363] He identified international terrorism as a key threat to the EU, both as a target and a base of terrorist activity.[1364] Solana advocated for stronger international institutional partnerships, namely with the UN, NATO, OSCE, and the Council of Europe,[1365] and called for greater coherence among the EU's foreign policy tools, notably CFSP and ESDP, to ensure a comprehensive security strategy.[1366]

The 2003 European Security Strategy (ESS 2003), adopted by the European Council, was heavily influenced by the Solana proposal.[1367] It identified terrorism as a primary threat and emphasised enhanced cooperation with the UN and regional bodies to establish a rules-based international order.[1368] Notably, the ESS 2003 underscored the UNSC's primary responsibility for maintaining international peace and security and prioritised strengthening the UN.[1369] Under HR/VP Solana's leadership, the strategy acknowledged terrorism as a critical threat and advocated for a multifaceted, multi-institutional approach.[1370] Solana demonstrated his politico-strategic capabilities as a norms entrepreneur by influencing the balance between security and liberty norms in EU counterterrorism policies through close control over the drafting of the ESS.

A European Council's pre-ESS 2003 report outlined the EU's external counterterrorism efforts, emphasising participation in key UN initiatives such as the CTC, 6th Committee, Ad Hoc Committee, UNODC, and the UN Centre for International Crime Prevention.[1371] It also highlighted the EU's work of providing technical assistance to third countries as mandated by UNSCR 1373 (2001),[1372] and noted ongoing development of guidelines for a unified, cross-pillar counterterrorism strategy.[1373]

8.5. 2004: Madrid attacks

In 2004, Western Europe experienced its most devastating terrorist attack when ten bombs detonated on Madrid's commuter trains on March 11th (11M), resulting in 191 deaths and 1,841 injuries.[1374] This event not only elicited widespread shock within

[1363] Javier Solana, *A Secure Europe in a Better World* (Thessaloniki, 2003), 1.
[1364] Ibid, 4–5.
[1365] Ibid, 8–9.
[1366] Ibid, 12–13.
[1367] European Council, *European Security Strategy* (2003), 1–8.
[1368] Ibid, 5.
[1369] Ibid.
[1370] Alistair J. K. Shepherd, 'EU Counterterrorism, Collective Securitization, and the Internal-External Security Nexus', *Global Affairs* 7(5) (2021): 741.
[1371] European Council, *Presidency Conclusions*, no.11638/03 (Thessaloniki, 2003), 33.
[1372] Ibid, 31.
[1373] Ibid, 31–34.
[1374] Fernando Reinares, 'The Madrid Bombings and Global Jihadism', *Survival* 52(2), (2010): 84.

the EU and globally but also influenced the Spanish general elections held on March 14, 2004.[1375] In response, various EU norms entrepreneurs and institutions intensified counterterrorism initiatives, engaging in the development and balance of security and liberty norms.[1376] These counterterrorism actions took place across multiple platforms and streams of action; thus, the norms convergence pathways offer an effective way of examining the plethora of actions following 11M.

On 18 March 2004, the European Commission presented a paper to the European Council outlining five strategic recommendations in response to the Madrid attacks: (1) declaration of solidarity; (2) better implementation of existing instruments; (3) strengthening the fight against terrorist financing; (4) enhanced coordination; (5) external action.[1377] It emphasised leveraging existing legislative tools, such as the EAW, the 2001 Framework Decision on the fight against terrorism, and the Decision on the implementation of specific measures for police and judicial cooperation to combat terrorism, and advocated improved enforcement rather than new legislation.[1378] The Commission also proposed establishing an electronic database to facilitate asset freezes[1379] and committed to providing "more and better targeted technical assistance" in partnership with the UN CTC to support third countries.[1380]

The Council Secretariat actively contributed to the EU's response to the Madrid bombings by proposing a draft Declaration on combating terrorism on 19 March 2004.[1381] Notably, Gilles de Kerchove, a prominent norms entrepreneur and Head of DG H during that period, was credited as the draft's author. The Council Secretariat, along with de Kerchove, was able to assume a more influential counterterrorism role in 2004 because the Presidency was held by Ireland, with a rather small mission and a relatively inconspicuous counterterrorism agenda at the EU level.[1382]

On 25 March 2004, the European Council adopted the Declaration on combating terrorism, largely unchanged from de Kerchove's draft.[1383] It called for a revised EU Plan of Action to Combat Terrorism by June 2004, outlining new strategic objectives to foster international consensus, strengthen counterterrorism efforts, and limit terrorist financing.[1384] The Council also established the EU Counterterrorism

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[1375] Ibid, 85.
[1376] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 45.
[1377] European Commission, *Commission Paper to the Council on Terrorism Providing Input for the European Council*, no.7581/04 (2004), 3.
[1378] Ibid, 3–5.
[1379] Ibid, 7.
[1380] Ibid, 11.
[1381] Council of the European Union, *Draft Declaration on Combating Terrorism*, no.7486/04 (2004), 1–17.
[1382] Bossong, *EU CT*, 76–77.
[1383] European Council, *Declaration on Combating Terrorism* (2004), 1–18.
[1384] Ibid, 9.

Coordinator (EU CTC), stationed within the Council Secretariat, to oversee all EU-level counterterrorism instruments.[1385] The Declaration endorsed HR/VP Solana's appointment of Gijs de Vries as the first EU CTC.[1386]

Following 11M, the EU established the EU CTC with a broad mandate lacking specific descriptions of responsibilities and powers.[1387] HR/VP Solana outlined three coordination goals: (1) streamlining the work of the EU Council Secretariat. (2) recommend action for better coordination between EU institutions; and (3) enhance communication between EUMS and EU institutions.[1388] Bures noted the EU CTC's threefold role: coordinating EU counterterrorism policy, monitoring legislation implementation, and representing the EU externally.[1389] The office's location within the Council Secretariat reflected institutional influence but limited power, lacking resources, and an independent budget.[1390] Consequently, the EU CTC faced challenges in effective coordination across EU bodies.[1391] Gijs de Vries, a former Dutch Deputy Interior Minister and MEP, lacked expertise in intelligence and internal EU dynamics, and his authority was openly questioned by Germany's Interior Minister, who provided no additional support.[1392]

Under these circumstances, EU CTC de Vries primarily focused on external engagements, interacting with third countries and international organisations such as the UN, where he briefed both the CTC and UNSC multiple times.[1393] He increasingly became recognised as the "face of the EU's counterterrorism policy."[1394] On 26 May 2004, he submitted two reports on the implementation of EU counterterrorism measures. His Provisional Findings noted progress among EUMS in enhancing internal structures but identified slow reform and coordination.[1395] He acknowledged the absence of a "one size fits all" EU approach, emphasising cooperation and sharing best practices, particularly through Europol and Eurojust.[1396] His Discussion Paper highlighted that the

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[1385] Ibid, 13.
[1386] Ibid.
[1387] Oldrich Bures, 'The Counterterrorism Coordinator and the Commissioner for the Security Union: Does the European Union Need Two Top-Level Counterterrorism Officials?', *Terrorism and Political Violence*, 10 March 2020, 665.
[1388] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 56–57.
[1389] Bures, 'The Counterterrorism Coordinator and the Commissioner for the Security Union', 665.
[1390] Ibid, 666.
[1391] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 47.
[1392] Bossong, *EU CT*, 83.
[1393] Bures, 'The Counterterrorism Coordinator and the Commissioner for the Security Union', 669.
[1394] Ibid.
[1395] Gijs De Vries, *Provisional Findings of the Two 'Peer Evaluation' Mechanisms Affecting the Union Fight against Terrorism*, no.9876/04 (Council of the EU, 2004), 1–21.
[1396] Ibid, 2.

2004 Declaration was "silent on ways and measures by which the (timely) implementation" of counterterrorism instruments should be monitored.[1397] Furthermore, EUMS reports on their implementation are "sketchy and late" in general.[1398] While the EU CTC used naming and shaming EUMS as a frequent tool, this was not applied to EU institutions, as their reports stemmed from prior consultations.[1399]

In June 2004, the Council of the EU adopted the Revised Plan of Action on Combating Terrorism (2004 Roadmap), outlining targeted measures aligned with the seven strategic objectives of the 2004 Declaration.[1400] The Roadmap emphasised enhanced cooperation with UN agencies, focusing on implementing UNSCRs 1267 (1999) and 1373 (2001), and designated the EU CTC as the primary body responsible for progress (see Table 38).[1401]

Towards the end of the year, the European Commission issued a Commission Communication highlighting the need for enhanced measures to combat terrorist financing.[1402] While acknowledging progress at the EU level, it identified remaining implementation gaps within EUMS.[1403] The Communication covered three key areas for improvement for effective counterterrorism financing: (1) improved cooperation, (2) enhanced traceability of transactions, and (3) greater transparency.[1404] It also advocated for balancing security and civil liberties.[1405] It criticised the EU mechanism for designating non-al-Qaeda associates for financial asset freezes for lacking comprehensiveness and effectiveness, citing inconsistent interpretation, delays, and insufficient guidance.[1406] The Commission proposed standardising interpretations to improve the efficacy of the EU sanctions list.[1407]

2004 marked the start of a new, event-driven cycle in EU counterterrorism, emphasising the development of a comprehensive EU-wide agenda, including a focus on home-grown terrorism and the creation of the EU CTC. This crisis-driven cycle was further influenced by the events of 2005, leading to an even more focused EU response to the threat of terrorism.

[1397] Gijs De Vries, *Discussion Paper*, no.9887/04 (Council of the EU, 2004), 2.
[1398] Ibid, 3.
[1399] Bures, 'The Counterterrorism Coordinator and the Commissioner for the Security Union', 668–69.
[1400] Revised EU Plan of Action on Combating Terrorism, 10010/04 1 (2004).
[1401] Ibid.
[1402] European Commission, *Communication from the Commission to the Council and the European Parliament on the Prevention of and the Fight against Terrorist Financing*, COM(2004) 700final (2004), 1–20.
[1403] Ibid, 3.
[1404] Ibid, 4.
[1405] Ibid.
[1406] Ibid, 8–9.
[1407] Ibid.

8.6. 2005: London bombings

Following the 2004 adoption of the Revised Action Plan, the first half of 2005 in the EU was characterised by non-terrorism-related activities, notably the 2007-2013 budget negotiations influenced by British Euroscepticism.[1408] During its EU Presidency in the latter half of 2005, the UK announced its refusal to ratify the EU Constitutional Treaty amidst ongoing negotiations.[1409] It was in this tumultuous climate that the EU experienced another shocking terrorist attack when four suicide bombers targeted the London transport system on July 7, 2005 (7/7), resulting in 52 fatalities and over 700 injuries.[1410] The London bombings catalysed intensified counterterrorism measures, leading UK Home Secretary Charles Clarke to convene an Extraordinary Council meeting of the Justice and Home Affairs (JHA), culminating in a Council Declaration on the EU response to the London bombings on 13 July 2005.[1411]

The Declaration condemned the London attacks and committed to upholding fundamental values of freedom, security, and justice in collaboration with the EU CTC, the Commission, and the EP.[1412] It prioritised cross-border action against terrorism and outlined specific measures to combat terrorism financing by the end of 2005.[1413] These measures, already on the EU agenda, were accelerated to address the London bombings' aftermath.[1414] The Declaration also reaffirmed that counterterrorism is a global issue, emphasising that the EU would continue to "support the key role of the UN," thereby deferring to the UN as a global norms entrepreneur in counterterrorism.[1415]

Following the London attacks, the UK Presidency adopted an innovative approach by engaging EUMS directly in counterterrorism policy development, bypassing EU institutions.[1416] During a Terrorism Working Group meeting on 22 July 2005, national experts from EUMS proposed recommendations, subsequently published in September.[1417] This document uniquely credited participating EUMS with policy suggestions. However, the process did not lead to formal EU policy drafting, illustrating potential disadvantages for Member States in norms entrepreneurship within the EU institutional framework.[1418]

[1408] Bossong, *EU CT*, 94.
[1409] Ibid.
[1410] Wilkinson, *Terrorism v Democracy*, 176.
[1411] JHA Council, *Council Declaration on the EU Response to the London Bombings*, no.11116/05 (2005), 1–10.
[1412] Ibid, 6.
[1413] Ibid, 6–7.
[1414] Bossong, *EU CT*, 96.
[1415] JHA Council, *JHA Declaration*, 9.
[1416] Bossong, *EU CT*, 97.
[1417] Terrorism Working Group, *'New Ideas' on Counter-Terrorism from the July JHA Council: Next Steps*, no.11910/05 (Council of the EU, 2005), 1–7.
[1418] Bossong, *EU CT*, 97–98.

Later in September, the Council of the EU adopted Council Decision 2005/671/JHA to facilitate information exchange and cooperation among EUMS concerning terrorist offences, establishing points of contact for communication with Europol, Eurojust, and each other on counterterrorism.[1419] The European Commission issued a Communication on terrorist recruitment and radicalisation, emphasising its importance within the EU counterterrorism strategy, stating that this Communication was the Commission's initial contribution to the EU strategy negotiations on the topic.[1420] The Commission highlighted the need to balance different fundamental rights, particularly the right to life (security), with freedoms of expression and privacy (liberty).[1421] Finally, the Commission positioned itself as a facilitator in long-term efforts to address radicalisation, aiming to consolidate best practices into guidelines for EUMS to enhance cooperation across operational, intelligence, and policy domains.[1422]

On 28 September 2005, the Council Secretariat submitted the Annual Report on Human Rights, emphasising the importance of "guaranteeing the full and effective protection of human rights" within counterterrorism.[1423] The report highlighted the EU's engagement with the UN, notably its EUMS' co-sponsorship of the UNGA Resolution on Protection of human rights and fundamental freedoms while countering terrorism.[1424] It also discussed the EU's cooperation with the Council of Europe in adopting the 2005 Warsaw Declaration, which reinforced human rights protections across Europe.[1425] Additionally, the Report outlined key principles for balancing security and liberty: (1) counterterrorism should be integrated in all policies and inclusive of all social actors; (2) security freedom must be democratically debated and discussed; and (3) new counterterrorism tools require new effective controls to maintain the balance.[1426]

In November, the EU Council published the EU Strategy for Combating Radicalisation and Recruitment to Terrorism, identifying al-Qaeda and related extremists as the primary threat to the EU.[1427] The strategy emphasised disrupting terrorist networks, promoting mainstream over extremist opinions, and strengthening security, justice, and democracy, while safeguarding fundamental rights.[1428] Although a

[1419] Council Decision 2005/671/JHA of 20 September 2005, 2005/671/JHA 1 (2005).
[1420] European Commission, *Communication from the Commission to the European Parliament and the Council Concerning Terrorism Recruitment*, COM(2005) 313 (2005), 1.
[1421] Ibid.
[1422] Ibid, 8–10.
[1423] Council of the European Union, *EU Annual Report on Human Rights - 2005*, no.12416/05 (2005), 1–209.
[1424] Ibid, 79.
[1425] Ibid.
[1426] Ibid, 80.
[1427] The European Union Strategy for Combating Radicalisation and Recruitment to Terrorism, 14781/05 1 (2005), 2.
[1428] Ibid, 3.

pan-European framework offered guidance, primary responsibility for counter-radicalisation remains with EUMS.[1429]

In the week following, the European Council adopted the 2005 EU Counterterrorism Strategy (2005 EU CT),[1430] heavily influenced by the UK Presidency, which leveraged its prior domestic counterterrorism framework established in 2003.[1431] Unlike Ireland and Belgium, whose presidencies relied heavily on the Council Secretariat, the UK had fewer dependencies, leading to a strategy closely aligned with the 2003 UK approach.[1432] The EU's strategic goal was to combat terrorism globally while upholding human rights and enhancing citizen safety, articulated through four pillars: Prevent, Protect, Pursue, and Respond.[1433]

The Strategy identified specific areas in which the EU added value to the global counterterrorism framework through: (1) strengthening national capabilities; (2) facilitating European cooperation; (3) developing collective capability; and (4) promoting international partnership.[1434] The Strategy outlined oversight mechanisms, notably assigning political oversight to the European Council.[1435] It advocated for a High-Level Political Dialogue on Counterterrorism involving the Council of the EU, the Commission, and the European Parliament during each Presidency to ensure the four pillars form a comprehensive counterterrorism strategy.[1436] The EU CTC, COREPER, and biannual progress reports would support these efforts.[1437]

The 2005 EU CT Strategy emphasised the EU's role in global counterterrorism efforts, including its external actions, engagement with UN institutions, and building international consensus for global counterterrorism standards.[1438] It called for a UN-level global counterterrorism strategy, addressed issues such as terrorist financing, and committed to supporting EUMS in implementing legislation and reviewing their performance.[1439] The Strategy also announced an update to the Action Plan to align with the EU's four-pillar counterterrorism framework to facilitate implementation of measures.[1440]

[1429] Ibid, 6.
[1430] The European Union Counter-Terrorism Strategy, 14469/4/05 1 (2005).
[1431] Bossong, *EU CT*, 102.
[1432] Ibid, 99.
[1433] EU CT Strategy 2005, 3.
[1434] Ibid, 4.
[1435] Ibid, 5.
[1436] Ibid.
[1437] Ibid.
[1438] Ibid, 7.
[1439] Ibid, 15.
[1440] Ibid, 17.

8.6.1. 2001-2005 security-liberty norms convergence

Between 2001 and 2005, EU counterterrorism was characterised by an event-driven and cyclical pattern. The 9/11 attacks precipitated a series of developments, leading to the securitisation of terrorism within the EU and the formulation of related policies. Subsequent attacks in Madrid (2004) and London (7/7) in 2004 and 2005 prompted further action from a politico-strategic perspective. A diverse array of norms entrepreneurs, including HR/VP Solana, the Commission, the Council Secretariat, the European Council, and EUMS, contributed to a fragmented yet pervasive policy landscape, despite the establishment of the EU CTC. From an organisational perspective, the EU regarded the UN as the primary global actor, promptly adopting 1267 sanctions-related UNSC resolutions, although its definition of terrorism and strategies predated UN initiatives. Legally, the EU emphasised balancing human rights and security, referencing international and European conventions. Procedurally, progress was limited, with vague working methods within the Clearing House and sanctions guidelines.

8.7. 2006

In 2006, EU counterterrorism activity was notably subdued, reflecting the cyclical patterns observed in UN actions discussed earlier. While EUMS maintained engagement at the UN level, culminating in the final report of the informal UNSC working group on sanctions during Greece's chairmanship, they also led several sanctions review processes, including Interlaken, Bonn-Berlin, and Stockholm.[1441]

In August 2006, the UK government received US intelligence about liquid explosives potentially targeting transatlantic flights, prompting the EU to amend Commission Regulation (1546/2006/EC) on aviation security.[1442] The revised Regulation prohibited large liquid containers on aircraft; however, interestingly, the specific measures described in the Annex were deemed secret and confidential.[1443]

Two days later, the Council of the EU adopted Framework Decision 2006/783/JHA, amending Framework Decision 2002/475/JHA to enhance mutual recognition of confiscation orders across EUMS.[1444] This procedural change applied the principle of mutual recognition of confiscation orders, facilitating the direct transmission of relevant orders between judicial authorities.[1445] Although seemingly

[1441] Clara Portela, 'Are European Union Sanctions "Targeted"?', *Cambridge Review of International Affairs* 29(3), (2016): 913.
[1442] Bossong, *EU CT*, 110.
[1443] Commission Regulation (EC) No 1546/2006 of 4 October 2006, 1546/2006/EC 1 (2006).
[1444] Council Framework Decision 2006/783/JHA of 6 October 2006, 2006/783/JHA 1 (2006).
[1445] Den Boer and Wiegand, 'From Convergence to Deep Integration', 390.

minor, 2006 marked the first year European courts issued rulings on cases involving listed individuals and entities, indicating a shift towards greater judicial authority in counterterrorism sanctions. By fall 2006, 18 legal challenges related to sanctions lists were documented.[1446]

8.8. 2007

In 2007, the EU's counterterrorism budgetary framework was transformed with the adoption of the Instrument for Stability in late 2006.[1447] Prior to this, between 2001 and 2006, counterterrorism funding was not specifically allocated; instead, the Commission reallocated existing resources to rule-of-law and police capacity-building projects.[1448] The Instrument for Stability allocated a dedicated budget for 2007-2013, with up to seven per cent designated for security-related activities.[1449] The Regulation prioritised strengthening counterterrorism legislation, implementing financial law, and developing international law enforcement procedures, linking financial asset-freeze sanctions directly to counterterrorism efforts.[1450]

In June 2007, the Council of the EU declassified a Report on the implementation of CP 2001/931/CFSP, detailing actions on counterterrorism sanctions (see Table 39).[1451] The report noted the creation of a Working Party ('CP 931 WP') to review and evaluate information on listed individuals, assess compliance with listing criteria, conduct regular reviews, and recommend updates for legal instruments to reflect listings and delistings.[1452]

The CP 931 WP expanded on procedural improvements to the security-liberty balance in counterterrorism sanctions. The Report mandated providing a statement of reasons for each listing, including details such as the terrorist act(s) committed, the deciding authority, and the types of decisions taken.[1453] This approach aimed to facilitate judicial review by Community Courts, reflecting the increasing legal challenges within the EU.[1454] The Report outlined the notification process for listings, sent to the available address, and referenced listing reconsideration requests, and possible appeals to the

[1446] Heupel, 'Multilateral Sanctions', 311.
[1447] Regulation (EC) No.1717/2006 of the European Parliament and of the Council of 15 November 2006 Establishing an Instrument for Stability, 1717/2006/EC 1 (2006).
[1448] Bossong, *EU CT*, 118.
[1449] Intrument for Stability, Art.24.
[1450] Ibid, Art.4(a).
[1451] Council of the European Union, *Fight against the Financing of Terrorism - Implementation of Common Position 2001/931/CFSP*, no.10826/2007 (2007), 1–14.
[1452] Ibid, 5.
[1453] Ibid, 10.
[1454] Ibid.

Court of First Instances.[1455] It also mandated a biannual review procedure of listing decisions.[1456]

Additionally, delisting requests could be submitted at any time in writing to the Council of the EU, with the General Secretariat as the point of contact for communicating with those listed.[1457] The 2007 Report on the Implementation of CP 2001/931/CFSP marked significant procedural improvements to the counterterrorism sanctions list from a procedural norms convergence perspective, clarifying delisting procedures, and recognising the role of European Courts in safeguarding human rights.

2007 marked a pivotal year for the EU CTC's norms entrepreneur stance. Following de Vries' resignation due to perceived inefficacy in coordinating EU counterterrorism efforts,[1458] the position remained vacant for over six months.[1459] The resurgence of thwarted terrorist plots in Denmark, Germany, and the UK underscored the need for renewed political engagement.[1460] On 19 September 2007, HR/VP Solana appointed Gilles de Kerchove as the new EU CTC, with prior experience overseeing police and judicial cooperation as the Director of JHA at the EU Council Secretariat.[1461] De Kerchove's tenure (2007-2021), with the same mandate as de Vries', focused on implementing existing measures and strengthening external cooperation.[1462] He had been an active norms entrepreneur in the field for several years before his appointment; as EU CTC, he cultivated close ties with UN agencies, notably CTED, thereby demonstrating the EU's capacity to serve as both a significant donor and an active contributor to UN counterterrorism efforts.[1463]

In 2007, from a politico-strategic perspective, the EU advanced its prioritisation of human rights in counterterrorism efforts, establishing the CP 931 WP and appointing a new EU CTC. However, a November report by the Parliamentary Assembly of the Council of Europe challenged this progress, criticising the UN and EU counterterrorism sanctions for inadequate procedural protections and legal certainty.[1464] The report condemned their practices as "unworthy of international bodies" and emphasised the feasibility and necessity of integrating human rights considerations.[1465] It urged CoE

[1455] Ibid, 11.
[1456] Ibid, 12.
[1457] Ibid, 14.
[1458] Bossong, *EU CT*, 113.
[1459] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 46.
[1460] Ibid, 59.
[1461] Javier Solana, *Javier Solana, EU High Representative for the CFSP, Appoints Mr Gilles de Kerchove as EU Counter-Terrorism Coordinator*, S256/07 (2007), 1–3.
[1462] Ibid.
[1463] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 62.
[1464] Council of Europe Parliamentary Assembly, *United Nations Security Council and European Union Blacklists*, no.11454 (2007), 1–2.
[1465] Ibid.

member states to leverage their influence to reform the procedural and substantive standards governing counterterrorism sanctions.[1466]

8.9. 2008

In January, the Parliamentary Assembly of the Council of Europe adopted Resolution 1597 (2008), criticising the procedural and substantive standards of UNSC and EU counterterrorism sanctions for violating human rights and the rule of law.[1467] The Resolution also mandated that EUMS promptly comply with court rulings regarding listings.[1468]

In September, the European Parliament adopted Resolution 2008/2031(INI), evaluating EU sanctions within the scope of human rights policies.[1469] It referenced the Council of Europe's Parliamentary Assembly Resolution and acknowledged the lack of a universally accepted definition of sanctions under international and EU law.[1470] The Resolution urged EUMS on the UN Security Council to systematically incorporate EU sanctions into their actions while respecting human rights obligations.[1471] Legally, it advocated for clear benchmarks for delisting, accountability for wrongful acts by EUMS and organisations when implementing sanctions, and the establishment of judicial oversight.[1472] Addressing legal norm convergence, the Resolution recognised ongoing court cases concerning both UNSC-originated and EU autonomous sanctions at the Court of Justice and Court of First Instance, urging compliance with their judgments.[1473] It highlighted challenges posed by secret intelligence in judicial reviews[1474] but affirmed that, if respected, counterterrorism sanctions can be effective instruments of EU policy.[1475]

In November 2008, the Council of the EU adopted Framework Decision 2008/919/JHA, amending the 2002/475/JHA to "public provocation to commit a terrorist offence, recruitment for terrorism and training for terrorism, when committed intentionally" within the definition of terrorist offences.[1476] While initially aimed at harmonising criminalisation during the preparatory phase of terrorism, an initiative proposed by the Commission, the final decision was less ambitious than initially

[1466] Ibid, 3–4.
[1467] Resolution 1597, (2008), 2.
[1468] Ibid, 1.
[1469] Resolution of 4 September 2008 (2008/2031(INI)).
[1470] Ibid, 3–4.
[1471] Ibid, 14.
[1472] Ibid, 9–10.
[1473] Ibid, 11.
[1474] Ibid, 12.
[1475] Ibid.
[1476] Council Framework Decision 2008/919/JHA of 28 November 2008, 2008/919/JHA 1 (2008), 2.

envisioned due to strong criticism from the EP.[1477] Consequently, the Framework Decision primarily expanded the Prevent pillar of the 2005 EU Counterterrorism Strategy.

8.10. Kadi I saga

The Kadi saga[1478] commenced in October 2001 (see Table 40 for an overview) when the US Treasury designated Saudi businessman Yassin Abdullah Kadi as a 'specially designated global terrorist' (SDGT).[1479] Subsequently, the UNSC included him on the UN sanctions list via Resolutions 1267 (1999) and 1333 (2000).[1480] The EU added Kadi to the CP 2001/930/CFSP sanctions list through Commission Regulation 2062/2001/EC on October 19, 2001.[1481] Two months later, Kadi filed a legal case against the Council of the EU and the Commission at the Court of First Instance, alleging violations of his right to a fair hearing, lack of judicial remedy, and infringement of property rights.[1482]

On 21 September 2005, the CFI dismissed Kadi's claims, ruling that the Court lacked authority to review the lawfulness of EU measures implementing binding UNSC resolutions, unless jus cogens issues arose, none did in this case.[1483] The CFI emphasised that the supremacy of the UN Charter over EU law barred judicial review of Security Council resolutions, as annulment would "indirectly mean that the resolutions of the Security Council concerned themselves infringe those fundamental rights."[1484] The Court affirmed that the UNSC resolutions fall "in principle, outside the ambit of the Court's judicial review and that the Court has no authority to call in question, even indirectly, their lawfulness in the light of [EU] Community law."[1485] Finally, the Court rejected all three grounds for annulment: breach of the right to be heard; breach of the right to respect for property and proportionality; and breach of the right to effective judicial review.[1486]

[1477] Bossong, *EU CT*, 114.
[1478] The importance of the Kadi cases were repeated highlighted in Interviews C, G, H, J, and M.
[1479] Herschinger and Koch, 'IO Relations', 55.
[1480] Ibid.
[1481] *Action Brought on 18 December 2001 by Yassin Abdullah Kadi against the Council of the European Union and the Commission of the European Communities, Case T-315/01 (Court of First Instance 18 December 2001), 2.*
[1482] Ibid.
[1483] Judgment of the Court of First Instance of 21 September 2005 — Kadi v Council and Commission, Case T-315/01 (Court of First Instance 21 September 2005).
[1484] *Ibid,* 63.
[1485] *Ibid,* 66.
[1486] *Ibid,* 69–83.

On 17 November 2005, Kadi appealed the CFI decision to the Court of Justice (ECJ), seeking to invalidate Council Regulation 881/2002/EC.[1487] The legal team challenged the CFI's assertion that it lacked authority to review the lawfulness of Security Council resolutions under Chapter VII of the UN Charter, citing inconsistencies in the CFI's reasoning on jus cogens.[1488]

On 16 January 2008, Advocate General (AG) Poiares Maduro delivered an opinion that emphasised the primacy of human rights within the EU's counterterrorism measures in the Kadi case.[1489] He critiqued the 2005 CFI judgment as legally flawed[1490] and urged courts to vigilantly uphold the rule of law when balancing security and fundamental rights.[1491] Maduro highlighted the proactive role courts must play in safeguarding legal order amid international pressures,[1492] cautioning against allowing political considerations to erode legal principles.[1493]

AG Maduro analysed UN-level delisting processes from a right to be heard perspective, finding them inadequate.[1494] He concluded that procedural safeguards alone cannot replace the need for judicial review.[1495] The AG suggested that an effective, independent judicial mechanism at the UN could have allowed European courts to dismiss regional cases, but since such a mechanism is absent, the 2005 CFI decision should be annulled.[1496] Consequently, Kadi's claims regarding violations of his rights to be heard, judicial review, and property are justified.[1497]

AG Maduro highlighted the interconnected roles of European courts, noting that the Court of Justice recognises case law from the European Court of Human Rights (ECtHR) but emphasising their differences.[1498] The ECtHR ensures states adhere to the European Convention on Human Rights, whereas the Court of Justice functions as the EU's constitutional court, reflecting their unique legal systems and international law relationships.[1499]

[1487] *Appeal Brought on 17 November 2005 by Yassin Abdullah Kadi against the Judgment Made on 21 September 2005 (Court of First Instance 17 November 2005).*
[1488] *Ibid*, 2.
[1489] Michael Bothe, 'Security Council's Targeted Sanctions Against Presumed Terrorists: The Need to Comply with Human Rights Standards', *Journal of Internation Criminal Justice* 6(3) (2008): 547.
[1490] *Opinion of Advocate General Poiares Maduro Delivered on 16 January 2008, Case C-402/05 P (Court of Justice 16 January 2008), 6.*
[1491] *Ibid*, 15. The Opinion of AG Maduro was also underscored as essential in Interview G.
[1492] *Ibid*, 16–17.
[1493] *Ibid*, 19.
[1494] *Ibid*, 22.
[1495] *Ibid*.
[1496] *Ibid,* 23.
[1497] *Ibid*.
[1498] *Ibid*, 16.
[1499] *Ibid*.

Following AG Maduro's Opinion and prior to the CFI's final ruling, UNSC Resolution 1822 (2008) was adopted in June 2008, enhancing the procedural rights of designees through notification and statement of case procedures.[1500] The Court of Justice's final judgment on the Kadi and Al Barakaat cases on 3 September 2008 largely reflected AG Maduro's arguments, emphasising the interconnectedness of regional courts, including the impact of settled case-law by the ECtHR.[1501] The decision distinguished between assessing the lawfulness of UNSC resolutions under Chapter VII and reviewing measures implementing those resolutions, noting that the UN Charter grants Member States discretion in implementing binding resolutions into domestic law.[1502] These cases exemplify the Court's review of EU applications of UNSC resolutions within its autonomous legal order.[1503]

The Court of Justice did not adjudicate on the lawfulness of UNSC counterterrorism sanctions but briefly reviewed the UN sanctions system. It noted recent improvements through Resolutions like 1730 (2006) and 1735 (2006), though these came after appeals were lodged at EU courts and are thus not relevant.[1504] The Court found that the UN delisting process via the focal point cannot substitute judicial protection, as 1267 Sanctions Committee procedures remain "in essence diplomatic and intergovernmental."[1505] Additionally, the Committee's Guidelines do not allow listed individuals to contest their inclusion or require the Committee to disclose reasons or evidence for its decisions.[1506]

The Court of Justice held that the CFI erred in law by asserting that EU Regulation 881/2002/EC was immune from review due to the primacy of UN binding resolutions.[1507] It also found that the appellants' rights, including the right to be heard, the right to effective judicial review, and the right to property, were violated, leading to the annulment of the 2005 CFI decision and Regulation 881/2002/EC.[1508] The Court clarified that the case concerned whether the EU's implementation infringed fundamental rights, not the legitimacy of the listings of Kadi and Al Barakaat.[1509] Consequently, it ordered the suspension of the sanctions, including travel bans, arms embargoes, and asset freezes, for three months to allow the EU to rectify human rights

[1500] Martins, 'The Political-Legal Nexus', 188.
[1501] Judgment of the Court (Grand Chamber) of 3 September 2008, Joined Cases C-402/05 P and C-415/05 P (Court of Justice 3 September 2008), 80–81.
[1502] *Ibid*, 86.
[1503] *Ibid*, 84–87.
[1504] *Ibid*, 88.
[1505] *Ibid*, 89.
[1506] *Ibid*.
[1507] *Ibid*.
[1508] *Ibid*, 91–102.
[1509] *Ibid,*100–102.

violations without undermining the measures' effectiveness.[1510] The Court of Justice's judgment thus allowed the EU institutions three months to adopt a new implementing system or regulation through which the listed status of Kadi and Al Barakaat may be maintained.[1511]

The 2008 Kadi judgment was a landmark decision that represents a pivotal moment in balancing security and liberty within counterterrorism sanctions, influencing reforms at both the EU and UN levels.[1512] This decision has been endorsed by various norms entrepreneurs, including Special Rapporteur Martin Sheinin, Ombudsperson Kimberly Prost, and the UN Sanctions Monitoring Team,[1513] which acknowledged its transformative impact on the debate and suggested that an independent review mechanism by the UNSC could have pre-empted the ruling.[1514] Ombudsperson Prost characterised the decision as a 'tipping point,' jeopardising the enforceability of the 1267 sanctions regime.[1515] Consequently, to avoid the verdict being used as precedent, both the EU and UN implemented reforms to their sanctions procedures, with the EU issuing a statement of reasons to the designated individuals and the UN revising its guidelines to include published reasons and summaries for listings.[1516]

8.10.1. Kadi II

Following the 2008 Kadi judgment, the European Commission relisted Kadi and Al Barakaat on the EU sanctions list via Regulation 1190/2008, on 28 November 2008.[1517] Kadi challenged this at the General Court of the Court of Justice of the EU (formerly known as the Court of First Instance), arguing the Regulation violated his rights to be heard, the right to effective judicial protection, and the right to property,[1518] noting the Commission failed to provide compelling reasons for maintaining the asset freeze and did not address human rights violations found by the Court of Justice in 2008.[1519]

On 30 September 2010, the General Court stated it was not bound by the Court of Justice's 2008 ruling and acknowledged doubts within legal circles regarding the

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[1510] *Ibid*.
[1511] Avbelj and Roth-Isigkeit, 'The UN, the EU, and the Kadi Case', 157–58.
[1512] Heupel, 'Judicial Policymaking in the EU Courts', 324.
[1513] Martins, 'The Political-Legal Nexus', 188–89.
[1514] UNSC Monitoring Team, *MT Report 9*, Paragraph 27.
[1515] Kimberly Prost, 'Remarks of Kimberly Prost, Ombudsperson, 1267 Al Qaida/Taliban Sanctions Committee Delivered to the Informal Meeting of Legal Advisors 25 October 2010', 25 October 2010, 2.
[1516] Heupel, 'Judicial Policymaking in the EU Courts', 323–24.
[1517] *Action Brought on 26 February 2009 - Kadi v Commission, Case T-85/09 (General Court of the Court of Justice of the EU 26 February 2009).*
[1518] *Ibid*.
[1519] *Kadi appeal 2009*.

Kadi judgment.[1520] While recognising that critiques were not "entirely without foundation," it emphasised that the appellate principle would generally discourage the Court from revisiting decisions of the Court of Justice.[1521] The Court noted that some tribunals, like the CFI in Nada and Al-Jedda, aligned with the 2005 ruling, whereas others adopted the Court of Justice's view that the Sanctions Committee's procedures infringed on effective judicial review.[1522]

The General Court analysed interactions between norm entrepreneurs and courts, referencing the Monitoring Team's and the UN High Commissioner for Human Rights' report.[1523] It also considered the influence of its OMPI ruling on the Court of Justice's 2008 Kadi decision, noting the latter's endorsement of the General Court's standard of review as carried out in OMPI.[1524] The General Court found that Commission Regulation 1190/2008/EC violated Kadi's rights to defence, right to effective judicial review, and right to property, leading to the Regulation's annulment.[1525]

On 13 December 2010, the European Commission appealed the General Court's decision, citing errors of law in the standard of judicial review.[1526] On 16 December 2010, the Council of the EU also appealed, contesting the General Court's oversight regarding the UN Ombudsperson's office.[1527] Similarly, the UK appealed, arguing that the Court's endorsement of full judicial review conflicted with the EU Treaties and EU CFSP competence.[1528]

On 19 March 2013, AG Bot issued an Opinion on the cases involving the European Commission, the Council of the EU, and the UK v Kadi.[1529] He recommended setting aside the 2010 General Court decision, emphasising that the fight against terrorism must not compromise democratic principles, including the rule of law.[1530] AG

[1520] Judgment of the General Court of 30 September 2010 - Kadi v Commission, T-85/09 (General Court of the Court of Justice of the EU 30 September 2010), 41–42.
[1521] *Ibid*, 44.
[1522] *Ibid*.
[1523] *Ibid*, 49–54.
[1524] *Ibid*, 50.
[1525] *Ibid*, 66–72.
[1526] *Appeal Brought on 13th December 2010 by the European Commission against the Judgment of the General Court (Seventh Chamber) Delivered on 30th September 2010 in Case T-85/09, C-584/10 P (General Court 13 December 2010).*
[1527] *Appeal Brought on 16 December 2010 by the Council of the European Union against the Judgment of the General Court (Seventh Chamber) Delivered on 30 September 2010 in Case T-85/09, C-593/10/P (General Court 16 December 2010).*
[1528] *Appeal Brought on 16 December 2010 by the United Kingdom of Great Britain and Northern Ireland against the Judgment of the General Court (Seventh Chamber) Delivered on 30 September 2010 in Case T-85/09, C-595/10 P (General Court 16 December 2010).*
[1529] *Opinion of Advocate General Bot Delivered on 19 March 2013, Joined Cases C-584/10 P, C-593/10 P, C-595/10 P (Court of Justice 19 March 2013).*
[1530] *Ibid,* 2.

Bot recognised the General Court's adherence to settled case law, noting that even when EU authorities face limited options under Chapter VII UNSC measures, they are still obligated to respect fundamental rights.[1531] While affirming the EU judiciary's role in balancing security with liberty,[1532] he criticised the General Court's rigorous review, arguing it overlooked recent UN reforms, such as enhanced listing procedures, periodic reviews, and the Ombudsperson, transforming the process so that it could "no longer be regarded as purely diplomatic and intergovernmental."[1533] Given the shared values between the EU and the UN, AG Bot contended that judicial scrutiny should be less stringent than the 2010 decision.[1534]

On 18 July 2013, the Court of Justice issued its final ruling in the Kadi II case, concluding a decade-long legal saga.[1535] The Court largely disregarded AG Bot's arguments for limited judicial review in EU sanctions cases and referred only briefly to the Ombudsperson's processes.[1536] The 2013 decision reaffirmed the EU's obligation to uphold human rights and effective judicial protection.[1537] Upon review, the Court found the UN Sanctions Committee's listing's summary of reasons insufficient, leading to the dismissal of the appeals.[1538] Ultimately, Mr Kadi was delisted not by the Court's final judgment but through a political decision by the UNSC Sanctions Committee on 5 October 2012.[1539]

The Kadi case significantly influenced EU and UN delisting procedures, as reflected in references by UN officials, norms entrepreneurs, and the development of the Office of the Ombudsperson. The European Court of Justice demonstrated that judicial policymaking can effectively influence international organisational decisions and impact the security-liberty balance in counterterrorism sanctions. Nonetheless, the Kadi case's unique circumstances, particularly the Court of Justice's authority to invalidate EU regulations, the EU Treaties' emphasis on constitutional protections, and the fact that two EUMS were also UNSC permanent members, were crucial in determining the case's overarching impact.[1540]

[1531] *Ibid*, 9.
[1532] *Ibid*, 14.
[1533] *Ibid*, 15.
[1534] *Ibid*, 16.
[1535] *Judgment of the Court (Grand Chamber) of 18 July 2013 in Joined Cases C-584/10 P, C-593/10 P, and C-595/10 P, Joined Cases C-584/10 P, C-593/10 P, C-595/10 P (18 July 2013).*
[1536] Avbelj and Roth-Isigkeit, 'The UN, the EU, and the Kadi Case', 168.
[1537] *2013 Kadi Judgment*, 23–24.
[1538] *Ibid,* 28.
[1539] UNSC, *Security Council Al-Qaida Sanctions Committee Deletes Entry of Yasin Abdullah Ezzedine Qadi from Its List*, SC/10785 (2012), 1.
[1540] De Londras, *Practice and Problems*, 160.

The European Court of Justice played a norm-entrepreneurial role, illustrating that judicial policymaking can significantly influence the balance between security and liberty at both the EU and UN levels.[1541] The Kadi cases exemplify the bi-directional influence between the EU and the UN, where these institutions and their sub-organisations mutually affect each other. Legally, the European Court of Justice, through the Kadi case, as well as the ECtHR, through their case-law, such as Nada, have prioritised human rights within counterterrorism sanctions, shaping norms convergence across the procedural level (delisting guidance, statement of reasons), on the organisational level (Ombudsperson's office), and on the politico-strategic level (UNSC delisting on Kadi before the final judgment).

The Kadi I and Kadi II cases form the core of the legal convergence pathway in this chapter, translating broad human rights concerns into enforceable standards for sanctions design and implementation in the EU. The Kadi rulings shifted the debate on conflicting norms back to the politico-strategic sphere, with the CJEU and ECtHR signalling that without significant reforms to counterterrorism sanctions regimes, judicial dissent in Europe may persist.[1542] This shift is evidenced by parliamentary debates, such as in Switzerland, where legislation was passed to prevent sanctions against individuals listed for over three years without indictment or new evidence.[1543] Similarly, in 2009, the Dutch government established a commission to assess how international law obligations, including the 1267 sanctions regime, impact domestic law.[1544]

8.10.2. Proliferation of cases

The Kadi case is a landmark in balancing security and liberty in EU and UN counterterrorism sanctions. However, it was not the sole influence on sanctions and human rights discussions. By October 2009, 48 cases challenged sanctions listings, including appeals and joint decisions.[1545] Of these, 17 were before the European Court of Justice, one before the European Court of Human Rights, eight before various EUMS courts, and four in Swiss courts.[1546] The remaining cases were in domestic courts in Turkey, Pakistan, and the US.[1547]

The European Parliament noted that the 2008 Kadi ruling "inaugurated a new era in terms of sanctions implementation," prompting increased litigation before EU

[1541] Heupel, 'Judicial Policymaking in the EU Courts', 313.
[1542] de Wet, 'From Kadi to Nada', 807.
[1543] Biersteker, 'Targeted Sanctions', 104.
[1544] Ibid, 104–5.
[1545] Georg von Kalckreuth, 'Summary of Litigation Related to Terrorism Designations', in *Addressing Challenges to Targeted Sanctions: An Update of the "Watson Report"*, ed. Thomas J. Biersteker and Sue E. Eckert (2009), 47.
[1546] von Kalckreuth, 'Litigation Summary', 48.
[1547] Ibid.

courts.[1548] Between 2010 and 2014, sanctions-related cases ranked third in frequency, rising to second by 2017 at European courts.[1549] Initially, the courts favoured those challenging their listed status; however, a shift occurred post-2015, with courts invalidating approximately two-thirds of challenges, reflecting the evolving jurisprudence and procedural improvements.[1550] Notably, the EP highlighted two key developments: the requirement for articulated listing reasons and expanded listing criteria.[1551] Regarding UN cooperation, EU challenges prompted the UN to enhance human rights safeguards, including establishing a focal point and an Ombudsperson.[1552]

The Kadi case demonstrably influenced EU and UN counterterrorism sanctions law, serving as a pivotal example of the security-liberty balance. However, it was not solitary in this regard; the CFI also addressed procedural due process concerns in the OPMI case of 2002.[1553] In December 2006, the CFI mandated that EU sanctions procedures respect the rights to fair hearings, effective judicial protection, and require explicit reasons for listing, noting OMPI's lack of sufficient information to challenge its designation.[1554] Scholars like Heupel noted that, in response, the EU Council revised its delisting procedures in June 2007, referring cases to the CP 931 WP.[1555] The 2008 OPMI ruling further clarified that designation decisions must consider both government reasons and judicial challenges.[1556] Collectively, these OPMI rulings not only informed certain aspects of the Kadi rulings but also established procedural safeguards in sanctions enforcement, influencing the EU's implementation of autonomous counterterrorism measures following UNSCR 1373 (2001).[1557]

The European Court of Justice was not the sole European tribunal addressing human rights and due process within counterterrorism sanctions. The European Court of Human Rights (ECtHR) also issued a key ruling in the Nada v Switzerland case concerning targeted sanctions.[1558] The ECtHR's jurisdiction covers over 47 Council of Europe Member States, including all EUMS and three UNSC permanent members, though Russia was expelled in 2022, potentially amplifying the Court's influence

[1548] European Parliament, *Targeted Sanctions against Individuals on Grounds of Grave Human Rights Violations – Impact, Trends and Prospects at EU Level*, EP/EXPO/B/COMMITTEE/FWC/2013-08/Lot08/17 (2018), 11–12.
[1549] Ibid, 12.
[1550] Ibid.
[1551] Ibid.
[1552] Ibid, 11–12.
[1553] Heupel, 'Multilateral Sanctions', 318.
[1554] Ibid.
[1555] Ibid.
[1556] Burchett and Weyembergh, *EU CT Assessment*, 66–67.
[1557] Heupel, 'Multilateral Sanctions', 319.
[1558] Burchett and Weyembergh, *EU CT Assessment*, 68.

beyond that of the EU Court of Justice.[1559] The case originated in Swiss courts, where Mr Youssef Nada challenged his listing on the 1267 sanctions list, which included a travel ban restricting his movement from an Italian enclave in Switzerland and limiting access to outside medical services.[1560]

In November 2007, the Swiss Federal Tribunal determined that the UN 1267 sanctions delisting process did not provide for the right to a fair hearing under the ECHR.[1561] However, citing Switzerland's UN Charter obligations, the Court held that Mr Nada's right was "necessarily suspended."[1562] Mr Nada appealed to the ECtHR, alleging violations of his rights to privacy, family life, and an effective remedy.[1563] In 2012, the Court found that Switzerland inadequately balanced UN sanctions obligations with ECHR rights, notably restricting Mr Nada's travel for medical reasons due to overly strict humanitarian exception interpretations.[1564] The Court also concluded that Switzerland violated his right to judicial review, referencing the 2008 Kadi decision, which similarly critiqued the UN delisting procedure.[1565] Notably, Mr Nada was delisted by the UNSC on 23 September 2009, prior to the ECtHR's final judgment, paralleling the Kadi case.[1566]

8.10.3. Structural changes at the EU

The Kadi, OMPI, and Nada cases significantly influenced judicial norms and the judiciary's norms entrepreneurship in rebalancing security and liberty within counterterrorism sanctions. However, their impact required years of deliberation, appeals, and judgments before extending to other jurisdictions and prompting procedural reforms by the EU and UN. During this period, both institutions and the judiciary, notably the Court of Justice of the EU, underwent structural changes, including the adoption of the Lisbon Treaty in 2009.

The Treaty of Lisbon, which amended the Treaty on European Union (TEU), entered into force on December 1, 2009, following its agreement in late 2007.[1567] It granted the Court of Justice of the EU new powers, notably enhancing its capacity to protect individual rights, particularly in reviewing restrictive measures under the

[1559] Council of Europe, 'Russia Ceases to Be a Party to the European Convention on Human Rights on 16 September 2022', *Council of Europe Newsroom*, 23 March 2022.
[1560] de Wet, 'From Kadi to Nada', 803.
[1561] Ibid.
[1562] Ibid.
[1563] Ibid.
[1564] Ibid, 803–4.
[1565] Ibid, 804.
[1566] UNSC, *Security Council Al-Qaida and Taliban Sanctions Committee Approves Deletion of One Entry from Consolidated List*, SC/9744 (2009).
[1567] Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, 2007/C 306/01 1 (2007).

CFSP.[1568] While decisions under the CFSP were generally outside the court's jurisdiction, this exception allowed for the review of individual sanctions, extending the rights of individuals.[1569] The UN Monitoring Team highlighted this independent judicial oversight, noting that the Sanctions Committee could leverage national and regional courts' approaches in cases challenging listings.[1570]

The Lisbon Treaty expanded the powers of several EU institutions in counterterrorism and criminal justice. The European Parliament gained co-decisional authority over counterterrorism policies, transitioning from a critical oversight role to a more engaged actor.[1571] Previously, the JHA Council led counterterrorism strategy and policy development, including the 2001 Action Plan.[1572] Post-Lisbon, EP approval became necessary for the JHA to negotiate external counterterrorism agreements.[1573] Additionally, the European Commission's authority was enhanced, enabling it to negotiate security agreements with third countries.[1574]

The Lisbon Treaty expanded the powers of the High Representative, consolidating functions previously held by the Commissioner for External Relations.[1575] The position was renamed the High Representative and Vice-President of the European Commission, granting Catherine Ashton increased influence over CFSP proposals.[1576] Appointed in November 2009, Ashton succeeded Javier Solana, aiming to enhance EU external relations and diplomatic coordination.[1577] Despite limited international experience, Ashton prioritised establishing the European External Action Service (EEAS) to harmonise external policies and serve as a diplomatic platform, positioning the EU as an effective global actor.[1578]

The EEAS, operational since 2011, supported HR/VP Ashton in addressing the Iranian nuclear deal and Arab Spring-induced instability, which bolstered al-Qaeda's presence in North Africa and increased threats.[1579] Gilles de Kerchove, as EU CTC, emphasised the Arab Spring's impact and highlighted the need for EU intervention in

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[1568] Christina Eckes, 'Individuals in a Pluralist World: The Implications of Counterterrorist Sanctions', *Global Constitutionalism* 2(2), (2013): 221–22.
[1569] Ibid, 226.
[1570] UNSC Monitoring Team, *MT Report 9*, 13.
[1571] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 54.
[1572] Monar, 'The EU as an International Counter-Terrorism Actor', 341.
[1573] Ibid.
[1574] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 46.
[1575] de Deus Pereira and Kaunert, 'The High Representative's Role in EU Countering Terrorism', 7.
[1576] Ibid.
[1577] EEAS, *Catherine Ashton Reaches the End of Her Mandate as EU High Representative*, 10 2014.
[1578] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 62.
[1579] EEAS, *HR/VP Ashton*.

the Sahel to counter terrorism and radicalism.[1580] The roles of the EU CTC and HR/VP frequently overlapped in counterterrorism efforts; through cooperation with EU institutions, they played a pivotal norms entrepreneurial role in shaping the EU counterterrorism policy and demonstrating the EU's capacity as an effective platform for coordinated counterterrorism actions.[1581]

From a more specific sanctions-related perspective, the Lisbon Treaty granted the EU the authority to impose autonomous sanctions on individuals and entities through articles 215 and 75, under the CFSP and AFSJ, respectively.[1582] However, ambiguities persisted regarding the specific application of these sanctions within the two frameworks.[1583] This ambiguity was resolved by the Court of Justice in EP v Council, which confirmed that CFSP-related articles provide the legal basis for counterterrorism measures, including sanctions against terrorist financing, which are thus adopted under Article 215.[1584] Consequently, the EU implemented counterterrorism sanctions based on CFSP competence, targeting groups such as al-Qaeda.[1585]

8.11. 2010

In 2010, partly in response to European courts' case law on due process and judicial remedies in counterterrorism sanctions, the European Council adopted the Stockholm Programme.[1586] This initiative aimed to develop AFSJ policies from 2010 to 2014, emphasising a comprehensive approach to security challenges and enhanced policy coherence.[1587] The European Council prioritised respecting fundamental rights alongside guaranteeing security, highlighting that these objectives are mutually reinforcing.[1588] It called for an internal security strategy to address terrorism, organised crime, and other threats significantly affecting the EU.[1589] According to the Stockholm Programme, the EU's counterterrorism framework underscores that respect for fundamental rights and the rule of law underpin security measures, with the EU CTC playing a crucial role in strategy implementation and evaluation.[1590] Regarding counterterrorism financing, the European Council committed to compliance with international law, particularly human rights standards, and sought active engagement in

[1580] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 67.
[1581] Ibid, 16.
[1582] Burchett and Weyembergh, *EU CT Assessment*, 62–63.
[1583] Ibid, 63.
[1584] Ibid.
[1585] Ibid.
[1586] The Stockholm Programme - An Open and Secure Europe Serving and Protecting Citizens, 2010/C 115/01 1 (2010).
[1587] Ibid, 4.
[1588] Ibid.
[1589] Ibid, 5.
[1590] Ibid, 24.

refining UNSC sanctions to protect rights and ensure procedural fairness.[1591] The Stockholm Programme identified the UN as the primary partner, alongside the Council of Europe, as central to upholding European democratic values.[1592]

In response to the Stockholm Programme's call for an internal security strategy, the Commission published the 2010 EU Internal Security Strategy in November.[1593] It outlined five security objectives for 2010-2014, emphasising respect for the EU Charter for Fundamental Rights (see Table 41 for terrorism-related objectives).[1594] The Strategy prioritised terrorism prevention, radicalisation, and recruitment, proposing actions such as empowering communities, disrupting terrorist financing, and safeguarding transport.[1595] Implementation was deemed a shared responsibility among EU institutions, agencies, and EUMS, with the Commission ensuring coherence across the EU and the EEAS aligning external strategic objectives.[1596]

8.12. 2011

In January 2011, EU CTC de Kerchove reviewed the EU Action Plan on Combating Terrorism, highlighting the Kadi case and its implications for EU and UN sanctions.[1597] The EU CTC emphasised the urgent need for the Commission, Council of the EU, and EUMS to appeal the 2010 Kadi ruling, citing potential challenges to Member States' obligations under Chapter VII.[1598] While acknowledging improvements through UNSC Resolution 1904 (2009) and the Ombudsperson's office, he noted that listing processes remained overly cumbersome for effective sanctions implementation.[1599] The report also covered the EU delegation's first formal political dialogue within the UN system, involving CTED, CTITF, UNODC, and other norms entrepreneurs, aimed at enhancing cooperation on sanctions.[1600] Lastly, the threat of foreign terrorist fighters travelling from the EU to conflict zones and returning to Europe was identified as a persistent and escalating concern.[1601]

In the same month, the Hungarian Presidency established a structure for inter-institutional meetings involving the EEAS, Council of the EU, Commission, and other

[1591] Ibid, 25.
[1592] Ibid, 37.
[1593] The EU Internal Security Strategy in Action: Five Steps towards a More Secure Europe, COM(2010) 673 1 (2010).
[1594] Ibid, 4.
[1595] Ibid, 8–9.
[1596] Ibid, 16.
[1597] Council of the European Union, *2011 Review of the EU Action Plan on Combating Terrorism*, no.15893/10 (2011), 1–46.
[1598] Ibid, 34.
[1599] Ibid.
[1600] Idid, 33.
[1601] Ibid, 2.

EU bodies to facilitate information exchange on security issues.[1602] This initiative aimed to enhance cooperation across external and internal security domains, aligning strategies such as the 2010 Internal Security Strategy, the 2005 EU Counterterrorism Strategy, the 2004 Action Plan on Combating Terrorism, and the 2003 European Security Strategy.[1603] Given the overlapping focus on terrorism, organised crime, cybersecurity, and crisis management, a cross-cutting, inter-institutional dialogue was essential for coherent policy development.[1604]

In June 2011, the Council of the EU adopted a set of Council Conclusions emphasising the importance of coordination of internal and external aspects of counterterrorism among institutional actors and norms entrepreneurs.[1605] It highlighted the establishment of inter-institutional meetings and the Stockholm Programme's focus on human rights protection.[1606] Additionally, it urged entities such as the Commission, EEAS, EU CTC, and EUMS to "attain maximum synergies" within counterterrorism.[1607] Notably, the death of Osama bin Laden in May 2011 was not addressed, despite his central role in the origins of EU counterterrorism.[1608]

Similarly to the UN's event-driven approach to counterterrorism, with the decreasing number of attacks following the Madrid and London bombings, the EU's attention was directed elsewhere during the early 2010s, including the impact of the Kadi saga at the European courts, thus during this time, the protection of human rights approach was more prominent in the work of several EU norms entrepreneurs, most specifically those of the EU Courts. Concurrently, emerging new threats such as ISIS and foreign fighters began to surface at the European level, though the EU had yet to address these issues actively.

8.13. 2012

In 2012, discussions on foreign terrorist fighters and counterterrorism intensified. Europol reported a rise in arrests related to jihadist terrorism in Europe, notably a doubling in France.[1609] 2012 also marked significant legal developments: Mr Kadi was delisted by the UNSC in October, prior to the Court of Justice's final ruling,

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[1602] Shepherd, 'EU Counterterrorism, Collective Securitization, and the Internal-External Security Nexus', 741.
[1603] Council of the European Union, *Draft Working Method for Closer Cooperation and Coordination in the Field of EU Security*, no.9125/11 (2011), 5.
[1604] Ibid.
[1605] Ibid.
[1606] Council of the European Union, *Council Conclusions on Enhancing the Links between Internal and External Aspects of Counter-Terrorism*, 3096/JHA (2011), 2.
[1607] Council of the European Union, *Council Conclusions*, 3.
[1608] Bossong, *The Evolution of EU Counter-Terrorism*, 120.
[1609] Christine Andreeva, 'The EU's Counter-Terrorism Policy after 2015—"Europe Wasn't Ready"—"but It Has Proven That It's Adaptable"', *ERA Forum* 20(3), (2020): 345.

and the ECtHR found Switzerland violated the ECHR in September by implementing restrictive measures against Mr Nada. Concurrently, the EU updated its Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy on 15 June 2012.[1610] These revisions addressed the impact of the Lisbon Treaty on judicial review of sanctions and emphasised human rights, including due process and effective remedies, aligning with the Court of Justice's jurisprudence.[1611] The Guidelines mandated that new listings be supported by a detailed, defendable statement of reasons and include procedural notifications, referencing the Kadi case.[1612] They also called for regular reviews of counterterrorism sanctions by EU institutions, incorporating the EEAS and reflecting updated case law.[1613]

8.13. 2013-2014

In 2011 and 2012, EU counterterrorism efforts reflected a cyclical pattern, with attention waning as the influence of Madrid and London incidents diminished. Although the EU adopted 239 measures (88 legally binding) between 9/11 and 2013, the focus in the early 2010s centred on foreign fighters and radicalisation prevention.[1614] The 2013 Europol report indicated a significant and rising number of EU citizens travelling abroad to fight with al-Qaeda-affiliated groups,[1615] with 152 terrorist attacks in EUMS territory that year.[1616] Returning fighters remained a concern,[1617] prompting the EU to identify four priorities: prevention, identification and detection of travel, criminal justice response, and cooperation with third countries; to address the issue in a comprehensive fashion, as outlined by the December 2013 Council priorities.[1618]

In 2014, the European Commission noted that its strategy for countering radicalisation, last updated in 2008, needed revision to reflect evolving terrorism trends.[1619] The Commission committed to collaborating with the HR/VP and EU CTC

[1610] Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy, 11205/12 1 (2012).
[1611] Ibid, 5.
[1612] Ibid, 9.
[1613] Ibid, 14.
[1614] SECILE Consortium, *Securing Europe through Counter-Terrorism: Impact, Legitimacy and Effectiveness*, Grant agreement ID: 313195 (2014), 3.
[1615] Council of the European Union, *European Union Terrorism Situation and Trend Report (TE-SAT) 2014*, no.10420/14 (2014), 8.
[1616] Ibid, 10.
[1617] Council of the European Union, *Foreign Fighters and Returnees from a Counter-Terrorism Perspective, in Particular with Regard to Syria: Stocktaking.*, no.16768/13 (2013), 2.
[1618] Council of the European Union, *Foreign Fighters and Returnees from a Counter-Terrorism Perspective, in Particular with Regard to Syria: State of Play and Proposals for Future Work*, no.9280/1/14 (2014), 1.
[1619] European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the*

to support EUMS efforts, aiming to reduce foreign terrorist fighters and associated threats.[1620]

In July 2013, the EU listed Hezbollah's military wing on its counterterrorism list (CP 2001/931/CFSP), citing its involvement in terrorist activities.[1621] Subsequently, Europol intercepted two Lebanese passengers at Brussels Airport suspected of financing Hezbollah.[1622] The same year, court proceedings related to terrorism concluded in 313 cases, with an average prison sentence of 10 years, higher than the 8-year average in 2011-2012.[1623] Notably, the duration of Mr Kadi's listing on EU and UN sanctions exceeded these sentences, with proceedings ending in 2013. By 2014, there were 110 legal challenges concerning 290 individuals before the Court of Justice, primarily on due process and effective remedy grounds.[1624] The EU also contributed €3 million to a UN initiative aimed at enhancing counterterrorism investigations and prosecutions, reflecting its commitment to integrating human rights considerations into counterterrorism policies, thus actively taking part in the rebalancing process of the UN counterterrorism sanctions regime.[1625]

By the end of 2014, the second cycle of the EU's counterterrorism framework, characterised by its event-driven approach, had come to a close. In the subsequent years, strategic emphasis progressively shifted toward confronting the phenomenon of foreign terrorist fighters and the associated threats to the EU's internal security.

8.14. 2015

On January 7, 2015, the Paris office of Charlie Hebdo magazine was attacked in a mass shooting that resulted in 17 fatalities among journalists and security personnel.[1626] Mirroring attacks in Madrid (2004) and London (2005), this event prompted EU counterterrorism stakeholders to reevaluate security and liberty norms.[1627] Subsequently, EU institutions issued three conclusions, notably the Riga Joint Statement, which assigned "the first line of responsibility" for counterterrorism to JHA Ministers of EUMS, emphasising the need for a coordinated, comprehensive approach.[1628] The Statement underscored the importance of respecting human rights,

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Committee of the Regions: Preventing Radicalisation to Terrorism and Violent Extremism: Strengthening the EU's Response, no.5451/14 (2014), 3.

[1620] Ibid, 13.

[1621] Council Implementing Regulation (EU) No 714/2013 of 25 July 2013, 714/2013 1 (2013).

[1622] Council of the European Union, *TE-SAT 2014*, 13.

[1623] Ibid, 18.

[1624] Portela, 'Are European Union Sanctions "Targeted"?', 919.

[1625] International Federation for Human Rights, *The UNCT Complex*, 86–87.

[1626] Nicki Peter Petrikowski, 'Charlie Hebdo Shooting', *Crime & Anti-Crime*, 7 August 2025.

[1627] Andreeva, 'EU CT after 2015', 347.

[1628] Council of the EU, *Riga Joint Statement*, no. 5855/15 (2015), 3.

advocating "a proper balance between security and fundamental rights."[1629] It also called for enhanced effectiveness of existing counterterrorism tools, especially regarding terrorism financing, and highlighted UNSC Resolution 2178 (2014) as a basis for future legislative measures targeting terrorist-related criminal activities.[1630]

The Foreign Affairs Council (FAC) of the Council of the EU adopted a second set of conclusions on 9 February 2015, condemning recent terrorist acts across Europe, the MENA region, and Asia.[1631] Emphasising the need for a globalised counterterrorism approach, it reaffirmed the EU's support for UNSC Resolutions 2170 (2014) and 2178 (2014), urging EUMS to implement them in accordance with human rights and the rule of law.[1632] The FAC committed to integrating counterterrorism policy into EU foreign policy, with a focus on foreign terrorist fighters, and tasked the EU Special Representative for Human Rights with ongoing advocacy.[1633] The Council reaffirmed its commitment to mainstreaming human rights within UN efforts relating to peace and security.[1634]

The European Council issued its third conclusions on 12 February 2015 following the Charlie Hebdo attack, identifying three priorities: ensuring the security of citizens, preventing radicalisation and safeguarding values, and cooperating with international partners.[1635] It noted that in the aftermath, the EU intensified counterterrorism efforts while respecting human rights and the rule of law.[1636] The Council urged EUMS to implement strengthened measures against terrorist financing swiftly and to improve tracing and freezing of financial assets linked to terrorism.[1637]

In April, the European Commission issued its Agenda on Security, proposing a renewed Internal Security Strategy for 2015-2020 to address the evolving cross-border and cross-sector security threats in Europe.[1638] The Agenda emphasised coordinated actions across the EU, respecting fundamental rights, and identified three primary

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[1629] Ibid.
[1630] Ibid, 3–7.
[1631] Council of the European Union, *Outcome of the Foreign Affairs Council 3367th Meeting*, no.6044/15 (2015), 6.
[1632] *Ibid*.
[1633] *Ibid*, 7–9.
[1634] *Ibid*, 23.
[1635] European Council, 'Informal Meeting of the Heads of State or Government Brussels, 12 February 2015 - Statement by the Members of the European Council', *Statements and Remarks*, 12 February 2015.
[1636] European Council, 'Informal Meeting of the Heads of State or Government Brussels, 12 February 2015 - Statement by the Members of the European Council'.
[1637] European Council, 'Informal Meeting of the Heads of State or Government Brussels, 12 February 2015 - Statement by the Members of the European Council'.
[1638] European Commission, *The European Agenda on Security*, COM(2015) 185 (2015), 1–21.

security concerns: terrorism, organised crime, and cybercrime, along with five key principles:

1. Ensure full compliance with fundamental rights;
2. Transparency, accountability, and democratic control;
3. Ensure better application and implementation of existing EU legal instruments;
4. A more joined-up inter-agency and a cross-sectoral approach;
5. Bring together all internal and external dimensions of security.[1639]

The Commission emphasised rigorous testing of security measures to ensure full human rights compliance, with support from the EU Agency for Fundamental Rights (FRA) and the European Data Protection Supervisor to aid in human rights protection.[1640] Regarding counterterrorism, the Agenda highlighted Europol's role in combating terrorism and preventing radicalisation, including the potential establishment of a European Counterterrorism Centre within Europol to assist EUMS.[1641] It also indicated that the Commission would consider additional measures for freezing terrorist assets under Article 75 of the Treaty on the European Union.[1642] In response to UNSCR 2178 (2014), which criminalises travel to conflict zones for terrorist purposes, the Commission committed to updating the 2008 Framework Decision on Terrorism by 2016 to foster a common understanding of foreign terrorist fighter offences.[1643] Finally, the Agenda outlined plans for enhanced cooperation with the EEAS and EU CTC in overseeing EU counterterrorism instruments.[1644]

In May, the EP and the Council of the EU adopted Directive (EU) 2015/849 to prevent the use of financial systems for terrorist financing or money laundering.[1645] The Directive emphasised that terrorist financing threatens the integrity and stability of financial institutions, necessitating coordinated EU measures.[1646] It mandated EU actions aligned with FATF Recommendations and international obligations to freeze terrorist assets in accordance with UNSC resolutions promptly.[1647]

[1639] European Commission, *2015 Agenda on Security*, 2–4.
[1640] Ibid, 3.
[1641] Ibid, 13.
[1642] Ibid, 14.
[1643] Ibid.
[1644] Ibid, 16.
[1645] Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015, 2015/849 1 (2015).
[1646] Ibid, 1.
[1647] Ibid, 2–6.

8.14.1. HR/VP Federica Mogherini

Before the Charlie Hebdo attack in January 2015, HR/VP Ashton concluded her mandate on October 31, 2014, and HR/VP Federica Mogherini assumed office in November 2014.[1648] Appointed with only eight months of experience, Italy's former Foreign Minister became the EU's High Representative.[1649] Her mandate, similarly to Solana's, was driven by a series of terrorist incidents in Europe, beginning with Charlie Hebdo, which pushed her norms entrepreneurial role to the forefront of her mandate from the beginning. Mogherini advocated for integrating internal and external EU security, citing terrorism as a key example necessitating a broader security nexus.[1650] While the 11M attacks catalysed Solana's paradigm shift, Mogherini's focus post-Charlie Hebdo was to enhance the EU's external engagement with international organisations like the UN and counterterrorism agencies, aiming to bolster global anti-terrorism efforts through active EU participation.[1651] HR/VP Mogherini issued more counterterrorism statements than Solana or Ashton, establishing counterterrorism as a cornerstone of her mandate.[1652]

During HR/VP Mogherini's tenure, the EU experienced an unprecedented increase in terrorist attacks, notably Charlie Hebdo and the November 13 Bataclan attacks in Paris, resulting in at least 130 fatalities and 350 injuries.[1653] The attacks involved coordinated suicide bombings and mass shootings across multiple sites, with Bataclan being the deadliest.[1654] The Bataclan attacks of 2015 prompted a shift in Eurojust's counterterrorism engagement; the Paris Prosecutor collaborated with Eurojust, sharing data with Europol, thereby integrating their efforts into a cohesive investigative framework.[1655] Europol's role in EU counterterrorism was enhanced, culminating in the establishment of the European Counter Terrorism Centre (ECTC) less than two months post-Bataclan, to facilitate crisis response, disrupt terrorist financing, and support EUMS' investigations.[1656] Additionally, the EU Internet Forum (EUIF), launched in December 2015, leveraged Europol's capabilities to combat online terrorist content and hate speech.[1657]

[1648] EEAS, *Italy's Federica Mogherini Appointed as New EU High Representative*, 30 August 2014.
[1649] de Deus Pereira and Kaunert, 'The High Representative's Role in EU Countering Terrorism', 13.
[1650] Ibid.
[1651] Ibid, 13–14.
[1652] Kaunert et al., *The European Union as a Global Counter-Terrorism Actor*, 68.
[1653] Michael Ray, 'Paris Attacks of 2015', *Britannica*, 1 August 2025.
[1654] Ibid.
[1655] Andreeva, 'EU CT after 2015', 356.
[1656] Europol, 'European Counter Terrorism Centre - ECTC', *About Europol*, n.d., accessed 15 August 2025.
[1657] Andreeva, 'EU CT after 2015', 361.

Beyond EU counterterrorism efforts, the Council of Europe responded to the evolving threat by adopting an Additional Protocol to the Convention on the Prevention of Terrorism in October 2015.[1658] The Protocol highlighted the need to strengthen counterterrorism measures while safeguarding human rights, referencing the Convention for the Protection of Human Rights and Fundamental Freedoms.[1659] It addressed UNSC Resolution 2178 (2014), criminalising travel abroad for terrorism purposes, funding such travel, facilitating travel, and receiving terrorist training.[1660] From a politico-strategic perspective, European institutions have expressed grave concerns about foreign terrorist fighters and have implemented measures to address the issue, while simultaneously emphasising the importance of respecting human rights, reflecting an attempt to rebalance security and liberty norms.

8.15. 2016

In early 2016, the Commission issued a Communication on the Action Plan to strengthen the fight against terrorism financing, noting that the 2015 European terrorist attacks and the emergence of Daesh with new funding methods necessitated rapid, cohesive legislative modernisation.[1661] From an organisational perspective, the Commission argued that UN and FATF actions provided sufficient grounds for counterterrorism efforts, with the UNSC establishing a global consensus on terrorist financing.[1662] It highlighted the 2014 UN-level improvements leading to the 2015 adoption of the Council of Europe's Additional Protocol, illustrating inter-organisational norms convergence beyond EU-UN relations, subsequently followed by other counterterrorism organisations.[1663]

Focusing on the procedural convergence of UN sanctions listings at the EU level, the Commission emphasised the need to improve the efficiency of transposing new UN listings and implementing measures promptly.[1664] Under EU law, transposition requires amending Council Regulation 881/2002 to ensure "certain procedural safeguards for the listed person."[1665] Although this process typically took five business days, FATF has critiqued the delay, prompting calls for better coordination between the EU and UN.[1666] The Commission also committed to establishing a mechanism allowing

[1658] Additional Protocol 217.
[1659] Ibid, 1.
[1660] Ibid, 1–2.
[1661] European Commission, *Commission Communication on an Action Plan for Strengthening the Fight against Terrorist Financing*, COM(2016) 50 (2016), 2.
[1662] Ibid.
[1663] Ibid.
[1664] Ibid, 7–8.
[1665] Ibid.
[1666] Ibid.

EU financial institutions early access to new UN listings prior to legal transposition, thereby enhancing practical implementation.[1667]

From a legal perspective, the Commission Communications indicated that while UN counterterrorism regimes were implemented at the EU level via Article 215 of the Treaty on European Union, Article 75 of the CFSP provided the legal basis for additional EU measures beyond the scope of UN-designated persons and groups.[1668] The Commission aimed to clarify the limits of Article 75, noting that the 2016 regime did not permit provisional detention of goods by customs, a growing issue given Daesh's financing through both illicit and legal trade.[1669] Politico-strategically, the Commission reaffirmed the EU's active role in counterterrorism, supporting UNSC resolutions on terrorist financing and integrating these issues into third-country negotiations to advance the global counterterrorism agenda.[1670]

In April 2016, the Commission issued a Communication on the necessity of an EU Security Union to address gaps, fragmentation, and operational constraints in counterterrorism.[1671] It urged the EU CTC, EEAS, and HR/VP to foster greater coherence between internal and external security efforts and to strengthen the EU's role within international counterterrorism forums such as the UN, FATF, and the Global Counterterrorism Forum.[1672]

Following the 2015 terrorist attacks, 2016 experienced additional assaults in Brussels, Nice, Berlin, and elsewhere in Europe, totalling 142 (failed, foiled, or completed) attacks across eight EUMS, resulting in 142 fatalities and 379 injuries.[1673] In response to the surge in terrorist activity, the migration crisis, and the Brexit referendum, HR/VP Mogherini issued the 2016 Global Strategy for the European Union's Foreign and Security Policy (GSEU 2016).[1674] This Global Strategy broadened the concept of global engagement beyond geography to encompass a wide range of policies and instruments.[1675] Politico-strategically, it prioritised EU strategic autonomy and advocated for a rules-based, multilateral international order led by the UN.[1676] The

[1667] Ibid, 8.
[1668] Ibid, 10.
[1669] Ibid, 12.
[1670] Ibid, 13.
[1671] European Commission, *Commission Communication on Delivering on the European Agenda on Security to Fight against Terrorism and Pave the Way towards an Effective and Genuine Security Union*, COM(2016) 230 (2016), 1–18.
[1672] Ibid, 16.
[1673] European Union Agency for Law Enforcement Cooperation., *TE-SAT: European Union Terrorism Situation and Trend Report 2017.* (Publications Office, 2017), 11.
[1674] Federica Mogherini, *Shared Vision, Common Action: A Stronger Europe: A Global Strategy for the European Union's Foreign and Security Policy* (2016), 1–60.
[1675] Ibid, 4.
[1676] Ibid, 4–8.

Global Strategy also emphasised the importance of close cooperation with NATO on collective security.[1677]

From an organisational norms convergence perspective, the Strategy highlighted the UN's central role in counterterrorism and asserted that the EU would "further develop human rights-compliant anti-terrorist cooperation" with various partners.[1678] It also designated the EU as an agenda-shaper, coordinating among norms entrepreneurs in the counterterrorism network.[1679] The Strategy reaffirmed the UN as the primary driver of the global counterterrorism agenda while positioning the EU to enhance its influence, particularly through a focus on human rights protections. It prioritised deepening the EU's counterterrorism dialogue with the UN and expanding partnerships with member states, regional organisations, and civil society on terrorist financing.[1680] Furthermore, the Global Strategy underscored the importance of harmonising internal and external policies across EU institutions and EUMS,[1681] calling for the implementation of recent counterterrorism legislation on explosives, firearms, and Passenger Name Records (PNRs), to bolster intelligence analysis and preventative efforts.[1682]

HR/VP Mogherini and the EEAS were not the only entities addressing Brexit's security implications. On 2 August 2016, Commission President Jean-Claude Juncker issued the Mission Letter to Sir Julian King, the designated Commissioner for Security Union, in order for Juncker to navigate structural, organisational, and legal changes resulting from the UK's departure.[1683] Although no legal basis exists for this position, it was established to prevent portfolio disruptions amidst a sensitive political climate.[1684] The Mission Letter, echoing the EU CTC's mandate, outlined broad security priorities, including terrorism, organised crime, and cybercrime, and emphasised operational measures with EU impact, ensuring human rights compliance.[1685] The Commissioner for Security Union portfolio would support other Commissioners and contribute under the First Vice President, overseeing better regulation and fundamental rights, supported by a task force of experts.[1686] This arrangement signified a complex division of responsibilities among multiple actors, such as the HR/VP, EEAS, and the EU CTC,

[1677] Ibid, 9.
[1678] Ibid, 21.
[1679] Ibid, 43.
[1680] Ibid, 43–44.
[1681] Ibid, 50.
[1682] Ibid, 45.
[1683] Jean-Claude Juncker, 'Mission Letter: Julian King: Commissioner for the Security Union', personal communication, 2 August 2016.
[1684] Bures, 'The Counterterrorism Coordinator and the Commissioner for the Security Union', 670.
[1685] Juncker, 'Commissioner Mission Letter', 4.
[1686] Ibid.

further complicating the EU's counterterrorism framework.[1687] Sir Julian King assumed his role on 19 September 2016.

On 20 September 2016, the Council of the EU adopted Council Decision 2016/1693, repealing Framework 2002/402/CFSP and its amendments to establish a consolidated legal instrument for measures implementing UNSCRs 1267 (1999), 1390 (2002), and 2253 (2015).[1688] Concurrently, Council Regulation 2016/1686 was adopted to implement this Decision.[1689] The new instrument clarified legal frameworks for restrictive measures such as travel bans, asset freezes, and arms embargoes in accordance with UNSC resolutions.[1690] Demonstrating the phenomenon that legal norms convergence prioritising human rights takes longer than the shift of the security-liberty balance to the other direction, the Decision emphasised that, following Court of Justice case-law, the Council of the EU must "give individual, specific, and concrete reasons for" including a person or entity in the list.[1691] The Regulation specified that the Charter of Fundamental Rights of the EU, specifically, the right to effective remedy and fair trial, the right to property, and the right to protection of personal data, must be applied when implementing the measures.[1692] Exemptions may be granted on humanitarian, judicial, or international obligation grounds.[1693] Procedurally, the Decision mandated annual review of the list and detailed procedures for re-evaluation when challenges are raised, requiring full review by the Council.[1694]

2016 was distinctive in the EU's event-driven cycles, as the third cycle, concentrating on foreign terrorist fighters and ISIS, was ongoing, while a new crisis-driven cycle emerged, marked by an increase in small-scale, low-technology attacks on crowded and symbolic sites. Consequently, the EU's focus on the security-liberty balance of counterterrorism sanctions and safeguarding human rights temporarily waned, giving prominence to other terrorism-related legislative priorities. This brief pause was swiftly mitigated as these activities were integrated into the legislative framework, as demonstrated in early 2017.

8.16. 2017

In March 2017, the EU adopted Directive 2017/541 on combating terrorism, replacing Council Framework Decision 2002/475/JHA and amending Decision

[1687] Andreeva, 'EU CT after 2015', 346.
[1688] Council Decision (CFSP) 2016/1693 of 20 September 2016, 2016/1693/CFSP 1 (2016).
[1689] Council Regulation (EU) 2016/1686 of 20 September 2016, 2016/1686 1 (2016).
[1690] Council Decision 2016/1693, 2.
[1691] Ibid.
[1692] Regulation 2016/1686, 1.
[1693] Council Decision 2016/1693, 4.
[1694] Ibid, 7.

2005/671/JHA.[1695] This move elevated the 2002 Framework Decision from a statement of priorities to binding legislation, aligning the EU's definition of terrorist offences and addressing evolving threats.[1696] The Directive, proposed in December 2015 following the Paris Bataclan attacks and adopted in March 2017, references UNSCR 2178 (2014) and the Council of Europe's 2015 Additional Protocol regarding foreign terrorist fighters.[1697] Notably, unlike the initial proposal, the final directive emphasised human rights compliance.[1698]

While the Directive discussed respect for fundamental rights and freedoms and affirmed that it would not undermine EUMS obligations to uphold procedural rights in criminal proceedings or affect their rights and responsibilities, multiple organisations criticised its human rights protections post-adoption.[1699] UN Special Rapporteur Fionnuala Ní Aoláin characterised the process as hasty, noting the omission of a human rights impact assessment, and called for addressing procedural and institutional deficits, highlighting the Directive's significance for the rule of law and human rights in counterterrorism.[1700] The EU Agency for Fundamental Rights (FRA) observed that the Directive impacted core fundamental rights, including effective remedy and fair trial, and urged the Commission to clarify administrative measures and review procedures.[1701] Although a human rights impact assessment was not conducted during adoption, the Commission did include a requirement to submit a report on the added value of the Directive to counterterrorism alongside a human rights impact report by 8 September 2021.[1702]

Directive 2017/541 expanded criminal offences to encompass foreign terrorist fighter-related activities, including terrorist training, international travel for terrorism, and related financing.[1703] Rather than narrowing the definition of terrorism, the EU broadened the scope to criminalise preparatory acts, thereby capturing a larger demographic within its counterterrorism.[1704] A study commissioned by the European

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[1695] Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017, 2017/541 1 (2017).
[1696] Andreeva, 'EU CT after 2015', 349.
[1697] Directive 2017/541, 2.
[1698] De Londras, *Practice and Problems*, 139.
[1699] Directive 2017/541, 6.
[1700] Open Society Foundations, *Joint Civil Society Report on the Fundamental Rights Impact of the EU Directive on Combating Terrorism* (2021), 3.
[1701] European Union Agency for Fundamental Rights, *Directive (EU) 2017/541 on Combating Terrorism: Impact on Fundamental Rights and Freedoms: Report* (Publications Office, 2021).
[1702] Directive 2017/541, 16.
[1703] Ibid.
[1704] European Parliament, *The European Union's Policies on Counter-Terrorism: Relevance, Coherence and Effectiveness*, PE 583.124 (Directorate-General for Internal Policies, 2017), 73.

Parliament indicated that this pre-crime approach was neither beneficial nor effective.[1705] As a further complicating aspect of the Directive was that neither the UK nor Denmark participated in its adoption and would not be bound by its contents.[1706]

From a politico-strategic perspective, the 2017 expansion of criminal activities included within the definition of terrorist offences has extended the EU's reach in counterterrorism activities, while also shifting towards the norm of security from both a politico-strategic and legal perspective.

8.17. 2018

In May 2018, the Council of the EU updated its Sanctions Guidelines and Updated Best Practices to address evolving measures against terrorist threats. The 2018 Sanctions Guidelines elaborated on the legal framework, referencing the Treaty on European Union, UNSC Resolutions, and fundamental rights such as due process and judicial remedy, including jurisprudence from the Court of Justice of the EU.[1707] Finally, the Guidelines stated that, should a conflict arise regarding international obligations and restrictive measures, a common approach must be developed to deal with such conflicts.[1708] Regarding UN sanctions, EU legislation should be enacted within 30 days of UNSC adoption.[1709] The Guidelines also advocated for regular EU-UN dialogue to align on sanctions issues and mandated prompt repeal of EU measures when UNSC sanctions were lifted.[1710] Requests for delisting were to be processed swiftly, with the Council Legislative Services informing relevant working parties of any sanctions-related judgment by the EU courts.[1711]

The 2018 Updated Best Practices were described as "non-exhaustive recommendations of a general nature for effective implementation," thus not legally binding.[1712] They detailed at length the process of legal proceedings in relation to counterterrorism sanctions, which were to be heard at the General Court and appealed to the Court of Justice.[1713] The document clarified that the implementation of restrictive measures need not be annulled immediately after a Court judgment unless otherwise specified, allowing relevant EU institutions time to appeal or rectify legal infringements

[1705] Ibid.
[1706] Ibid, 143.
[1707] Council of the European Union, *Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy*, no.5664/18 (2018), 7–9.
[1708] Ibid, 7.
[1709] Ibid, 16.
[1710] Ibid, 17–18.
[1711] Ibid, 50–51.
[1712] Council of the European Union, *Restrictive Measures (Sanctions) - Update of the EU Best Practices for the Effective Implementation of Restrictive Measures*, no.8519/18 (2018), 2.
[1713] Ibid, 10.

by adopting new measures.[1714] From an organisational perspective, organisations such as the Commission, EEAS, EUMS, EU Heads of Mission, customs authorities, the private sector, and the UN were identified as norm entrepreneurs and stakeholders whose input should be considered in implementing and assessing EU restrictive measures.[1715]

2017 was primarily characterised by EU counterterrorism efforts emphasising politico-strategic and legal norms convergence, with a focus on security priorities. In contrast, 2018 marked a shift towards procedural balancing, emphasising human rights protections. The revised Guidelines and Best Practices underscored the security-liberty nexus and highlighted the influence of EU Courts' jurisprudence on human rights inclusivity within sanctions regimes.

8.18. 2019

In 2019, the Commission issued a Communication on improving the implementation of the anti-money laundering and countering the financing of terrorism framework, foreshadowing subsequent initiatives.[1716] The document cited Europol estimates that 0.7-1.28% of the EU's GDP was linked to suspicious financial activity, underscoring the ongoing priority of the fight against money laundering and terrorist financing efforts within the EU Security Union.[1717] It outlined existing legal frameworks and highlighted potential enhancements to increase effectiveness, transparency, and cooperation.[1718] Despite recent legislative improvements and adherence to recommendations, the Commission acknowledged persistent horizontal vulnerabilities and structural issues causing "major divergences in the application," which impede progress.[1719] Addressing these shortcomings is essential for further harmonisation of EU counterterrorism measures.[1720]

2019 and the following years faced various crises unrelated to terrorism, like the COVID-19 pandemic. Therefore, one might expect that a sanctions regime over two decades old would fall behind. However, the analysis of EU counterterrorism efforts in 2020 shows this was not the case.

8.19. 2020

In May 2020, the Commission issued a Communication outlining an Action

[1714] Ibid.
[1715] Ibid, 34.
[1716] European Commission, *Commission Communication: Towards Better Implementation of the EU's Anti-Money Laundering and Countering the Financing of Terrorism Framework*, COM(2019) 360 (2019), 1–6.
[1717] Ibid, 2.
[1718] Ibid, 2–3.
[1719] Ibid, 4–6.
[1720] Ibid, 6.

Plan for Comprehensive Union Policy. It recognised that the EU has established a "solid regulatory framework" against terrorist financing and money laundering over the past three decades; nonetheless, despite the broadening scope of EU legislation, EUMS have varied in their implementation success.[1721] Acknowledging the urgency for improvements, the Commission committed to proposing measures, subject to an impact assessment on fundamental rights, to strengthen the EU's anti-terrorist financing framework.[1722]

In July 2020, the European Commission released the 2020-2025 Security Union Strategy, emphasising that security and human rights are complementary, with fundamental rights serving as the foundation for EU security policies, particularly the right to judicial redress.[1723] While existing legal, practical, and support tools supported security, their fragmentation necessitated improvement.[1724] The Strategy linked the EU's external security with internal security, advocating a "future-proof security environment" through a whole-of-society approach to address emerging and persistent threats, including cybercrime, hybrid attacks, and terrorism.[1725] Hailing the EU's unique capacity to respond to global threats, it delineates four interdependent strategic priorities: (1) a future-proof security environment, (2) tackling evolving threats, (3) protecting Europeans from terrorism and organised crime, and (4) a strong European security ecosystem.[1726]

Regarding EU counterterrorism, the Strategy acknowledged the evolving threat of radicalisation and identified the primary responsibility of EUMS in combating terrorism and radicalisation.[1727] It highlighted the need to enhance cooperation and coordination, emphasised the importance of implementing counterterrorism sanctions, and advocated for expanded multilateral cooperation with the UN, NATO, and the Council of Europe to disrupt terrorist financing.[1728] Additionally, the Strategy outlined key actions for the Commission, including updating the EU counterterrorism agenda and establishing new international cooperation structures.[1729]

[1721] European Commission, *Commission Communication on an Action Plan for a Comprehensive Union Policy on Preventing Money Laundering and Terrorist Financing*, 2020/C 164/06 (2020), 1–13.
[1722] Ibid, 12.
[1723] European Commission, *Commission Communication on the EU Security Union Strategy*, COM(2020) 605 (2020), 1–2.
[1724] Ibid, 2.
[1725] Ibid.
[1726] Ibid, 6.
[1727] Ibid, 15–16.
[1728] Ibid, 15–17.
[1729] Ibid, 20.

The Commission fulfilled its pledge by publishing the 2020 EU Counterterrorism Agenda in December.[1730] The 2020 Agenda recognised a shift in terrorist tactics towards lone actors, low-technology, limited-preparation attacks on crowded and symbolic sites.[1731] Consequently, while maintaining a high alert level, the EU must adapt to these emerging threats and address root causes and radicalisation.[1732] The Agenda emphasised the need for enhanced collective efforts through a cohesive, four-strand approach at national, EU, and international levels to improve counterterrorism measures:

- (1) anticipating threats and risks,
- (2) preventing radicalisation and violent extremism,
- (3) protecting people and infrastructures, including through external border security, and
- (4) responding effectively after attacks.[1733]

The four strands in the 2020 Agenda differ from those of the 2005 EU CT Strategy (prevent, protect, pursue, and respond). This restructuring addressed criticisms of the 2005 framework, particularly the overlap between prevent and pursue, which hindered the strategy's coherence.[1734]

Regarding counterterrorism sanctions, the 2020 agenda characterised them as a vital tool to restrict terrorists' resources and movement, urging EUMS and EU institutions to enforce these measures fully.[1735] The Commission also advocated for increased UN engagement, specifically highlighting the roles of UNOCT, EEAS, and the HR/VP in enhancing strategic and operational cooperation to advance the EU's external counterterrorism efforts.[1736] Following the 2021 retirement of EU CTC Gilles de Kerchove, the Commission committed to appointing a successor, emphasising the role's function in coordinating EU counterterrorism policy, collaborating with EUMS, the EP, and EU agencies to promote an inclusive, rights-based security framework for combating terrorism.[1737]

Conclusion

This chapter examined the EU's counterterrorism strategy from 2000 to 2020, focusing on the convergence of security and liberty norms regarding international sanctions and the evolving relationship between the EU and the UN from an EU-centric

[1730] European Commission, *Commission Communication: A Counter-Terrorism Agenda for the EU: Anticipate, Prevent, Protect, Respond*, COM(2020) 795 (2020), 1–26.
[1731] Ibid, 1.
[1732] Ibid.
[1733] Ibid, 24.
[1734] Burchett and Weyembergh, *EU CT Assessment*, 18.
[1735] European Commission, *2020 EU CT Agenda*, 15.
[1736] Ibid, 23.
[1737] Ibid, 24.

perspective. Throughout this period, the EU primarily pursued an event-driven, cyclical counterterrorism agenda heavily influenced by crises. Key incidents include:

- The 9/11 attacks (2001), which prompted the development of sanctions regimes;
- The Madrid and London bombings (2004-2005), which highlighted issues of homegrown terrorism and radicalisation;
- The rise of ISIS and subsequent attacks such as Charlie Hebdo, Bataclan, and Brussels (2015-2016), emphasising foreign terrorist fighters;
- The series of smaller assaults, like Nice and Berlin (from 2016), characterised by low-tech, small-scale violence.[1738]

Each crisis prompted the EU to adapt its counterterrorism strategy, beginning with 9/11, which led to a focus on sanctions, implementation of UNSC resolutions, and the development of an autonomous sanctions regime. This event-cycle saw significant progress in defining terrorist offences, predating UN efforts, indicating the EU's intention to act as a norms entrepreneur rather than a norm taker. Politico-strategically, the EU demonstrated a deeper commitment to pan-European counterterrorism, pioneering legal definitions of terrorism within its legislation before UN action. The EU adopted UNSCR 1267 (1999) sanctions and established its own regime in response to UNSCR 1373 (2001). Procedurally, post-9/11 favoured security over liberty norms, offering obscure and vague procedural guidance for sanctions.

The second counterterrorism cycle, initiated by the Madrid attacks in 2004 and followed by the London bombings in 2005, underscored the necessity for an EU-wide strategy. This period saw the development of the 2004 Counterterrorism Action Plan, the creation of the EU CTC role, and the 2005 EU Counterterrorism Strategy with its four pillars. Focus shifted toward addressing root causes, particularly radicalisation and homegrown terrorism, to curb al-Qaeda's influence in Europe. Prior to 2005, the EU's response "was largely ad hoc and reactive;" the 2005 Strategy marked a move toward a comprehensive, organised approach.[1739] From a politico-strategic perspective, the emphasis on radicalisation became a key aspect of EU counterterrorism efforts. The Strategy embodied a whole-of-organisation approach, fostering inter-institutional coordination beyond EUMS. Organisationally, the EU CTC was established to coordinate measures and advocate EU interests internationally, including cooperation with the UN. However, procedurally speaking, unlike the mandates of the UNCTC and CTED, the EU CTC's mandate remained vague, limited by insufficient institutional capacity and a non-independent budget, restricting its internal influence.

[1738] European Parliament, *EU CT Report*.
[1739] Ibid, 33.

Amid the rise of ISIS and the threat of foreign terrorist fighters, coupled with attacks in Paris and Brussels, the next event-driven EU counterterrorism cycle expanded efforts to address these emerging threats. From a politico-strategic perspective, the 2009 Treaty of Lisbon redistributed responsibilities among EU institutions, empowering the HR/VP, the EP, and the Commission. The HR/VP's new external focus, facilitated by the EEAS, positioned her as a norms entrepreneur representing EU counterterrorism interests internationally. The EP and Commission adopted more involved approaches, while the Court of Justice's expanded powers reinforced the judiciary's role in balancing security and human rights.[1740] From a legal perspective, across these event-driven cycles, an overarching legal saga emerged regarding the violation of human rights through the EU counterterrorism sanctions listing. The Kadi saga finally concluded with the Court of Justice's ruling in 2013, stating that the right to an effective judicial remedy had been violated with the listing of Mr Kadi on the sanctions regime pursuant to the EU's autonomous sanctions regime. Over time, courts increasingly engaged in judicial policymaking, emphasising due process and human rights protections in sanctions regimes. Their norms of entrepreneurship influenced EU actions and impacted UN sanctions, contributing to the creation of the Office of the Ombudsperson. Thus, the legal norms convergence resulted in changes in the security-liberty balance of counterterrorism sanctions, from a procedural perspective (revised delisting guidelines, statement of reasons requirements), an organisational perspective (creation of the Ombudsperson's office), and from a politico-strategic perspective, through acknowledging the need to restructure and revise the UN and EU sanctions regimes through a human rights-based lens. The EU's deepening cooperation with UN counterterrorism entities, driven by institutions like the HR/VP, EU CTC, and courts, exemplifies its commitment to leading as a global norms entrepreneur in counterterrorism.

The final cycle of event-driven terrorism closely followed its predecessor, marked by the emergence of lone-actor, low-technology attacks on crowded and symbolic sites across Europe, beginning with the July 2016 Nice attack.[1741] This increase in lone-wolf operations stemmed from tactical shifts by al-Qaeda and ISIS, leading to the "weaponisation of ordinary life."[1742] Politico-strategically, the EU broadened its legal framework to criminalise pre-acts such as travelling abroad for terrorist training, shifting the security-liberty balance toward security enhancement. Simultaneously, strategic documents increasingly underscored a human rights-based

[1740] The judiciary's expanding power over the period in question was also noted by Interviews F & K.
[1741] Ibid, 36.
[1742] Ibid, 36–37.

approach, integrating rights protections into security measures. Legally, definitions of terrorism expanded to encompass pre-crime activities, while reaffirming adherence to CJEU jurisprudence, particularly regarding judicial remedies. Organisationally, similarly to the UN, the EU augmented its counterterrorism infrastructure, notably establishing the Commissioner for Security Union, whose mandate overlapped with entities like the EU CTC and HR/VP. The European Commission took a proactive stance, proposing strategies such as the 2020 EU Security Union Strategy and the 2020 EU CT Agenda, reinforcing its role as a norms entrepreneur. These strategies prioritised enhanced international cooperation, especially with the UN and its agencies, within a coherent global counterterrorism framework.

Over the past two decades (see Table 42 for a summary of major legislation), the EU's counterterrorism architecture has developed incrementally, heavily influenced by event-driven cycles. This has resulted in a complex and crowded policy landscape, characterised by numerous overlapping measures and vague mandates from various norms entrepreneurs.[1743] Consequently, it is increasingly difficult to identify clear oversight structures. A study commissioned by the European Parliament highlights this lack of strategic guidance among the many actors involved. The EU's impact on the security-liberty balance within UN counterterrorism sanctions appears to stem from ad hoc responses rather than a cohesive strategy, reflecting a commitment to core values like human rights. Notably, the Court of Justice of the EU and the European Court of Human Rights have significantly shaped international sanctions through their engagement with human rights protections, emphasising the importance of considering norms convergence. Understanding the EU-UN relationship in counterterrorism sanctions thus requires examining how both organisations' approaches have evolved incrementally over time.

Although the EU receives only one empirical chapter in this dissertation, its legal interventions retroactively reshape earlier UN decisions, completing the structure of the convergence and security-liberty framework. Landmark rulings like Kadi, subsequent implementation practices, and procedural standards transform abstract critiques of the UN regime into concrete reforms, ranging from statements of reasons to the establishment of the Ombudsperson. Thus, the EU's role in legal convergence concludes the analysis initiated in the UN chapters, illustrating how a regional legal order can internalise and rebalance global counterterrorism norms over time.

[1743] Ibid, 66.

Chapter 9: Conclusion

Introduction

This dissertation aimed to explore the dynamic relationship between security and liberty by examining how these norms evolved and converged within the UN and EU counterterrorism sanctions regimes from 1999 to 2020. The research challenged the traditional view that the security-liberty balance is fixed and oppositional, showing instead that their relationship continuously evolves. This requires considering time as a crucial factor when analysing this relationship over an extended period, rather than at a single moment. The addition of a temporal dimension enabled a detailed mapping of this evolution, as demonstrated by shifts following significant events such as 9/11 and landmark legislative developments in both the UN and EU. The revised framework for balancing security and liberty, including the time qualifier (1999-2020), was combined with norms diffusion and convergence theories. This enabled an assessment of how the relationship shifted across four convergence pathways: politico-strategic, organisational, procedural, and legal. This approach facilitated the analysis of UN and EU counterterrorism actions over the period, despite the absence of a unified counterterrorism sanctions strategy within these organisations. Additionally, the analysis of convergence pathways highlighted differing actions by various norms entrepreneurs associated with these entities. Through a multi-method, qualitative framework, including document analysis, semi-structured expert interviews, and selective process tracing, event history analysis, and network analysis, the research offers nuanced insights into the mechanisms of norm convergence and the dynamic interplay of security and liberty norms.

9.1. Key findings

Reflecting on the empirical evidence, the study demonstrates that terrorist events such as the September 11, 2001, attacks prompted waves of legislation that, while bolstering counterterrorism capabilities, frequently encroached upon human rights. Significantly, both the UN and the EU shifted toward a security-first approach in the aftermath of 9/11 and subsequent attacks within the EU's territory. The findings indicate that, when analysed through the time qualifier, the security-liberty balance in UN and EU counterterrorism measures gradually experienced a rebalancing as these organisations implemented new procedural safeguards, organisational structures, and legislation in response to escalating legal and societal concerns. The research further elucidates how organisational learning and norm entrepreneurship at various levels facilitated adaptive convergence, thereby helping to recalibrate the balance to better respect due process and human rights.

The research findings highlight the necessity of incorporating a time qualifier within the security-liberty balancing framework to illustrate that the relationship between security and liberty norms is subject to constant change and development. Consequently, this relationship warrants analysis over an extended timeframe, specifically from 1999 to 2020. Furthermore, as demonstrated by Tables 43 and 44, responses oriented towards security in reaction to terrorist attacks were rapidly implemented, with a proliferation of new listings, thereby shifting the emphasis toward security. In contrast, actions and legislation aimed at protecting liberty and human rights required a substantially longer period to materialise, primarily through procedural reforms that facilitated delistings. This gradual rebalancing of the two norms unfolded over two decades. The data presented in Tables 43 and 44 pertain to overall sanctions regime listings and delistings from 2001 to 2014 under the oversight of the Monitoring Team. Meanwhile, Tables 45 and 46 distinguish between the Taliban and the ISIL & al-Qaeda regimes between 1999 and 2021. Both datasets reveal an initial increase in delistings following the operationalisation of the Focal Point in 2007, and subsequently after the establishment of the Office of the Ombudsperson in 2010. These trends demonstrate the positive impact of reforms related to due process and oversight mechanisms in safeguarding human rights and civil liberties within the sanctions regime. This analysis would not have been feasible without the incorporation of a temporal qualifier within the security-liberty balance, which made visible the asymmetric speed of security measures and rights-protective reforms. Therefore, this updated approach to the traditional balancing framework is not only essential but also generates new insights into the dynamic interplay between these two norms.

Analysis of policy documents, meeting records, and official statements indicates that post-9/11 legislative responses expanded security measures, initially at the expense of civil liberties and human rights. Over time, growing critiques from member states, courts, NGOs, and norm entrepreneurs prompted reforms such as the introduction of procedural safeguards for listed individuals and the establishment of new oversight institutions, including the Focal Point and the Office of the Ombudsperson. These developments contributed to partial norm convergence and a gradual rebalancing towards enhanced respect for due process, while maintaining the integrity of collective security objectives.

The study identified key norms entrepreneurs, such as legal experts, diplomats, and policymakers from both organisations, who are responsible for promoting convergence. Refer to Table 47: Overview of UN counterterrorism-related norms, entrepreneurs, and organs' structures, and to Table 48: EU counterterrorism actors and their rights to review sanctions listings. The convergence of organisational and procedural norms between the UN and EU, facilitated through the sharing of

standardised protocols and review mechanisms, enhanced the dissemination of best practices. By employing network analysis combined with norms convergence theory, the study differentiates the motivations and objectives of various norms entrepreneurs under the auspices of either the UN or the EU. This approach shifts the research from a generalised view of these organisations as a single overarching entity to a more nuanced understanding of them as a collection of divergent sub-entities and stakeholders with multiple goals and mandates. Table 49 presents an overview of EU-related norms entrepreneurs as depicted within a network of stakeholders involved in targeted counterterrorism sanctions. It illustrates their overarching positions concerning the prioritisation of these norms, with their main functions describing the interactions with sanctions, and outlines the primary pathways of norm convergence through which these functions are realised. Table 50 also positions UN and EU norms entrepreneurs along the spectrum of security versus liberty and outlines the primary convergence pathways through which these stakeholders engage with security and liberty norms.

Analysing these norms entrepreneurs through the framework of norms convergence pathways further illuminated this understanding of the EU and UN, highlighting how different actors are engaged with various facets of norms convergence between security and liberty and how various sub-sections and entities under their aegis might have conflicting goals concerning the security-liberty balance in counterterrorism sanctions. Among these norms entrepreneurs regarding the evolution of UN and EU counterterrorism sanctions, judicial actors have played a significant role. Courts and officials involved in adjudicating legal challenges have initiated several impactful legal and procedural reforms, reaching an audience far beyond the courts' traditional jurisdiction. The Kadi saga stands as a pivotal moment in the recalibration of security and liberty norms. European courts, notably the Court of Justice of the EU and the European Court of Human Rights, have facilitated a decisive transition from a security-oriented approach to a more balanced perspective that emphasises the protection of human rights within the framework of counterterrorism sanctions. The case of Mr Kadi, who challenged his designation on the EU sanctions list, revealed critical shortcomings in the procedural and substantive fairness of the existing counterterrorism sanctions system. The judgments in Kadi I and Kadi II underscored that the EU must adhere to fundamental human rights obligations even when implementing binding United Nations Security Council resolutions. These rulings compelled the EU and the UN to systematically enhance sanctions procedures, aiming to prevent successful legal challenges that could undermine the legitimacy and effectiveness of these measures and institutions. Notably, procedural reforms such as the requirement to provide statements of reasons, regular sanctions reviews, and the establishment of oversight mechanisms,

including the Focal Point and, most importantly, the Office of the Ombudsperson, can be largely attributed to the influence of European courts.

Through their rulings, courts have established bidirectional norms convergence between the European Union and United Nations systems, fostering improvements in due process and transparency that benefit listed individuals globally. The Kadi legacy further promoted reform from a politico-strategic perspective, leading to legislation in national parliaments and strengthened cooperation among international actors. Notably, the courts rejected the idea that international security obligations can systematically supersede individual rights and emphasised that judicial review is an essential safeguard within international counterterrorism sanctions. In conclusion, the Kadi cases exemplify how judicial policymaking can further recalibrate the balance between security and liberty by highlighting the importance of principles of fairness, effective remedies, and human rights within global sanctions regimes. The lasting impact of these cases helps reinforce the accountability and legitimacy of counterterrorism efforts, making sure that combating terrorism does not undermine fundamental human rights.

A key finding of this dissertation is that the European Union has transitioned from being perceived primarily as a norms taker in counterterrorism policy to an influential actor (norms giver) that actively shapes the global security-liberty balance, including within the UN's counterterrorism sanctions regimes. This dynamic, multidirectional relationship is evident across various pathways of norms convergence: legal, procedural, organisational, and politico-strategic. Although the EU initially implemented UNSC sanctions following 9/11, it rapidly positioned itself as a norm giver in counterterrorism sanctions. The cycle of terrorist threats on European territory, such as the attacks in Madrid, London, Paris, and Brussels, served as catalysts for counterterrorism reforms. These reforms established the EU as a pioneer in defining terrorism and integrating human rights safeguards into its framework, sometimes even before comparable UN measures were adopted.

Perhaps most notably, the EU's legal norms convergence has been exemplified through landmark jurisprudence such as the Kadi case. Rulings by European courts compelled both the EU and the UN to incorporate due process standards and human rights protections into their counterterrorism sanctions regimes. This influence is evidenced by the establishment of the Office of the Ombudsperson and the enhancement of delisting procedures, with the United Nations referencing EU innovations during its own reform initiatives. Organisationally and politico-strategically, EU institutions, including agencies, the European Parliament, and the HR/VP, have fostered external engagement by organising international dialogues and integrating lessons learned from UN counterterrorism into the development of EU security policies. At the same time, the EU has advocated for human rights impact assessments and institutional reforms at

the global scale. Procedurally, the creation of specialised bodies, the revision of sanctions guidelines, and the introduction of new mechanisms exemplify EU leadership in balancing security objectives with the protection of human rights, and thus exporting these principles to the broader international community.

The nature of the relationship between the European Union and the United Nations regarding targeted counterterrorism sanctions should be described as multidirectional. The EU articulates global agendas, reforms international standards, and reciprocally adopts UN legislation, establishing a dynamic and iterative process of norm convergence. This pattern not only strengthens the EU's reputation as a global norms entrepreneur but also facilitates a more balanced and rights-conscious approach to counterterrorism, consequently exerting influence on norms entrepreneurs and stakeholders far beyond Europe. The EU's influence on UN targeted counterterrorism sanctions holds significant scholarly relevance and impact, particularly when analysed within the extended period from 1999 to 2020, in relation to the balance of security and liberty.

9.2. Theoretical Contributions and Research Limitations

The research underscores the significance of integrating the security-liberty balance framework, augmented by the extended temporal qualifier, with norms convergence theory to elucidate the multi-dimensional nature of norms convergence across four pathways: politico-strategic, organisational, procedural, and legal. It challenges the simplistic view of the security-liberty balance as a one-time trade-off between these norms, advocating instead for analyses that are sensitive to temporal and contextual factors. By demonstrating that security-enhancing measures are typically adopted rapidly, while rights-protective adjustments emerge more slowly and unevenly, the study shows that a static snapshot of the balance risks both underestimating liberty costs and overstating existing safeguards. Although the current study specifically examines the interaction between the United Nations and the European Union concerning their targeted counterterrorism sanctions regime, the underlying theoretical framework possesses broader applicability. It can be extended to other organisations such as the OSCE and NATO, or adapted to address other transnational governance challenges, such as the security-liberty balance in relation to migration flows, refugee protection, or the climate crisis, particularly when involving complex non-governmental organisations within the scope of the UN or EU, along with other relevant stakeholders.

A central strength of this dissertation is its qualitative, multi-method case-study approach, centred on the UN 1267 regime and its EU implementation. Documentary analysis provides the main evidentiary basis, enabling a detailed reconstruction of legal, institutional, and procedural developments in UN and EU counterterrorism sanctions between 1999 and 2020, supplemented by semi-structured expert interviews. This core

methodological framework is complemented by selective process tracing, event history analysis, and network analysis. The inclusion of a temporal qualifier allowed for the tracking of norm shifts through crises and institutional transformations, while network analysis clarified the roles of key norm entrepreneurs and their relational dynamics. Nevertheless, several limitations must be acknowledged. Access to confidential diplomatic records and closed proceedings occasionally constrained direct observation of critical decision-making, necessitating reliance on secondary sources and reports. Furthermore, unforeseen challenges in scheduling and successfully conducting semi-structured expert interviews warrant further exploration, as similar issues increasingly affect PhD scholars. However, based on the information obtained from such interviews, and on the richness of the documentary corpus, the researcher is confident that the other methodological approaches employed in this study adequately yielded comparable insights and supported the key arguments. Given the extensive existing literature on the research question, the semi-structured interviews did not produce new information unavailable through other means. Nonetheless, the limited number of interviews remains a consideration for both evaluating this study and designing future research.

Future studies could benefit from a comparative analysis at the state level or incorporate quantitative methods to enhance the robustness of the findings. Such methodological expansion, however, falls outside the scope of this project. Additionally, the researcher notes institutional constraints within the DCU PhD guidelines, particularly the requirement to include the full bibliography within the overall word count. Considering the breadth of topics addressed, an alternative approach would better facilitate defining the scope of the PhD without compromising the literature review and document analysis components due to word limits.

9.3. Final Reflections

In conclusion, this PhD dissertation contends that the security-liberty balancing framework should not be regarded as a static or outdated model. When updated with a temporal qualifier, this framework effectively illustrates that the relationship between security and liberty norms is dynamic and constantly evolving. By incorporating a temporal dimension and analysing counterterrorism sanctions through the multi-dimensional pathways of norms convergence, the study offers a nuanced reexamination of how these sanctions develop within and between the United Nations and the European Union. The research emphasises the critical role played by courts, legal experts, and officials as norms entrepreneurs, capable of influencing and recalibrating international counterterrorism sanctions regimes to better protect human rights. The multidirectional interactions and influences between the EU and the UN demonstrate that norms convergence is an ongoing, adaptive process, with both organisations

modifying their sanctions regimes in response to shifting contexts, emerging challenges, and judicial policymaking.

Ultimately, this study demonstrates that neither the United Nations nor the European Union possessed a comprehensive counterterrorism sanctions strategy and that they have continually adapted their approaches in response to numerous event-driven cycles analysed within this project. Over the two decades examined, the overarching conclusion is that effective counterterrorism sanctions must strike a balance between security and human rights, while also being capable of rapid adaptation to emerging and evolving threats. The balance between security and liberty norms is not a static element of targeted counterterrorism sanctions, nor are these norms established by isolated actors with singular objectives at any given time. This complexity necessitates ongoing efforts to safeguard human rights amid changing terrorist threats, along with sustained institutional learning and a steadfast commitment to increased cooperation across various levels of norms entrepreneurs and organisations.

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Appendix

Appendix A

Table 1: Four pathways of norms convergence

Convergence pathway			
Politico-strategic	**Organisational**	**Procedural**	**Legal**
Convergence of similar political and strategic interests across norm entrepreneurs	Convergence of organisational models through shared partnerships and issue-areas; institutional mimicry	Convergence of shared standardised procedures and methods across entities	Convergence of hard and soft law and regulation related to the security-liberty balance in counterterrorism

Appendix B

Table 2. UNSC powers related to sanctions under the UN Charter[1744]

UNSC powers related to sanctions	UN Charter Article	Content
UNSC powers under the UN Charter	Chapter VII	Enables binding resolutions regarding threats to peace
	Article 25	Obligates MS to carry out UNSC decisions
	Article 24(1)	Outlines provisional measures at the disposal of the UNSC to uphold its primary responsibility of maintaining international peace and security
	Article 24(2)	Limits UNSC powers to align with the Purposes and Principles of the UN, listed in Article 1
Legal basis and scope of sanctions	Chapter VII, Articles 39-42	The term 'sanctions' does not appear explicitly in the UN Charter but is conceptually defined in Chapter VII, Articles 39-42
	Article 41	Outlines and authorises the concept of sanctions: "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."[1745]
	Article 42	Allows for the use of military force if Article 41 measures are inadequate
Imposing and challenging sanctions	Article 39	Identifies and determines threats to international peace and security
	Article 40	Enables the UNSC to call upon MS to respond to such threats
	Article 35(1)	Allows for MS to bring any dispute to the attention of the UNSC and UNGA
	Article 50	States impacted by sanctions, even if not targeted, have the right to consult the UNSC for solutions
Limits and controversies	Articles 25 & 103	As the powers of the Security Council are only limited by *Article 25,* and while *Article 103* highlights the primacy of the UN Charter over other international agreements and obligations, the main countermeasure available to Member States disagreeing with UNSC sanctions is to disobey the carrying out of UNSC decisions in accordance with *Article 25*

[1744] UN Charter.
[1745] UN Charter, Article 41.

Appendix C

Table 3: Brief chronological summary of UNSC sanctions-related powers within the UN Charter[1746]

UNSC Article/Provision	Power/Scope	Limits/Countermeasures	Notes
Article 25	Binding decisions on MS	Purposes/principles in Article 1	Obligation to comply
Articles 39-42	Identify threats, impose sanctions	Use of force if needed	'Sanctions' outlined, not named
Article 41	Non-military measures	No armed force	Economic, diplomatic, communication restrictions
Article 42	Military action if necessary	Only if Article 41 is insufficient	Last-resort option
Articles 35(1) & 50	Dispute/consult rights for states	Petition, consult UNSC	For both targeted and affected states
Article 103	UN Charter primacy	Overrides other agreements	Charter supersedes treaty law

[1746] UN Charter.

Appendix D

Table 4: International Legal Instruments Preventing Terrorist Acts[1747]

Year	Title	Sector/Aim	Status
1963	Convention on Offences and Certain Other Acts Committed On Board Aircraft	Civil aviation	187 Parties
1970	Convention for the Suppression of Unlawful Seizure of Aircraft	Civil aviation	185 Parties
1971	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	Civil aviation	188 Parties
1973	Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons	Protection of international staff	180 Parties
1979	International Convention against the Taking of Hostages	Taking hostages	176 Parties
1980	Convention on the Physical Protection of Nuclear Material	Nuclear material	164 Parties
1988	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	Maritime navigation	166 Contracting States
1988	Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf	Maritime navigation	156 Contracting States
1988	Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	Civil aviation	176 Parties
1991	Convention on the Marking of Plastic Explosives for the Purpose of Detection	Explosive materials	156 Parties
1997	International Convention for the Suppression of Terrorist Bombings	Terrorist bombings	170 Parties
1999	International Convention for the Suppression of the Financing of Terrorism	Financing of terrorism	189 Parties
2005	Amendments to the Convention on the Physical Protection of Nuclear Material	Nuclear material	131 Parties
2005	International Convention for the Suppression of Acts of Nuclear Terrorism	Nuclear terrorism	120 Parties
2005	Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	Maritime navigation	52 Contracting States

[1747] UN Office of Counter-Terrorism, *International Legal Instruments*, 2023, https://www.un.org/counterterrorism/international-legal-instruments.

2005	Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf	Maritime navigation	45 Contracting States
2010	Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation	Civil aviation	34 Signatures, 23 Ratifications, 20 Accessions, 1 Acceptance, 1 Approval
2010	Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft	Civil aviation	35 Signatures, 21 Ratifications, 22 Accessions, 1 Acceptance, 1 Approval
2014	Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft	Civil aviation	36 Signatures, 17 Ratifications, 3 Acceptance, 2 Accessions

Appendix E

Table 5: UNSC Repertoire concerning Terrorism[1748]

Year	Document	Title	Content
9 September 1970	Resolution 286	The situation created by increasing incidents involving hijacking of commercial aircraft	Considers the threat posed by the increase in hijacking of commercial aircraft
20 June 1972		The situation created by increasing incidents involving hijacking of commercial aircraft	Considers the threat posed by the increase in hijacking of commercial aircraft
9 October 1985	Statement by the President of the Security Council at the 2618th meeting	Statement by the President of the Security Council [in connection with the Achille Lauro incident]	Following the hijacking of the Italian vessel Achille Lauro, the Council condemned all acts of terrorism
18 December 1985	Resolution 579	Letter dated 16 December 1985 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council	Considers the serious situation created by acts of hostage-taking and abduction
28 January 1987	Statement by the President of the Security Council	Statement by the President of the Security Council [in connection with hostage-taking and abduction]	Condemns all acts of hostage-taking and abduction
3 December 1985	Statement by the President of the Security Council at the 2639th meeting	Statement by the President of the Security Council [in connection with the incidents at the Rome and Vienna airports]	Strongly condemns the terrorist attacks at Rome and Vienna airports on 27 December 1985
14 June 1989	Resolution 635	Marking of plastic or sheet explosives for the purpose of detection	Condemns all acts of unlawful interference against the security of civil aviation
29 July 1994	Statement by the President of the Security Council	Security Council action regarding the terrorist attacks in Buenos Aires and London	Strongly condemns the terrorist attacks which took place in Buenos Aires on 18 July 1994 and in London on 26 July 1994, and demands an immediate end to all such acts
13 August 1998	Resolution 1189	Threats to peace and security caused by	Condemns terrorist acts such as the ones that took

[1748] UNSC, *UNSC Agenda Items: Thematic Issues*, 2023, https://www.un.org/securitycouncil/content/repertoire/thematic-items#T.

		international terrorist acts	place on 7 August 1998 in Nairobi and Dar-es-Salaam

Appendix F
Table 6: UNSC sanctions history pre-9/11

Date	Event/Action	Details/Significance
Late 1960s	Terrorism enters UN agenda	Becomes recurring issue for UN MS and organs,
1972	Munich Olympics attack	Security Council fails to condemn due to Cold War divisions; General Assembly assumes responsibility.[1749]
1988-1989	Lockerbie & UTA flight attacks	These two terrorist attacks in the late 1980s, "against Pan Am flight 103 over Lockerbie, Scotland, in December 1988 and against Union des Transports Aériens (UTA) flight 772 in September 1989 over Niger,"[1750] prompted the affected Member States of France, the UK, and the US, to bring the issue of counterterrorism to the floor of the Security Council.
1992	UNSC Resolution 748	Following joint efforts by France, the UK, and the US, the UNSC convened its first summit of heads of state and government. The Council expressed concern over international terrorism and underscored the need for an effective global response.[1751] The UNSC imposed mandatory sanctions on Libya for its involvement in the bombing of two commercial airlines.[1752] Mandated measures such as a flight ban over Libya, an arms embargo, and established a Committee to monitor compliance, marking the first use of sanctions against a Member State to combat terrorism.[1753]
1996	UNSC Resolution 1054	During the 1990s, known as the "sanctions decade," the UNSC increasingly employed sanctions to combat terrorism.[1754] Notably, sanctions were imposed on Libya, Sudan, and the Taliban regime in Afghanistan.[1755] The measures against Sudan, outlined in Resolution 1054 (1996), are often overlooked due to their limited diplomatic and travel sanctions and minimal impact.[1756] Sudan's known harbouring of terrorists such as "Carlos the Jackal" (1992-1994) and Osama bin Laden (from 1994), along with its designation as a state sponsor of terrorism in 1993, make its limited sanctions surprising.[1757] Although Resolution 1070 (1996) [1758] expanded measures to ban aviation travel and included a 90-day compliance period, these aviation sanctions were never enforced

[1749] Rosand, 'The UN-Led Multilateral Institutional Response to Jihadist Terrorism', 17.
[1750] de Jonge Oudraat, 'The Role of the Security Council', 153–54.
[1751] Note by the President of the Security Council at the 3046th Meeting, S/23500 (1992), 3.
[1752] UN Security Council Resolution 748, S/RES/748 (1992) 52 (1992).
[1753] de Jonge Oudraat, 'The Role of the Security Council', 151.
[1754] Alex Vines, 'Review: The Effectiveness of UN and EU Sanctions: Lessons for the Twenty-First Century', *International Affairs (Royal Institute of International Affairs 1944-)* 88(4), (2012): 867.
[1755] de Jonge Oudraat, 'The Role of the Security Council', 154.
[1756] Charron, *UN Sanctions and Conflict*, 160.
[1757] Ibid, 162.
[1758] UNSC, "UN Security Council Resolution 1070," S/RES/1070 (1996) § (1996), 2.

		and were ultimately lifted with Resolution 1372 (2001) in September 2001.[1759]
1999	International Convention for the Suppression of the Financing of Terrorism & Resolution 1267	Legal convention on terrorist financing agreed; targeted sanctions regime against Taliban, al-Qaeda

[1759] UN Security Council Resolution 1372, S/RES/1372 (2001), 1.

Appendix G

Table 7: Overview of 13 semi-structured interviews

Interview Code	General Profession	Date	Location	Duration
Interview A	Private Practicioner (implementation of sanctions)	24/07/2025	Online	41 min
Interview B	EU professionnal	17/07/2025	Brussels, Belgium	55 min
Interview C	Academic	24/07/2025	Online	46 min
Interview D	Policy advisor (think tank background)	14/07/2025	Brussels, Belgium	50 min
Interview E	EU professional	22/07/2025	Brussels, Belgium	45 min
Interview F	EU professional	27/07/2025	Brussels, Belgium	40 min
Interview G	EU professional (legal background)	22/07/2025	Brussels, Belgium	45 min
Interview H	Private practicioner (legal background)	08/04/2025	Online	39 min
Interview I	UN professional/Academic	10/04/2025	Online	55 min
Interview J	Private practicioner (legal background)	11/04/2025	Online	44 min
Interview K	EU professional	15/04/2025	Brussels, Belgium	50 min
Interview L	Former UN professional/private practicioner	17/04/2025	Online	52 min
Interview M	Policy advisor (human rights think thank background)	18/04/2025	Online	47 in

Appendix H

Table 8: Informed Consent Form

Research Title: Timely Expansion of the Security-Liberty Balance: Norm Convergence between the UN and EU Counterterrorism Sanctions Regimes

Virag Turcsan (virag.turcsan3@mail.dcu.ie), the principal investigator/researcher, is a PhD candidate in the School of Law and Government at Dublin City University (DCU). Her research project is funded by the Irish Research Council. The research is being conducted under the supervision of Dr. James Fitzgerald (james.fitzgerald@dcu.ie) in the School of Law and Government at Dublin City University.

Clarification of the purpose of the research

The research aims to investigate the ways in which human rights protections have been approached by the UN Security Council's targeted counterterrorism sanctions regime since 1999. The research further aims to uncover if and how the European Union and related organizations have influenced the work of the UN Security Council when it comes to human rights protections within the targeted sanctions. The goal of the research project is to identify avenues through which the European Union was successful in directing the UN Security Council's objectives regarding international counterterrorism strategies and analyze whether this approach can be used as a framework for other topics of interest such as climate change or immigration policy.

My role in the research

In relation to the present research project, I will be asked to participate in a semi-structured expert interview in my professional capacity, lasting approximately 45-60 minutes.
I understand that my participation in this research is voluntary and I will not be compensated directly or indirectly.

I understand that my personal data will not be disclosed in the research output. All information gathered at interviews will be held in accordance with the requirements of GDPR as well as the 2018 Data Protection Act of Ireland.

I have been informed that all gathered data will be kept in a secure document stored on Dublin City University's Google storage, and all data will be destroyed under the supervision of DCU Information Systems Services 6 months after the successful completion of this research project. If the research is not completed within 2 years of the data collection, the data will be destroyed in like manner at the time. The data collected in this research will not be shared with any third party. It will be used solely for the purposes of this research as outlined above.

Confirmation of particular requirements as highlighted in the Plain Language Statement

Please complete the following (Circle Yes or No for each question)

I have read the Plain Language Statement (or had it read to me)
Yes/No

I understand the information provided
Yes/No

I have had an opportunity to ask questions and discuss this study
Yes/No

I have received satisfactory answers to all my questions
Yes/No

I am aware that my interview will be audio-recorded
Yes/No

Confirmation that involvement in the Research Project is voluntary

I understand that I have the right to withdraw from participation at any point and none of the information shared by me will be included in the research contrary to my consent.

Signature:

I have read and understood the information in this form. My questions and concerns have been answered by the researchers, and I have a copy of this consent form. Therefore, I consent to take part in this research project.

Participants Signature: _____

Name in Block Capitals: _____

Witness: _____

Date: _____

Appendix I
Table 9: Participant Information Sheet

Introductory Statement
Virag Turcsan (virag.turcsan3@mail.dcu.ie), the principal investigator/researcher, is a PhD candidate in the School of Law and Government at Dublin City University (DCU). Her research project is funded by the Irish Research Council via the IRC Government of Ireland Postgraduate Scholarship.
The research is being conducted under the supervision of Dr. James Fitzgerald (james.fitzgerald@dcu.ie) in the School of Law and Government at Dublin City University.

What is this research about?
The research aims to investigate the ways in which human rights protections have been approached by the UN Security Council's targeted counterterrorism sanctions regime since 1999. The research further aims to uncover if and how the European Union and related organizations have influenced the work of the UN Security Council when it comes to human rights protections within the targeted sanctions.

Why is this research being conducted?
The goal of the research project is to identify avenues through which the European Union was successful in directing the UN Security Council's objectives regarding international counterterrorism strategies and analyze whether this approach can be used as a framework for other topics of interest such as climate change or immigration policy.

Why have you been invited to take part?
Your role in this research project will be to share with the researcher your professional expertise and experience regarding the relationship between human rights protection and security within targeted counterterrorism sanctions at the EU and UN levels since 1999. You will participate in a semi-structured expert interview lasting approximately 45-60 minutes to discuss your insight into the research topic.

What will happen if you decide to take part in this research study?
After discussing the particular details of the interview and upon reading and completing the written consent form, you will be asked a series of questions relating to the security-liberty balance of counterterrorism sanctions and your related professional expertise and experience. The interview will last approximately 45-60 minutes. Upon your agreement, the interview will be audio-recorded. After the interview, the audio-recording will be transcribed within 10 business days and shared with you for final content approval. There will be no preparation required for the interview, nor will you be asked to engage in follow-up interviews or activities.

How will your data be used?
Your data will be collected, processed, and stored by the principal investigator/researcher, Virag Turcsan (virag.turcsan3@mail.dcu.ie), a PhD candidate at Dublin City University, under the supervision of Dr. James Fitzgerald (james.fitzgerald@dcu.ie).
The DCU Data Protection Officer is Mr. Martin Ward (data.protection@dcu.ie), who will handle any data protection concerns arising from the research.
Identifying information (such as your name, gender, and professional title) will be link-anonymised/coded and kept in a secure password-protected document on a DCU Google Drive Folder provided through the DCU Information Systems Services.
All data gathered through the interview will be destroyed under the supervision of DCU Information Systems Services 6 months after the successful completion of this research

project. If the research is not completed within 2 years of the data collection, the data will be destroyed in like manner at the time.
The data collected in this research will not be shared with any third party. It will be used solely for the purposes of this research as outlined above.
Your identifying information will not be disclosed in the research output. All information gathered at interviews will be held in accordance with the requirements of GDPR as well as the 2018 Data Protection Act of Ireland.
You have the right to lodge a complaint concerning the use of personal data with the Irish Data Protection Commission.
You have the right to access your own personal data and your Informed Consent Form via contacting the principal investigator/researcher, Virag Turcsan (virag.turcsan3@mail.dcu.ie), or alternatively by contacting the Data Protection Officer, Mr. Martin Ward (data.protection@dcu.ie).

How will your privacy be protected (including any legal limits to confidentiality)?
Identifying information (such as your name, gender, and professional title) will be link-anonymised/coded and kept in a secure password-protected document on a DCU Google Drive Folder provided through the DCU Information Systems Services.
Your identifying information will not be disclosed in the research output. All information gathered at interviews will be held in accordance with the requirements of GDPR as well as the 2018 Data Protection Act of Ireland.
The data collected in this research will not be shared with any third party. It will be used solely for the purposes of this research as outlined above.
Please note that confidentiality of information can only be protected within the limitations of the law - i.e., it is possible for data to be subject to subpoena, freedom of information claim or mandated reporting by some professions.

What are the benefits of taking part in this research study?
You should note that there are no direct benefits to their participation in the research through your participation. You will not be remunerated in any way.
Indirectly, your participation in the research project may benefit the wider governmental and international organizations based on the resulting policy recommendations provided in this research should they be considered by relevant organizations.

What are the risks of taking part in this study?
It is not envisaged that there would be any physical, social, psychological, legal, economic or other risk to you through your participation in this research. The research does not discuss any issues of personal criminality or illegal activity, nor is there any aspect of the research that would result in personal or professional embarrassment, regret, depression or other harm.

Can you change your mind at any stage and withdraw from this study?
Your participation in this research is a choice. You can change your mind regarding your participation at any stage before, during or after the interview. None of the information shared by you will be included in the research contrary to your consent. Personal data gathered prior to or during the interview, as well as the data collected during the interview, will be destroyed within 15 business days upon reception of your withdrawal from the research. Please contact the principal investigator/researcher, Virag Turcsan (virag.turcsan3@mail.dcu.ie) in order to withdraw your consent.

How will you find out what happens with this project?
Upon conclusion of the research project, the finished PhD dissertation will be made available on open access via DCU's online, open-access research repository system (Doras). Furthermore, as the research project is funded by the Irish Research Council (IRC) via the IRC Government of Ireland Postgraduate Scholarship, the finished dissertation will be shared with the funding organization as well.
In addition, the key findings and recommendations of this research will be compiled into a separate executive summary, which will be shared with research participants and

other interested parties. The executive summary will also include details of how to access the full dissertation on the DCU platform.

Contact details for further information:
Should you require further information regarding this research project, please contact the principal investigator/researcher, Virag Turcsan (virag.turcsan3@mail.dcu.ie).
If you have concerns about this study and wish to contact an independent person, please contact: The Secretary, Dublin City University Research Ethics Committee, c/o Research and Innovation Support, Dublin City University, Dublin 9. Tel 01-7008000, e-mail: rec@dcu.ie

Appendix J
Table 10: Sample Interview Questions

Sample Interview Questions

The approximately 20 semi-structured expert interviews will be conducted after the conclusion of the document analysis and event history analysis phase of the research project, upon which the principal investigator/researcher will have identified key moments and legislative action where the interview participants may have additional insight to share related to their professional experience and expertise. Participants will be asked to share their insight regarding the evolution of security-liberty balance within UN and/or EU targeted counterterrorism sanctions since 1999. Some participants will have extensive professional experience related to human rights protections within the sanctions regimes, while others will have more limited but crucial exposure to the specifics of the sanctions through their careers.
Participants will also be given the opportunity to contribute on matters of interest to them that may not have been covered by the interview questions.

See below a sample list of questions and prompts which participants will be provided with in advance of interviews. Depending on the expertise of the participants, following the framework of semi-structured interviews, certain additional and follow-up questions might be introduced during the interview to further explore specific topics mentioned during the interview.

Participants are invited to answer as many or as few questions as they wish to, including but not limited to simply stating that they are not familiar with the topic(s) included in the questions.

1. Please briefly describe your professional background and any connection you might have related to the field of counterterrorism sanctions.
2. Have you ever, and if so, in what capacity, worked within the UN or EU targeted counterterrorism sanctions regimes since 1999?
3. What was your role during your involvement with the above-mentioned sanctions?
4. Through what organization/agency/government have you encountered the sanctions?
5. For how long did you work on topics related to counterterrorism sanctions?
6. Was that your main portfolio?
7. Approximately how much time, on average, did you spend during your workweek dealing with the topic of counterterrorism sanctions?
8. Please describe your familiarity with the concept of the security-liberty balance and whether you have encountered the topic during your professional experience within the field of counterterrorism.
9. Have you engaged, in your professional capacity, in discussions regarding the protection of human rights and fundamental freedoms in relation to the targeted sanctions?
    a. If so, how frequently did the topic arise?
    b. What action was taken by your organization/agency/government in relation to human rights protections?
    c. What action were you assigned to take within your professional capacity?
    d. What strategy/approach, if any, did your organization/agency/government develop regarding the protection of human rights within counterterrorism sanctions?
        i. Was that strategy widely shared within the organization?
        ii. Was that strategy an overall priority in the activities of the organization?

    e. Have you been invited to negotiations, trainings, workshops, etc regarding the improvement of human rights protections within UN and/or EU counterterrorism sanctions?
        i. What other organizations/agencies/governments were involved at such events?
        ii. Were there follow-up actions/agreements?
10. Have the different court rulings on the topic, such as the Kadi or Nada cases, been discussed at your workplace related to counterterrorism strategy?
    a. If so, what impact, if any, did these court rulings have on the actions of your organization/agency/government regarding their engagement with the sanctions regime?
    b. Has your organization/agency/government altered their approach to the sanctions based on a specific court ruling, if so, which one and to what extent?
11. What standards/best practices, if any, did your organization follow regarding targeted counterterrorism sanctions?
12. What other organisations/agencies/governments did your workplace cooperate or collaborate with regarding the sanctions, and how extensive was such an inter-organizational engagement?

Appendix K
Table 11: DCU Research Ethics Committee's Ethical Review Application Form

DCU
Ollscoil Chathair
Bhaile Átha Cliath
Dublin City University

Dublin City University
RESEARCH ETHICS COMMITTEE

APPLICATION FORM FOR ETHICAL REVIEW OF A RESEARCH PROJECT INVOLVING HUMAN PARTICIPANTS

Any queries relating to this form should be e-mailed to the DCU Research Ethics Committee (REC) at rec@dcu.ie The REC Review Process is outlined in the Information and Guidance section of the DCU Research Ethics webpage

Please note that the REC is not responsible for overseeing insurance requirements. Applicants should refer to the DCU Insurance webpage for guidance. It is incumbent upon every applicant to ensure that the appropriate insurance cover is in place for their project.

If your research involves collecting or processing personal data, you must first complete the DCU online Data Protection training course and review the "Data Protection – Key Points for DCU Researchers" guidance from the Data Protection Unit to assist you in meeting your legal obligations under GDPR and associated Irish law.

If your research requires approval from the Biological Safety Committee (BSC) this must be in place prior to REC submission. Contact bio.safety@dcu.ie.

Please provide a response for each section of the form.

SECTION 1 – GENERAL DETAILS

1.1 Project Title

Timely Expansion of the Security-Liberty Balance: Norm Convergence between the UN and EU Counterterrorism Sanctions Regimes

1.2 Applicant Details

DCU Principal Investigator(s): *In the case of all doctoral and Research Masters projects, the supervisor must be listed as Principal Investigator.*

Name	School/Unit	E-mail
Virag Turcsan	School of Law and Government	virag.turcsan3@mail.dcu.ie
Dr. James Fitzgerald	School of Law and Government	james.fitzgerald@dcu.ie

Other Investigators: *Including any external to DCU.*

Name	School/Unit/External Institution	E-mail

1.3 Key Project Dates

Proposed start date for data collection	Proposed end date for data collection	Proposed project completion date
31 March 2025	30 July 2025	30 September 2025

1.4 Please tick the checkbox for the appropriate level of required review:
Consult the Level of Review advice in the Information and Guidance section of the DCU Research Ethics webpage).

Full Committee ☐	Expedited ☐	Notification ☒

1.5 Please indicate if this project is for an academic award (tick N/A checkbox if not)

PhD ☒	Other Doctoral Programme ☐	Research Masters ☐	N/A ☐

1.6 Please confirm the location(s) where the research will be carried out.
If research will be carried out abroad, you will need to address the ethical challenges raised by this in Section 3 of your application - consult the Conducting Research Abroad document in the Ethics Resources and Guidelines section of the project has been submitted to another **research ethics committee for review? additional permissions may be required to access participants.**
Specify from whom the permission is required (e.g. a school Board of Management), and when their written approval will be obtained.

- Online (via Zoom/Skype-based interviews)
- Dublin, Ireland

1.8 Has this project has been submitted to another research ethics committee for review?

Yes ☐	No ☒

If yes, please provide details and attach relevant documentation.

SECTION 2 – PROJECT DESIGN AND METHODOLOGY

Research Overview - Please respect the indicated word counts in the following sections and explain all acronyms in full text the first time they appear.

2.1 Provide a brief description of the research (max 250 words):
Please use lay language, include the scientific/theoretical background of study and a justification as to why this research project should proceed.

The terrorist attacks of September 11, 2001, shifted global counterterrorism strategies. The move towards prioritizing security, even at the expense of other core values, has resulted in a long-lasting strategic shift that significantly impacted the work of national security and international organizations, such as the United Nations and the European Union. Post-9/11, counterterrorism has often been depicted as a balancing exercise between two conflicting norms: security and liberty (Feinberg, 2015).

The security-liberty balancing framework "places security and human rights in conflict with each other" where states and international organizations often justify their increasingly far-reaching security measures as a necessary response to international terrorism, even if, at times, they create long-lasting, negative consequences for human rights (Feinberg, 2015).

While the current balancing framework has received criticism, this research argues that including an expanded timeframe (1999-2021) can effectively assess the dynamic relationship between security and liberty norms. Using norms convergence pathways as an analytical framework enables the researcher to evaluate the UN-EU relationship regarding counterterrorism sanctions listings.

By conducting semi-structured expert interviews with relevant actors and norm entrepreneurs, the researcher aims to identify specific instances when these organizations shifted their focus to protect human rights and civil liberties. Exploring the research question "how has UN-EU cooperation related to counterterrorism sanctions evolved over the last two decades?" will illustrate the evolving nature of UN-EU cooperation in counterterrorism sanctions and highlight the continuous shifts in the security-liberty balance post-9/11.

Feinberg, M. (2015) 'International counterterrorism – national security and human rights: conflicts of norms or checks and balances?', International Journal of Human Rights, 19(4), pp.388–407, p.388.

2.2 Please state the aims and objectives of the research project (max 200 words)

The research aims to demonstrate that the security-liberty balancing framework, enhanced with a time perspective, can effectively illustrate the EU's analytical relevance to the UN Security Council's counterterrorism sanctions regime, despite the EU not being a UN member. Such influence should be considered for both future policy-development and further norms convergence research.

The research seeks to explore the UN-EU relationship from a norms convergence perspective by analysing the influence of various norm entrepreneurs across four convergence layers: legal, political-strategic, organizational, and procedural. The semi-structured expert interviews aim to evaluate the influence of specific norms entrepreneurs, such as the Ombudsperson's impact on the procedural and organizational convergence layers, and judges' effect on the legal convergence between these organizations.

The research will highlight that while the EU does not necessarily follow a coordinated strategy regarding the security-liberty balance of UN counterterrorism sanctions, these efforts are still effective and worth considering by policymakers. By looking at separate convergence layers, this project will identify collaborative, interdepartmental opportunities where these organizations can further increase their influence. Evaluating norms convergence across these organizations will direct future research and strategy development regarding other issues, such as climate change and the refugee crisis.

2.3 Please state the hypothesis and/or research question (in bullet points – max 100 words)

Research question: "How has UN-EU cooperation related to counterterrorism sanctions evolved over the last two decades?"

Hypotheses:

- The security-liberty balance shifts continuously over time; thus, analysis should cover an extended period as opposed to one single point in time.
- The added time-qualifier to the security-liberty balance will demonstrate that the relationship between security and liberty is a dynamic one.

Utilizing norms convergence pathways in the analysis will reveal how and through which mechanisms (legal, political-strategic, organizational, and procedural) the EU can best influence the UN Security Council's counterterrorism sanctions regime.

2.4 Please state your overall methodology (max 400 words):
Include the tasks participants will be asked to do, estimated time commitment and the methods of analysis to be used.

To investigate the norms diffusion and convergence mechanisms of the security-liberty balance in relation to counterterrorism sanctions regimes of the UN and the EU, this project employs a multi-method qualitative research design that triangulates data collected and analyzed through document analysis and semi-structured expert interviews through within-case process tracing and case study comparison to account for the interdependence between the sanctions regimes. Combining these methodological approaches allows the researcher to complement chronological findings and analysis with more polycentric perspectives focusing on networks and norms entrepreneurs to highlight the multi-sited and dynamic characteristic of norms convergence throughout the evolution of counterterrorism sanctions between 1999 and 2021.

Semi-structured expert interview

Following the conclusion of document analysis and process tracing of events that have shaped the UN counterterrorism sanctions regime over the last two decades, the researcher will engage in approximately 20 in-depth, semi-structured expert interviews with relevant norms entrepreneurs in the field of counterterrorism to discuss their professional experience regarding the sanctions regime's evolution. These norm entrepreneurs will come from the following groups:

- Experts, policymakers, and technical and administrative personnel from international governmental organizations (primarily from the UN and EU);
- Experts, policy advisors, technical and administrative personnel from non-governmental organizations in the field of human rights advocacy;
- Legal professionals who have engaged with the topic of UN counterterrorism sanctions and;
- Academics who have contributed to sanctions processes through review, advice, or capacity-building.

All of these groups possess extensive knowledge and familiarity with the subject matter and will be engaged in their professional capacity. All interview participants will be familiar with the language and concepts relating to the research project and will have a similar level of knowledge and familiarity with the topic.

Interview participants will be asked to engage with the researcher for one in-depth interview lasting approximately 45-60 minutes, carried out in person or via previously agreed upon online platforms, such as Zoom or Skype. Participants will be provided with a plain language statement describing the research project and asked to sign an informed consent form before the interview. Participants will be informed that they have the right to withdraw from the research at any time. After the conclusion of the interview, participants - should they wish - will be provided with a written transcript of the interview for final approval.

2.5 Please confirm your methods of data collection:
Tick all relevant check boxes and provide details for each one, including any devices used to collect data.

Method	Describe briefly
☒ Interviews or focus groups	The researcher will carry out approximately 20 semi-structured expert interviews with relevant norms entrepreneurs. Identifying information (such as name, gender, and professional title) will be link-anonymised/coded and kept in a secure password protected document on a DCU Google Drive Folder (the services of DCU ISS will be used to ensure this is done correctly).
☐ Surveys/questionnaires	
☒ Audio/video recordings	The interviews (upon written consent from interview participants) will be audio recorded on a tablet purchased through the DCU purchase order system using the allocated software/hardware allowance provided by the Irish Research Council funding assigned to the researcher. The audio recordings will be password protected and kept on the DCU Google Drive Folder until transcription has been carried out,

	upon which the services of DCU ISS will be used to ensure that the voice recordings are correctly disposed of.
☐ Public observations	
☒ Persons in public office	Part of the semi-structured expert interviews will be carried out with professionals who are currently holding public offices related to counterterrorism sanctions regimes, such as the UN Office of Ombudsperson and the Office of the EU Counter-Terrorism Coordinator. Participants will not be asked to share political, personal, religious or other opinions beyond their professional experience within the field of counterterrorism.
☐ Using existing data (incl. secondary data)	
☐ Using human derived material (biological samples)	
☐ Standard tests (educational/personality etc.)	
☐ Standard educational practices	
☐ Other (please specify)	

2.5.1 Use of Artificial Intelligence in Research
Does the research make significant use of Artificial Intelligence such that ethical issues are raised? (See the DCU Guidance on the ethical use of Artificial Intelligence (AI) in Research available on the Research Ethics webpage)

Please tick as appropriate

Yes	No
	☒

If 'Yes', please confirm below that you have completed the Guiding Questions for Self-Assessment on the Ethical Use of AI in Research available on the Research Ethics webpage. Please attach completed Self-Assessment to this application form.

Self-Assessment Attached	N/A

2.6 Please list the Investigator qualifications, experience and skills relevant to conducting the research for this project (max 200 words).
Please complete for all investigators and specify who will be carrying out which elements of the research project.

All work on this research project, including interviews, transcription, and analysis, will be carried out by Virag Turcsan (PhD candidate at the DCU School of Law and Government) under the supervision of Dr. James Fitzgerald (DCU School of Law and Government).
The principal investigator has previously engaged with interview-based research during her Master's studies (Security, Intelligence and Strategic Studies degree awarded by the Consortium of the University of Glasgow, Dublin City University, and Charles University). The principal investigator has successfully completed the DCU Research Integrity Specialist Course: Research Involving Human Participants, Second Edition (Ireland) via Loop. Furthermore, the principal investigator has concluded relevant DCU-offered coursework and training modules deal with aspects of engaged research, including capacity, consent, data collection, ethics, research methods, data storage use, and retention.

2.7 Please confirm who the participants on this study will be, including group size and composition:
Include associated demographic characteristics, and state how your proposed sample size was determined (e.g. power analysis)

Approximately 20 interview participants will be recruited from the following groups, based on their expertise, experience, and familiarity with UN and EU counterterrorism sanctions regimes since 1999 to identify how stakeholders influenced the balance of security and liberty when it comes to these sanctions:

- Experts, policymakers, and technical and administrative personnel from international governmental organizations (primarily from the UN and EU); (10 interviews)
- Experts, policy advisors, and technical and administrative personnel from non-governmental organizations in the field of human rights advocacy; (3 interviews)
- Legal professionals who have engaged with the topic of UN counterterrorism sanctions and; (2 interviews)
- Academics who have contributed to sanctions processes through review, advice, or capacity-building (5 interviews)

The sample size was determined based on the limited number of experts within the field of counterterrorism sanctions as well as due to the specificity of the project's focus of UN and EU-related activity within the sanctions regimes. The research specifically touches upon the evolution of a new expert capacity regarding targeted counterterrorism sanctions since the inception of the UN 1267 sanctions regime in 1999. As a result, there exists a limited number of individuals in the field who possess the knowledge and experience sought by the research project, and thus, the number of interviews is set at around 20 in total.
All participants will have extensive knowledge and familiarity with the subject matter of the research project and will be engaged in their professional capacity inquiring after their professional expertise and experience. None of these groups present any risk, and none of these groups have any vulnerability requiring to be addressed specifically by the principal investigator. All participants will be informed of the research project in a plain language statement and will have signed an informed consent form prior to the interview.

2.8 Please outline your recruitment process, including where you are sourcing participants from and your criteria for inclusion/exclusion:
Where gatekeepers are involved, describe their role.

Interview participants will be recruited based on their professional expertise and experience within the field of UN and EU counterterrorism sanctions since 1999. Participants will be contacted through their professional organizations via the appropriate channels based on their familiarity and involvement with the research topic. They will be asked to participate in the present research project while being informed that it is not envisaged that there would be any physical, social, psychological, legal, economic or other risk to them. The research does not discuss any issues of personal criminality or illegal activity, nor is there any aspect of the research that would result in personal or professional embarrassment, regret, depression or other harm. Participants will be informed of the sources of funding and will be informed that they have the right to withdraw from the research project at any point.
Interviewees will be informed that there are no direct benefits to their participation in the research through their participation. They will not be remunerated in any way. Indirectly, their participation in the research project may benefit the wider governmental and international organizations based on the resulting policy recommendations provided in this research should they be considered by relevant organizations.
The principal investigator has previously worked within the UN system and has contacts with potential interview participants. Similarly, she is currently involved in a number of projects focusing on EU and OSCE involvement within the counterterrorism sanctions field and has made further contacts with legal professionals, academics, and human rights advocacy groups through previous projects, conferences, and other relevant professional events.

2.9 Addressing participant vulnerability. Please identify if your participants fall into any of the following categories by ticking the relevant box/boxes below. Describe the special arrangements being made to protect them.
If your participants are not in any of these categories, tick N/A

☒ N/A
☐ Children under 18 years of age

☐ Persons in unequal relationships with the researcher *(e.g. lecturer-student, therapist-client, employer-employee)*
☐ People with a recognised or diagnosed intellectual, physical or mental impairment
☐ People confined to institutions *(e.g. prisoners, residents in 24 hr nursing facilities)*
☐ People who have undergone traumatic or adverse emotional events
☐ People with diminished cognitive ability
☐ Marginalised sections of society
☐ Other (please specify)
Special arrangements:

2.10 Involvement of children under 18 years of age – if your participants are in this category, please confirm compliance with the following:
If your participants are not in this category, tick N/A

☒ N/A
☐ We confirm that we have read and agree to act in accordance with the DCU Child Protection policy and procedures (*as per the DCU Child Protection Unit webpage*)
☐ We confirm that we have put in place safeguards for the children participating in the research
☐ We confirm that we have supports in place for children who may disclose current or historical abuse (whether or not this is the focus of the research)
☐ We confirm that all requirements will be met prior to commencing the research *(e.g. TUSLA Children First Training completed, Garda Vetting in place)*

2.11 Please confirm how the results of the research will be disseminated:
In line with encouraging institutional Open Research practices, please note that the use of open access publishing is recommended. Further information on this is available via https://www.dcu.ie/library/open-research-open-access.
Please include a statement on whether the participants will be provided with any information as to the findings or outcomes of the project.

Upon conclusion of the research project, the finished PhD dissertation will be made available on open access via DCU's online, open-access research repository system (Doras). Furthermore, as the research project is funded by the Irish Research Council (IRC) via the IRC Government of Ireland Postgraduate Scholarship, the finished dissertation will be shared with the funding organization as well. The principal investigator anticipates further conference attendance, publications, and research presentation opportunities where the findings of this research might be disseminated with the proper acknowledgements, citations, funding information and relevant information including. In addition, the key findings and recommendations of this research will be compiled into a separate executive summary, which will be shared with research participants and other interested parties. The executive summary will also include details of how to access the full dissertation on the DCU platform.

SECTION 3 – ETHICAL ISSUES AND RISK MANAGEMENT

3.1 Please identify all ethical issues which may arise in the course of this research. Describe how these may incur potential risks to participants and the steps being taken to address or minimise them?

Potential risks can be physical, psychological, social, legal, etc. Please include details of any additional support being provided for participants during/after the study.

Interview participants will be contacted and recruited, in their professional capacity, based on their professional expertise and experience within the field of UN and EU counterterrorism sanctions since 1999. They will be asked to participate in the present research project while being informed that it is not envisaged that there would be any physical, social, psychological, legal, economic or other risk to them. The research does not discuss any issues of personal criminality or illegal activity, nor is there any aspect of the research that would result in personal or professional embarrassment, regret, depression or other harm.
Identifying information (Such as name, gender, and professional title) will be link-anonymised/coded and kept in a secure password-protected document on a DCU Google Drive Folder (the services of DCU ISS will be used to ensure this is done correctly). The interviews (upon written consent from interview participants) will be audio recorded on a tablet purchased through the DCU purchase order system using the allocated software/hardware allowance provided by the Irish Research Council funding assigned to the researcher. The audio recordings will be password protected and kept in the DCU Google Drive Folder until transcription has been carried out, upon which the services of DCU ISS will be used to ensure that the voice recordings are correctly disposed of.

3.2 Please identify the potential benefits (direct and/or indirect) to those participating in this research:

Potential benefits should outweigh the potential risks to participants – this section should never be blank.

Interview participants will be informed that there are no direct benefits to their participation in the research through their participation. They will not be remunerated in any way, directly or indirectly.
Indirectly, their participation in the research project may benefit the wider governmental and international organizations based on the resulting human-rights oriented policy recommendations provided in this research should they be considered by relevant organizations.

3.3 Please describe what measures/protocols you have put in place in the event of any unexpected outcomes or adverse effects to participants arising from involvement in the research:

Participants will be informed that their identifying information (such as name, gender, professional title) will not be disclosed in the research output. All information gathered at interviews will be held in accordance with the requirements of GDPR as well as the 2018 Data Protection Act of Ireland.
The data collected in this research will not be shared with any third party. It will be used solely for the purposes of this research as outlined above.
Participants will be informed that confidentiality of information can only be protected within the limitations of the law - i.e., it is possible for data to be subject to subpoena, freedom of information claim or mandated reporting by some professions.
Participants will be provided with information regarding their right to lodge a complaint concerning the use of personal data with the Irish Data Protection Commission.
Furthermore, they will be provided with information in case they have concerns about the research project and wish to contact an independent person, please contact: The Secretary, Dublin City University Research Ethics Committee, c/o Research and Innovation Support, Dublin City University, Dublin 9. Tel 01-7008000, e-mail: rec@dcu.ie.

3.4 Do you intend to provide payment or incentives to participants?

Yes ☐	No ☒

If Yes, please consult the REC Guidelines on the Use of Compensation and Incentives (in the Ethics Resources and Guidelines section of the DCU Research Ethics webpage) before providing additional details below.

3.5 Does this research raise any potential risks for the researchers themselves?
Please consider the location/environment where the research is being conducted, exposure to distressing data content etc.

Yes ☐	No ☒

If Yes, please describe further and explain what risk management procedures will be put in place to minimise these risks to researchers:

3.6 Please confirm how the research is being funded:

Self-funded ☐	Externally funded ☒

Include details of any external funding of the research, whether in part or in full. If the research is externally funded, please include this information in the Participant Information Sheet/s.

The research project is fully funded by the Irish Research Council under project number GOIPG/2022/1369.

3.7 Does this research raise any potential conflict of interest?
Please consider any potential real or perceived conflicts of interest that might influence the integrity of the research, or give rise to bias in conducting and reporting the research, or affecting publication (consult the DCU Conflict of Interest Policy for assistance).

Yes ☐	No ☒

If Yes, please identify and explain the steps being taken to address that conflict:

3.8 Please describe how the conduct of the research will be monitored:
Regular oversight by the PI is required to ensure the project conforms to the procedures set out in this application (especially where several people are involved in carrying out the research procedures).

Virag Turcsan is the principal investigator of this research, she is a PhD candidate in the School of Law and Government. All aspects of the research (interviews, transcription, analysis, etc) will be carried by the principal investigator. The research is being conducted under the supervision of Professor James Fitzgerald in the School of Law and Government.

SECTION 4 – CONFIDENTIALITY AND DATA MANAGEMENT

4.1 Considering your previous response in section 2.5 of the form, please confirm whether you are collecting or processing personal data in this research project:
Personal data is any information about a living person, where that person is either identified, or could be identified from the data itself, or when it is combined with other data. This includes paper based, electronic and biological samples data. If your data is fully and completely anonymous, it is not personal data.
***N.B. Researchers are advised to anonymise potentially identifiable data as soon as possible in the research process**. Where relevant, researchers are advised to ensure participants are advised not to include any personally identifying information in any free-text space/s in anonymous questionnaires/surveys.*

Yes ☒	No ☐

If Yes, please confirm your compliance with the following by ticking the checkboxes:

☒ We confirm that we have completed the DCU Data Protection training module on Loop.
☒ We confirm that we have read the "Data Protection – Key Points for DCU Researchers" guidance on the DCU Data Protection Unit (DPU) website and agree to protect and manage our data in accordance with same.
☒ We have assessed the degree of risk inherent in the personal data being used in the research project, and confirm that all DPU GDPR requirements have been met prior to submitting this application *(e.g. completion of Data Protection questionnaire, confirmation that any survey tool being used is GDPR compliant, that required Data Processing or Sharing Agreements will be in place, etc.)*

4.2 Access to data – please confirm whether access to participant data isconfined to the investigators named on this application:

Yes ☒	No ☐

If No, please name who the other individuals are and why they need access. Any proposed transfer of data (including outside of the EU) should be detailed here.

4.3 Data storage – please confirm compliance with the following:

☒ Data collected on mobile devices will be protected with a strong password/passphrase at a minimum, and/or encrypted if the device supports it
☒ Data will be removed from mobile devices as soon as is practicable and stored in a secured location in DCU (on server or institutional Google Drive)
☐ Paper based data will be held securely in locked cabinets in DCU, with access restricted to the named researchers
Specific arrangements in relation to biological samples should be stated here:
Any exemptions to the above compliance statements should be justified here:

4.4 Please confirm who will be responsible for the secure storage of data generated by the research:
Name the relevant DCU investigator/s.

Virag Turcsan

4.5 Please confirm how long the data will be held for:
For personal data, consult section 15: Retention of Personal Data in the "Data Protection – Key Points for DCU Researchers" guidance on the DCU Data Protection Unit (DPU) website.

Data will be retained for 6 months following the principal investigator's successful completion of this PhD research project. Should the principal investigator's research not conclude within 2 years of data collection, the data will be destroyed.

4.6 Please confirm the procedure for managing study data at the completion of the research project:
Please tick the relevant checkbox and complete the associated follow-up section for that category.

Archived ☐	Destroyed ☒	Other ☐

4.6.1 Archived data (data that will be retained beyond the completion of the project)
In line with encouraging institutional Open Research practices, please note that the use of trusted data repositories or archives is recommended. Further information is available via https://www.dcu.ie/library/open-research-fair-data
Please provide the following details:

Name the DCU staff member responsible for archival and future use of data	Virag Turcsan	
Confirm whether the data will be made available to other researchers, and if so, how?	No, the data will not be made available for other researchers.	
Confirm how the data will be prepared for archive (e.g. will datasets be anonymised)	Identifying information (such as name, gender, and professional title) will be link-anonymised/coded and kept in a secure password-protected document in a DCU Google Drive Folder (the services of DCU ISS will be used to ensure this is done correctly).	
Confirm where the data will be archived and who will be allowed to access it	Participant data will be stored in an appropriately secured DCU Google Drive Folder, accessed only by the principal investigator. The services of DCU ISS will be used to ensure this is done correctly.	

4.6.2 Destroyed data (data that will be destroyed once the research has been completed)
Please provide the following details – Note: for student projects, the supervisor must take responsibility for data destruction if there is no guarantee the student will have access to the data at the time of destruction.

Please justify why the data will be destroyed	With the conclusion of the IRC-funded PhD dissertation research, any follow-up projects would have to be based on newly acquired information and therefore the data collected in the current research project should be securely disposed of.
Name the DCU researcher responsible for destruction of data	Virag Turcsan

Confirm when the data will be destroyed (specify date)	6 months after the successful completion of the principal investigator's PhD research project (1 April 2026).
Confirm compliance with the following destruction methods (tick relevant boxes)	☒ Electronic data will be overwritten/securely deleted ☐ Paper based data will be confidentially shredded ☐ Medical samples will be disposed in accordance with the relevant DCU approved SOP

4.6.3 Other - Please explain what will happen to the data if not being archived or destroyed:

SECTION 5 – PARTICIPANT INFORMATION AND INFORMED CONSENT PROCEDURES

5.1 Please confirm that the following items have been addressed in your Participant Information Sheet:
The items should be used as headings in the information sheet. Note the language used under each item must reflect the participant age group and corresponding comprehension level– if your participants have different comprehension levels (e.g. both adult and child participants) then separate sheets must be prepared for each set. Templates are available via the REC Forms - Applications, Templates and Amendments section of the Research Ethics website.

Checklist – tick the relevant check box for each item	Yes	No
Introductory Statement (Researcher names and titles, school, title of the research study)	☒	☐
What is this research about?	☒	☐
Why is this research being conducted?	☒	☐
Why have you been invited to take part?	☒	☐
What will happen if you decide to take part in this research study?	☒	☐
How will your data be used?	☒	☐
How will your privacy be protected (including any legal limits to confidentiality)?	☒	☐
What are the benefits of taking part in this research study?	☒	☐
What are the risks of taking part in this research study?	☒	☐
Can you change your mind at any stage and withdraw from this study?	☒	☐
How will you find out what happens with this project?	☒	☐
Contact details for further information	☒	☐

If you marked any item as No, please explain and justify why:

5.2 Informed Consent Procedures – please confirm whether written consent is to be obtained:
Please tick the relevant checkbox

Yes ☒	No ☐

If Yes, describe the procedures by which written consent will be obtained. If you are involving child participants, you will also need to obtain their written assent. Templates are available via the REC Forms - Applications, Templates and Amendments section of the Research Ethics website.

Participants will be provided with a description of the research in a plain language statement and the written consent form prior to agreeing to engage with the study. They will be asked to read and fill out the form, and sign the written consent form either via physical or electronic signature.

If No, describe the procedures regarding how consent/assent will be obtained:

SECTION 6 – SUBMISSION CHECKLIST AND RESEARCHER DECLARATION

6.1 Please confirm all required supplementary documentation to be included in this application within Section 7:

Checklist – tick the relevant check box for each item	Yes	N/A
Participant Information Sheet/s (Template used)	☒	☐
Informed Consent Form/s (Template used)	☒	☐
Informed Assent Form/s (Template used)	☐	☒
Recruitment Advertisement	☐	☒
Questionnaire/Survey	☐	☒
Interview/Focus Group Questions	☒	☐
Debriefing Material	☐	☒
References	☐	☒
Self-Assessment Form on use of AI in research	☐	☒
Approval from another Research Ethics Committee	☐	☒
Evidence of other external approvals (e.g. Board of Management letter)	☐	☒
Evidence of internal approvals (e.g. BSC approval review letter)	☐	☒
Other – provide details here:	☐	☒

6.2 Signed Declaration
By submitting this form, the applicant (and supervisor if applicable) agree/s to the following:

The information contained herein is, to the best of my knowledge and belief, accurate. I have read the University's current research ethics guidelines, and accept responsibility for the conduct of the procedures set out in the attached application in accordance with the form guidelines, the REC guidance and resources, the University's Conflict of Interest Policy, its Code of Good Research Practice and any other condition laid down by the Dublin City University Research Ethics Committee. I have attempted to identify all risks related to the research that may arise in conducting this research and acknowledge my obligations and the rights of the participants.

I also acknowledge my requirement to be informed as to other duties and legal obligations applying to my research, and to comply with these duties and obligations – this includes being informed about DCU Data Protection guidelines for researchers, DCU Child Protection policy and procedures (where relevant) and DCU Insurance requirements.

I and my co-investigators and/or supporting staff have the appropriate qualifications, experience and facilities to conduct the research set out in the attached application and to deal with any emergencies and contingencies related to the research that may arise. Research will not commence until required consents and approvals are in place.

Electronic Signature(s): Please include the names and signatures of all those who will contribute significantly to the research project.
For student projects the supervisor must be listed as Principal Investigator, and sign here. The student can be named and sign underneath.

Principal Investigator(s)/Main Supervisor: Dr. James Fitzgerald

Print Name(s) here: Dr. James Fitzgerald

Date: 7 February 2025

Electronic signature of student researcher (if applicable)

Student researcher's signature: Virag Imola Turcsan

Print Name here: Virag Imola Turcsan

Date: 7. 02. 2025.

SECTION 7 – SUPPLEMENTARY DOCUMENTATION

Please attach all required documentation as confirmed by you in the previous section. The application should then be saved as one file in PDF format before submission via the Research Ethics Application Portal on Loop

DUBLIN CITY UNIVERSITY
Informed Consent Form

Research Title: Timely Expansion of the Security-Liberty Balance: Norm Convergence between the UN and EU Counterterrorism Sanctions Regimes

Virag Turcsan (virag.turcsan3@mail.dcu.ie), the principal investigator/researcher, is a PhD candidate in the School of Law and Government at Dublin City University (DCU). Her research project is funded by the Irish Research Council. The research is being conducted under the supervision of Dr. James Fitzgerald (james.fitzgerald@dcu.ie) in the School of Law and Government at Dublin City University.

Clarification of the purpose of the research
The research aims to investigate the ways in which human rights protections have been approached by the UN Security Council's targeted counterterrorism sanctions regime since 1999. The research further aims to uncover if and how the European Union and related organizations have influenced the work of the UN Security Council when it comes to human rights protections within the targeted sanctions. The goal of the research project is to identify avenues through which the European Union was successful in directing the UN Security Council's objectives regarding international counterterrorism strategies and analyze whether this approach can be used as a framework for other topics of interest such as climate change or immigration policy.

My role in the research
In relation to the present research project, I will be asked to participate in a semi-structured expert interview in my professional capacity, lasting approximately 45-60 minutes.
I understand that my participation in this research is voluntary and I will not be compensated directly or indirectly.

I understand that my personal data will not be disclosed in the research output. All information gathered at interviews will be held in accordance with the requirements of GDPR as well as the 2018 Data Protection Act of Ireland.

I have been informed that all gathered data will be kept in a secure document stored on Dublin City University's Google storage, and all data will be destroyed under the supervision of DCU Information Systems Services 6 months after the successful completion of this research project. If the research is not completed within 2 years of the data collection, the data will be destroyed in like manner at the time. The data collected in this research will not be shared with any third party. It will be used solely for the purposes of this research as outlined above.

Confirmation of particular requirements as highlighted in the Plain Language Statement

Please complete the following (Circle Yes or No for each question)	
I have read the Plain Language Statement (or had it read to me)	*Yes/No*
I understand the information provided	*Yes/No*
I have had an opportunity to ask questions and discuss this study	*Yes/No*
I have received satisfactory answers to all my questions	*Yes/No*
I am aware that my interview will be audio-recorded	*Yes/No*

Confirmation that involvement in the Research Project is voluntary
I understand that I have the right to withdraw from participation at any point and none of the information shared by me will be included in the research contrary to my consent.

Signature:

I have read and understood the information in this form. My questions and concerns have been answered by the researchers, and I have a copy of this consent form. Therefore, I consent to take part in this research project.

Participants Signature: _____

Name in Block Capitals: _____

Witness: _____

Date: _____

DCU
Ollscoil Chathair
Bhaile Átha Cliath
Dublin City University

DCU Research Ethics Committee
Participant Information Sheet

Introductory Statement
Virag Turcsan (virag.turcsan3@mail.dcu.ie), the principal investigator/researcher, is a PhD candidate in the School of Law and Government at Dublin City University (DCU). Her research project is funded by the Irish Research Council via the IRC Government of Ireland Postgraduate Scholarship.
The research is being conducted under the supervision of Dr. James Fitzgerald (james.fitzgerald@dcu.ie) in the School of Law and Government at Dublin City University.

What is this research about?
The research aims to investigate the ways in which human rights protections have been approached by the UN Security Council's targeted counterterrorism sanctions regime since 1999. The research further aims to uncover if and how the European Union and related organizations have influenced the work of the UN Security Council when it comes to human rights protections within the targeted sanctions.

Why is this research being conducted?
The goal of the research project is to identify avenues through which the European Union was successful in directing the UN Security Council's objectives regarding international counterterrorism strategies and analyze whether this approach can be used as a framework for other topics of interest such as climate change or immigration policy.

Why have you been invited to take part?
Your role in this research project will be to share with the researcher your professional expertise and experience regarding the relationship between human rights protection and security within targeted counterterrorism sanctions at the EU and UN levels since 1999. You will participate in a semi-structured expert interview lasting approximately 45-60 minutes to discuss your insight into the research topic.

What will happen if you decide to take part in this research study?
After discussing the particular details of the interview and upon reading and completing the written consent form, you will be asked a series of questions relating to the security-liberty balance of counterterrorism sanctions and your related professional expertise and experience. The interview will last approximately 45-60 minutes. Upon your agreement, the interview will be audio-recorded. After the interview, the audio-recording will be transcribed within 10 business days and shared with you for final content approval. There will be no preparation required for the interview, nor will you be asked to engage in follow-up interviews or activities.

How will your data be used?
Your data will be collected, processed, and stored by the principal investigator/researcher, Virag Turcsan (virag.turcsan3@mail.dcu.ie), a PhD candidate at Dublin City University, under the supervision of Dr. James Fitzgerald (james.fitzgerald@dcu.ie).
The DCU Data Protection Officer is Mr. Martin Ward (data.protection@dcu.ie), who will handle any data protection concerns arising from the research.
Identifying information (such as your name, gender, and professional title) will be link-anonymised/coded and kept in a secure password-protected document on a DCU Google Drive Folder provided through the DCU Information Systems Services.
All data gathered through the interview will be destroyed under the supervision of DCU Information Systems Services 6 months after the successful completion of this research project. If the research is not completed within 2 years of the data collection, the data will be destroyed in like manner at the time.
The data collected in this research will not be shared with any third party. It will be used solely for the purposes of this research as outlined above.
Your identifying information will not be disclosed in the research output. All information gathered at interviews will be held in accordance with the requirements of GDPR as well as the 2018 Data Protection Act of Ireland.
You have the right to lodge a complaint concerning the use of personal data with the Irish Data Protection Commission.

You have the right to access your own personal data and your Informed Consent Form via contacting the principal investigator/researcher, Virag Turcsan (virag.turcsan3@mail.dcu.ie), or alternatively by contacting the Data Protection Officer, Mr. Martin Ward (data.protection@dcu.ie).

How will your privacy be protected (including any legal limits to confidentiality)?
Identifying information (such as your name, gender, and professional title) will be link-anonymised/coded and kept in a secure password-protected document on a DCU Google Drive Folder provided through the DCU Information Systems Services.
Your identifying information will not be disclosed in the research output. All information gathered at interviews will be held in accordance with the requirements of GDPR as well as the 2018 Data Protection Act of Ireland.
The data collected in this research will not be shared with any third party. It will be used solely for the purposes of this research as outlined above.
Please note that confidentiality of information can only be protected within the limitations of the law - i.e., it is possible for data to be subject to subpoena, freedom of information claim or mandated reporting by some professions.

What are the benefits of taking part in this research study?
You should note that there are no direct benefits to their participation in the research through your participation. You will not be remunerated in any way.
Indirectly, your participation in the research project may benefit the wider governmental and international organizations based on the resulting policy recommendations provided in this research should they be considered by relevant organizations.

What are the risks of taking part in this study?
It is not envisaged that there would be any physical, social, psychological, legal, economic or other risk to you through your participation in this research. The research does not discuss any issues of personal criminality or illegal activity, nor is there any aspect of the research that would result in personal or professional embarrassment, regret, depression or other harm.

Can you change your mind at any stage and withdraw from this study?
Your participation in this research is a choice. You can change your mind regarding your participation at any stage before, during or after the interview. None of the information shared by you will be included in the research contrary to your consent. Personal data gathered prior to or during the interview, as well as the data collected during the interview, will be destroyed within 15 business days upon reception of your withdrawal from the research. Please contact the principal investigator/researcher, Virag Turcsan (virag.turcsan3@mail.dcu.ie) in order to withdraw your consent.

How will you find out what happens with this project?
Upon conclusion of the research project, the finished PhD dissertation will be made available on open access via DCU's online, open-access research repository system (Doras). Furthermore, as the research project is funded by the Irish Research Council (IRC) via the IRC Government of Ireland Postgraduate Scholarship, the finished dissertation will be shared with the funding organization as well.
In addition, the key findings and recommendations of this research will be compiled into a separate executive summary, which will be shared with research participants and other interested parties. The executive summary will also include details of how to access the full dissertation on the DCU platform.

Contact details for further information:
Should you require further information regarding this research project, please contact the principal investigator/researcher, Virag Turcsan (virag.turcsan3@mail.dcu.ie).
If you have concerns about this study and wish to contact an independent person, please contact: The Secretary, Dublin City University Research Ethics Committee, c/o Research and Innovation Support, Dublin City University, Dublin 9. Tel 01-7008000, e-mail: rec@dcu.ie

Sample Interview Questions

The approximately 20 semi-structured expert interviews will be conducted after the conclusion of the document analysis and event history analysis phase of the research project, upon which the principal investigator/researcher will have identified key moments and legislative action where the interview participants may have additional insight to share related to their professional experience and expertise. Participants will be asked to share their insight regarding the evolution of security-liberty balance within UN and/or EU targeted counterterrorism sanctions since 1999. Some participants will have extensive professional experience related to human rights protections within the sanctions regimes, while others will have more limited but crucial exposure to the specifics of the sanctions through their careers.
Participants will also be given the opportunity to contribute on matters of interest to them that may not have been covered by the interview questions.

See below a sample list of questions and prompts which participants will be provided with in advance of interviews. Depending on the expertise of the participants, following the framework of semi-structured interviews, certain additional and follow-up questions might be introduced during the interview to further explore specific topics mentioned during the interview.

1. Please briefly describe your professional background and connection to the field of counterterrorism sanctions.
2. Have you ever, and if so, in what capacity, worked within the UN or EU targeted counterterrorism sanctions regimes since 1999?
3. What was your role during your involvement with the above-mentioned sanctions?
4. Through what organization/agency/government have you encountered the sanctions?
5. For how long did you work on topics related to counterterrorism sanctions?
6. Was that your main portfolio?
7. Approximately how much time, on average, did you spend during your workweek dealing with the topic of counterterrorism sanctions?
8. Please describe your familiarity with the concept of the security-liberty balance and whether you have encountered the topic during your professional experience within the field of counterterrorism.
9. Have you engaged, in your professional capacity, in discussions regarding the protection of human rights and fundamental freedoms in relation to the targeted sanctions?
    a. If so, how frequently did the topic arise?
    b. What action was taken by your organization/agency/government in relation to human rights protections?
    c. What action were you assigned to take within your professional capacity?
    d. What strategy/approach, if any, did your organization/agency/government develop regarding the protection of human rights within counterterrorism sanctions?
        i. Was that strategy widely shared within the organization?
        ii. Was that strategy an overall priority in the activities of the organization?
    e. Have you been invited to negotiations, trainings, workshops, etc regarding the improvement of human rights protections within UN and/or EU counterterrorism sanctions?
        i. What other organizations/agencies/governments were involved at such events?
        ii. Were there follow-up actions/agreements?
10. Have the different court rulings on the topic, such as the Kadi or Nada cases, been discussed at your workplace related to counterterrorism strategy?
    a. If so, what impact, if any, did these court rulings have on the actions of your organization/agency/government regarding their engagement with the sanctions regime?
    b. Has your organization/agency/government altered their approach to the sanctions based on a specific court ruling, if so, which one and to what extent?
11. What standards/best practices, if any, did your organization follow regarding targeted counterterrorism sanctions?
12. What other organisations/agencies/governments did your workplace cooperate or collaborate with regarding the sanctions, and how extensive was such an inter-organizational engagement?

Appendix L
Table 12: Timing of interviews

Timing of the interview	**Theory-building stage**	They can be used to support scholars in finding causal links and facilitate theory-building at the start of the research process.[1760]
	Theory-testing stage	Interviews can also be used during the theory-testing stage of the research process to investigate the reliability of previously identified causal mechanisms.[1761]
	Feedback stage	Interviews can be conducted at later stages of the research process so that researchers can "gain feedback on their proposed theories and causal mechanisms."[1762]

[1760] Greenstein and Mosley, 'When Talk Isn't Cheap', 4.
[1761] Ibid.
[1762] Ibid, 6.

Appendix M
Table 13: Expert's view of the researcher

Co-expert	The expert can view the interviewer as a co-expert with specialist competence and thus allow for a "symmetrical interaction" and ask numerous counterquestions.[1763]
Lay-person	The expert can also define the interviewer as a lay-person with low levels of specialist knowledge of the field and opt for a more asymmetrical interaction with the expert delivering paternalistic monologues.[1764]
Authority	At times, the researcher can be viewed as authority with evaluating power and the expert might use a legitimating strategy during the interview to highlight the importance of their experience.[1765]
Accomplice	Similarly to the co-expert perspective, sometimes interviewers are seen as accomplices who share secret knowledge of the field and thus the expert may speak in a more informal and personal manner.[1766]
Critic	The researcher can also be seen as a potential critic where the expert rejects the interviewer and limits their input during the interaction.[1767]

[1763] Bogner and Menz, 'The Theory-Generating Expert Interview', 68.
[1764] Ibid.
[1765] Ibid.
[1766] Ibid.
[1767] Ibid.

Appendix N

Table 14: Gender-specific interaction types during expert interviews

Paternalistic role	The expert can take on a paternalistic role where the "female scientist is perceived as acceptably incompetent."[1768]
Catharsis effect	Arises when the expert views the interview as a platform to share professional dissatisfaction and strays off-topic.[1769] Female researchers can be seen as less threatening and thus are often faced with the catharsis effect during interviews, however, this type of effect can still yield valuable information into the thought processes of the expert.[1770]
Iceberg effect	Takes place when the expert is disinterested and unwilling to share information with the researcher due to the researcher's gender and lower status.[1771]
Feedback effect	Entails the expert's attempts to reverse the roles and ask a number of questions from the researcher.[1772] As the researcher herself becomes an expert in the subject matter during the project, with specific and targeted questions she can demonstrate her knowledge of the topic and thus make the expert lose interest in trying to ask counter-questions.[1773]
Profile effect	The expert may seek to 'show off' in front of the female researcher to prove his high profile in the field.[1774]The profile-effect that female researchers can encounter during interviews can prove to be quite useful as the expert is very willing to share information.[1775]

[1768] Abels and Behrens, 'Interviewing Experts in Political Science', 145.
[1769] Ibid, 146.
[1770] Ibid.
[1771] Ibid, 146–47.
[1772] Ibid, 148.
[1773] Ibid.
[1774] Ibid, 149.
[1775] Ibid.

Appendix O
Figure 15: DCU REC Approval Letter

Ollscoil Chathair Bhaile Átha Cliath
Dublin City University

DCU

Virag Turcsan
School of Law and Government

5th March 2025

REC Reference: **DCUREC/2025/033 (Notification Review)**

Proposal Title: **Timely Expansion of the Security-Liberty Balance: Norm Convergence between the UN and EU Counterterrorism Sanctions Regimes**

Applicant(s): Virag Turcsan, Dr James Fitzgerald

Dear Colleague(s),

Thank you for your application to DCU Research Ethics Committee (REC). Further to its review by the committee and resting on the assumption of information accuracy and completeness, DCU REC is pleased to issue ethical approval for this research project. Please include reference to this approval in all materials used to recruit research participants.

Researchers are responsible for ensuring that the research project to which this ethical approval refers is carried out as specifically described in the application form. Should modifications to the research project be required at a later stage, researchers must submit a research amendment application form to REC for approval, prior to the implementation of modifications.

Please note that it is the responsibility of the PI to ensure that any other DCU compliance requirements relevant to the research project, such as those related to data protection, insurance, health and safety, or legal issues, are fully met in advance of initiating the project.

As part of DCU REC's ongoing monitoring process, a research progress report may be required. DCU REC will request this report from the PI as appropriate.

DCU REC wishes you every success in your research.

Yours sincerely,

DCU
Research & Innovation

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Dr Melrona Kirrane
Chairperson
DCU Research Ethics Committee

Note: Please retain this approval letter for future publication purposes.
Research students should include this letter as a thesis appendix.

Appendix P

Table 16. UNSC Resolutions related to the 1267 counterterrorism sanctions regime[1776]

Resolution	Date adopted	Meeting length	Voting results			Drafting members	UNSC non-P5 members	UNSC President
			Yes	No	Abstain			
1267	15 Oct 1999	25 min	15	0	0	Canada, Netherlands, Russian Federation, Slovenia, UK, US	Argentina, Bahrain, Brazil, Canada, Gabon, Gambia, Malaysia, Namibia, Netherlands, Slovenia	Russian Federation
1333	19 Dec 2000	1h25min	13	0	China, Malaysia	India, Kyrgyzstan, Russian Federation, Tajikistan, US	Argentina, Bangladesh, Canada, Jamaica, Malaysia, Mali, Namibia, Netherlands, Tunisia, Ukraine	Russian Federation
1363	30 July 2001	5 min	15	0	0	Colombia	Bangladesh, Colombia, Ireland, Jamaica, Mali, Mauritius, Norway, Singapore, Tunisia, Ukraine	China
1368	12 Sept 2001	45 min	15	0	0		Bangladesh, Colombia, Ireland, Jamaica, Mali, Mauritius, Norway, Singapore, Tunisia, Ukraine	France
1373	28 Sept 2001	5 min	15	0	0		Bangladesh, Colombia, Ireland, Jamaica, Mali, Mauritius, Norway, Singapore, Tunisia, Ukraine	France

[1776] UNSC, 'UN Security Council Meetings & Outcomes Tables', 2001.

Appendix Q

Table 17. Organisational pathway actors between 1999 and 2001

UN sanctions-specific actors	Other specialised UN agencies	International institutions	Regional bodies, NGOs, national institutions	Norm entrepreneurs
UNSC	UNGA	Financial Action Task Force (FATF)	European Union	Counterterrorism scholars/experts
1267 Committee	Ad Hoc Committee on Terrorism (1997) – supported by a Working Group in the Sixth Committee (established 22 September 1997)	International Criminal Police Organisation (INTERPOL)	Interlaken Process (Watson Institute)	Leaders/decision-makers of domestic organisations (such as heads of security establishments)
Committee of Experts on Afghanistan	International Convention for the Suppression of Terrorist Bombings (1997)	International Civil Aviation Organisation (ICAO)	Bonn-Berlin Process (Bonn International Centre for Conversion – renamed Bonn International Centre for Conflict Studies in 2021)	Diplomats
Monitoring Group	International Convention for the Suppression of the Financing of Terrorism (1999)	World Customs Organisation (WCO)	Stockholm Process (Department of Peace and Conflict Research of Uppsala University)	
Informal Working Group on General Issues of Sanctions	Office of the High Commissioner for Human Rights (OHCHR)			
Member States	High Commissioner for Human Rights			
	United Nations Office on Drugs and Crime			

	(UNODC): Terrorism Prevention Branch (TPB) – dedicated human rights officer			
	The Office of Rule of Law and Security Institutions (OROLSI) of the Department of Peacekeeping Operations (DPKO)			
	UN Secretariat Department of Political Affairs			

Appendix R

Table 18. Directional balance shift of norms convergence pathways between 1999 and 2001

Year	Convergence pathway				Overall shift in balance
	Politico-Strategic	Organisational	Procedural	Legal	
1999					
2000					
2001					

Graph key:

Security-Liberty Balance shift	
Shift towards Security norms	
Shift towards Liberty norms	
No shift in balance	

Appendix S

Table 19: Monitoring Group Reports' Summary 2002-2003

MG Report	Convergence Pathways				Critiques/ Concerns	Statistics
	Procedural	**Politico-Strategic**	**Organisational**	**Legal**		
S/2002/541 (15 May 2002) [1777]	Issues with list identifiers (names, spelling, transliteration, titles)	2002 International Convention for the Suppression of the Financing of Terrorism	Enhanced MS cooperation	2002 International Convention for the Suppression of the Financing of Terrorism	Broad, comprehensive & challenging mandate	43 MS reports
	Chronological order over alphabetical	Broad & complex mandate	CTC		List identifiers	144 MS terrorism blocking orders
	Lack of resources	Banking officials unaware of list	FATF resources			103.8M USD blocked globally
		Arms embargo & travel ban concerns				
		CTC				
S/2002/1050 (19 Sept 2002) [1778]	Clarification and scope of terms such as "funds," & "humanitarian exceptions"	Proliferation of national lists	Transnational counterterrorism organisations and agreements	Confidentiality, & privacy concerns	Proliferation of national and bilateral lists	10M additionally frozen (total 112M USD)
	Lack of guidance and criteria for adding new names	Transnational counterterrorism organisations and agreements		Court cases and legal challenges	Stalling of further financial asset freezes	166 countries: terrorism blocking orders
		Guidelines for de-listing			Lack of listing guidance	
S/2002/1338 (17 Dec 2002) [1779]	New listed associates conforming to cultural usage of names	Guidelines for listing and de-listing	160 stakeholders have taken new action by September 2002	De-blocking activity due to legal obstacles faced by MS	Humanitarian exemption guidelines	79 States submitted reports
	1267 Committee updated & reformulated the list		IMF, World Bank, IBRD, SIS all intensified their engagements		Arrest warrants to be included in listing information	16 individuals, 22 entities added
	Guidelines for listing: narrative description, justification for listing		Serious gaps remain in engagement with sanctions measures		Inability to assess the level of compliance due to the limited number of reports submitted	3 individuals, 3 entities de-listed

[1777] UNSC Monitoring Group, *First MG Report (1390)*.
[1778] UNSC Monitoring Group, *Second MG Report (1390)*.
[1779] UNSC Monitoring Group, *Third MG Report (1390)*.

	Guidelines for de-listing process					
S/2003/669 (8 July 2003) [1780]	Lack of appropriate identifiers	Group of experts reappointed under Res 1455 (2003)	FATF report on lack of adequate means to control money laundering	15% of reports mention legal action against national authorities	Hawala system	51 reports submitted by states under Resolution 1455 (2003)
	Transcribing issues	Travel ban has little value beyond "political statement"	Wolfsberg Group in EU, & Intercept Forum in US to identify useful patterns of terrorist funding behaviour	European Commission and Council of the European Union also face lawsuits at the CJEU		125M USD frozen since 9/11, of which 59.2M belongs to AQ, 39M to the Taliban
	Spelling variations	Universal awareness of travel ban				
	Very common, double names	Lack of MS reporting				
	Important arrests made					
S/2003/1070 (2 Dec 2003) [1781]	Lack of awareness of UNSCR 1455 (2003) and resources	Lack of political will at UN level	Counterterrorism Action Group (by Group of Eight)		Lack of additional identifying information submitted	83 reports submitted assessed by MG
	Lack of awareness of Committee & MG	UN risks becoming marginalized in CT			Limited number of new listing proposals	66 states reported under both resolutions
	Persistent, systemic weaknesses with list	Counterterrorism Action Group to build political will to fight terrorism	Lack of whole-of-UN-MS cooperation and collaboration on fighting terrorism		Continued, persistent issues with the list	88 states did not submit reports
						20 reports under UNSCR 1390 (2002) only
	Continued lack of identifying information	Lack of MS assistance and cooperation			Lack of political will to fight terrorism	17 reports under UNSCR 1455 (2003) only

[1780] UNSC Monitoring Group, *Fourth MG Report (1455)*.
[1781] UNSC Monitoring Group, *Fifth MG Report (1455)*.

Appendix T
Table 20: CTC 2003 briefings' summary

CTC briefing	Human rights protection	Terrorism definition	International Cooperation	UN subsidiary organs & entities; Other organisations mentioned	UN resolutions mentioned	Other topics discussed
20 Feb 2003 (S/PV.4710)[1782]	X	X	X	Ad Hoc Committee (UNGA); 1267 Committee; United Nations High Commissioner for Human Rights; Terrorism Prevention Branch of the Centre for International Crime Prevention Organisation of American States; European Union	UNSCR 1373 (2001); UNSCR 1456 (2003); UNGA 51/210 (1996) - Ad Hoc Committee; UNGA 57/219 (2002); UNGA 48/122 (1993)	
4 April 2003 (S/PV.4734)[1783]	X	X	X	International Atomic Energy Agency; Organisation for the Prohibition of Chemical Weapons; World Customs Organisation; Interpol; Human Rights Commission; High Commissioner for Human Rights; 1267 Committee; Ad Hoc Committee of the General Assembly; Council of Europe; Organisation for Security and Cooperation in Europe;	UNGA 57/219 (2002); UNSCR 1267 (1999); UNSCR 1373 (2001); UNSCR 1455 (2003); UNSCR 1456 (2003)	CTC Website; Technical assistance; EU definition of terrorism; Reporting guidelines; Listing capabilities; Rules of conduct

[1782] *4710th Meeting*.
[1783] *4734th Meeting*.

				United Nations Office on Drugs and Crime; Terrorism Prevention Branch of the Centre for International Crime Prevention		
6 May 2003 (S.PV.4752)[1784]	X	X	X	World Bank; International Monetary Fund; Group of Eight; EU; 1267 Committee; Commission on Human Rights	UNSCR 1267 (1999); UNSCR 1390 (2002); UNSCR 1452 (2002); UNSCR 1455 (2003); UNSCR 1456 (2003)	Listing powers; Technical assistance
23 July 2003 (S.PV.4792)[1785]	X	X	X	1267 Committee; G-8's Counterterrorism Action Group; Ad Hoc Committee established by General Assembly; Policy Working Group on the United Nations and Terrorism; World Trade Organisation; International Civil Aviation Organisation; International Monetary Fund; Human Rights Committee; Terrorism Prevention Branch of the Centre for International Crime Prevention	UNSCR 1267 (1999); UNSCR 1373 (2001); UNSCR 1456 (2003); UNGA 51/210 (1996)	Listing powers; Directory of Counterterrorism Information and Sources of Assistance; Matrix of Assistance; 1267 Committee & CTC joint press communique
16 October 2003 (S.PV.4845)[1786]	X	X	X	1267 Committee; OSCE; Ad Hoc Committee; EU;	UNSCR 1267 (1999); UNSCR 1373 (2001)	Criteria for reporting;

[1784] *4752nd Meeting*.
[1785] *4792nd Meeting*.
[1786] *4845th Meeting*.

				G-8's Counterterrorism Action Group; Office of the United Nations High Commissioner for Human Rights		Report on difficulties encountered; Universal engagement with Resolution 1373 (2001)

Appendix U
Table 21: 1267 Committee report for 2003 (S/2004/281)[1787]

Norms Convergence Pathway	Topic	Specification	Additional information
Politico-strategic	Requested information by MS	Additional information about specific designees	To confirm or deny match of individuals in-country
		Clear definition of nonfinancial assets and confiscation methods	Request during Chairman country visits
	Possible reasons for non-reporting	Lack of political will	
		Reporting fatigue	
		Lack of resources and technical capacity	
		Coordination difficulties at the national level	
		Stigma associated with presence of designees in-country	
	Monitoring Group (MG)	General concerns voiced by MS	Leaking of MG report to media prior to MS dissemination
			Need to include substantive evidence supporting claims in MG reports
Organisational	1267 Committee & CTC communication	Open briefing describing differences in reporting requirements	
		Press release describing different mandates and goals	
Procedural	Summary of Activities	4 formal meetings	
		36 informal expert consultations	
		New name (2 September 2003)	
	Consolidated list	Added 70 individuals	
		Added 7 entities	
		Reformatted version of list	With identifying information in a more systematic manner
		Accessible online	
	Guidance	Guidelines for consideration of additional information on designees	Included the criteria used by the MG
			To facilitate improvement of list

[1787] UNSC, *1267 Committee Report - April 2004*.

		Guidelines for MS reports	To avoid duplication of information shared in CTC reports
	Member State (MS) reporting	90 reports under Resolution 1455 (2003)	Of 191 MS total
	Recommendations	MS suggested setting up focal points to facilitate communication	Information acquired during Chairman country visits
Legal	Exceptions under Resolution 1452 (2002)	2 notifications received from MS on behalf of listed individuals	
		Draft of procedures standardizing exception requests	
	Chairman visits	MS required adherence of rule of law and due process	
		MS questioned whether designations would stand up in national and regional courts	

Appendix V

Table 22: 1267 Committee report for 2004 (S/2004/1039)[1788]

Norms Convergence Pathway	Topic	Specification	Additional information
Politico-strategic	Resolution 1526 (2004)	Created a new, more demanding conceptual and substantive framework for 1267 Committee	Moved to a qualitatively higher level in implementing sanctions
		Established the Monitoring Team (MT)	Strengthened the central role of the Committee
	Monitoring Team (MT)	Findings in MT report	MS reports are the only indicator of compliance with resolutions 1390 (2002) and 1455 (2003)
			Sanctions regime had a limited impact due to al-Qaeda structure's evolving nature and rigidity of list
Organisational	Monitoring Team (MT)	Established MT	Central role of 1267 Committee
	Cooperation	CTC	Enhanced cooperation
		Interpol	Special briefing for closer cooperation and strengthening communication system
		Member States	Increased dialogue
		Mass media	Increased dialogue
Procedural	Summary of Activities	3 formal meetings	
		36 informal expert consultations	
		Established focal points	Similar to CTC system
			300 contact points by end of 2004
	Consolidated list	Added 29 individuals	
		Added 16 entities	
		Made 1 deletion	
		Introduced number of amendments	For better follow-up of changes
	Guidance	Revised guidelines for conduct of work	To provide guidance for MS in implementation efforts
	Monitoring Team (MT)	Submitted its programme of work	17 May 2004
Legal	Exceptions under Resolution 1452 (2002)	11 notifications received from MS on behalf of listed individuals	5 from the same MS

[1788] UNSC, *1267 Committee Report - December 2004*.

Appendix W
Table 23: 1267 Committee briefings in 2004

1267 Committee briefing	Chair/ MS notes	Human rights protection	Delisting	International cooperation	Definition	MS reporting	Proposals	Other topics discussed
12 Jan 2004 (S/PV.4892)[1789]	**Chair**	Discussed during country visits		International organisations; CTC	Need for definition of non-financial resources discussed during country visits	Only 93 submitted under Resolution 1455 (2003); - 1/3rd has not incorporated the List into their national watch lists; - ½ send regular updates to border control authorities about the List	Improve list	Challenges of implementing the travel ban
					Need to define arms embargo more specifically		Increase technical capacity of MS	Need for more presice approach to report submissions
								Remittance systems
	MS	✓		✓	Need for legal clarity and precision regarding the List	Disappointing statistics	Improve operability of List (include accurate & current data)	EU workshop findings
							Enhanced transparency of 1267 Committee's work	Charitable institutions

[1789] *4892nd Meeting*.

25 May 2004 (S/PV.4976)[1790]	**Chair**	MS request HR protections within List		Need for closer cooperation, especially with CTC over reporting schedules	Discussion of a working paper of definitions of Resolution 1526 (2004) terms	Total of 126 reports submitted: - Limited incorporation of List into national legislation - MS confusion between money laundering and terrorism financing	Monitoring Team to: -Develop relationship with CTED; -Build a database on implementational information	Focal points established
								No formal procedure on humanitarian exceptions
					Resolution 1526 (2004) defined "assets" as including property			Most MS have introduced legislation on charity oversight
	MS	✓		✓			Costa Rica proposed a UN High Commissioner for Counterterrorism	False identities used by Listed individuals
								EU Declaration on Combatting Terrorism
								Special briefing with EU CT Coordinator
								Judicial & police cooperation is necessary
14 Sept 2004 (S/PV.5031)[1791]	**Chair**	Due process	MS concerns				Improve quality of List	

[1790] *4976th Meeting*.
[1791] *Security Council Fifty-ninth year: 5031st meeting, Monday, 13 September 2004: Hearing on S/PV.5031* (2004).

		concerns discussed during country visits	about delisting process	Joint press conference with MT			Support for country visits must continue	
			Procedure for deceased listed individuals needed	International organisations & CTC			Delisting & exceptions process needs to be boosted (reliable mechanism to correct mistakes)	
	MS	✓	✓	Informal Working Group on General Issues on Sanctions	Definition of terrorism		Improve basic, identifying data in List	Need for an overarching, multi-pronged, multi-dimensional, long term CT strategy
				FATF cooperation				
17 Dec 2004 (S/PV.5104)[1792]	**Chair**	✓		CTC & CTE cooperation			MT analysis on challenges of implementation	
							Technical advice on List for banks – Switzerland to be contact point	
							Results-oriented approach, shift to active dialogue with MS	

[1792] *Security Council Fifty-ninth Year: 5104th meeting, Friday, 17 December 2004: Hearing on S/PV.5104* (2004).

	MS	✓	✓	Potential joint country visits with CTC & 1540 Committee				List is not a political document but an operational tool Forthcoming European Court of Justice decisions Report of the High-Level Panel on Threats, Challenges, and Change (A/59/565)
22 Dec 2004 (S/PV.5106)[1793]	**Chair**	✓		Collaboration with EU, Interpol, and other international bodies	Arms embargo component shall include criteria for dual-use materials as well			Need for long-term technical cooperation Unique nature of 1267 sanctions regime Response to Report of the High-level Panel on Threats, Challenges and Change

[1793] *5106th Meeting*.

Appendix Z
Table 24: CTC report in 2004[1794]

Difficulty Encountered	Specification	Proposal to address
Financing of Terrorism	Lack of transparency of international financial transactions	
	Weakness of national legislations	
	New burdens on banking institutions	
	Lack of oversight over of non-profit associations used by terrorists	
Competence of the courts	Prosecution of those responsible for terrorism has been met by MS reluctance	
Ratification without enforcement measures	The 12 Conventions have been increasingly ratified by MS without being adopted into domestic legislation	There should be a follow-up process for the CTC
Links between terrorism and organised crime	The illegal movement of nuclear, chemical, biological and other supplies is a concern when it comes to countering terrorism	
Technical assistance	One of the main components of CTC, yet the CTC does not directly provide technical assistance (Assistance Matrix & Directory)	Assuming a more proactive role to increase efficiency
		Technical assistance should be a horizontal priority
		Tailored approach should be adopted
		Serve as a focal point MS and monitor assistance provided to States
Coordination with international organisations	Greater coordination is required to enhance efficiency of CTC's work	Main sources of information are MS reports, but through increased international collaboration, the CTC has improved its sources of information
Financial accountability	Present CTC structure is not conducive to have a clear idea of its costs or resources	A complete budget is necessary to allow for accountability
CTC Chair	In change of day-to-day matters taking up time & resources only a medium-sized or larger delegation would be able to support	Structural revitalization is required

[1794] UNSC, *CTC Report 2004*.

Appendix AA
Table 25: Monitoring Team's (2005) reports under Resolution 1526 (2004)

Topic	MT Report 1 (25 August 2004)[1795]	MT Report 2 (15 February 2005)[1796]	MT Report 3 (9 September 2005) – submitted 30 June 2005[1797]
Reporting Statistics	(July 2004): 130 reports submitted under Resolution 1455 (2003) -34 MS with reported financial freezes	133 MS reports	140 MS reports
Non-reporting	Trends observed: -lack of report does not mean lack of effort -complexity & volume of reporting takes capacity -impression that CTC reports cover reports required by 1267 Committee	58 non-reporting MS (30% of UN membership)	
	MS need technical assistance – MT to cooperate with CTED on topic		
List statistics	21 MS submitted names	26 individuals, & 15 entities added	8 individuals and 2 entities added (442 entries total)
	Taliban: 143 individuals, 1 entity al-Qaeda: 174 individuals, 111 entities		al-Qaeda: 182 individuals, 116 entities
			1 individual was delisted
Issues with the List	Technical & practical issues: -lack of basic identifiers -spelling & transliteration inaccuracies	Many MS do not find the List to be the useful tool it should be.	MS concerns about lack of identifyinf information in List
Proposals for List	Cases where information is too vague, names should be removed	Introduce dual-use goods into scope of arms embargo	Address need for greater fairness in sanctions application & lack of sufficient identifiers of List
		List should be a living document, subject to frequent changes	List should be rendered in English and original language of names
		Each name should be designated with a permanent number for ease of reference	Security Council should define the term 'associated with'
			Same or similar named individuals on list – procedure needed for

[1795] UNSC Monitoring Team, *MT Report 1*.
[1796] UNSC Monitoring Team, *MT Report 2*.
[1797] UNSC Monitoring Team, *MT Report 3*.

			mistaken inclusion in measures
Delisting	Procedure needs review	List is not a criminal mechanism	Delisting issues high on MS and international organisations' agendas
	Since start of the list, only 4 individuals & 11 entities have been delisted	MS concerns for: -due process -no end timelimit -individuals cannot petition for delisting without own MS' support	
		Upgrade of procedures could reduce possibility of negative court decisions	
Financial Freezes	Cash couriers & trans-border movement of currency – no universal standard of aount	Most implemented of the sanctions on a global scale: still 50% of MS reports need to improve their financial infrastructure to support asset freezes	3 categories of MS ability to implement: -MS with robust systems to implement; -MS with adequate systems; -MS in need of technical assistance
Arms Embargo	Most MS reported they have achieved effective implementation by incorporating embargo into existing legislation	3 areas for action: -man-portable anti-aircraft missile systems (MANPADS) -commercially available materials capable of weaponization -weapons of mass destruction	Arms embargo should be developed to widen its scope
Travel Ban	No specification as to how to proceed with a stopped individual at a port of entry – guidance needed by 1267 Committee	No reported violation, however, the ban needs to be clarified to prevent covert travel (false identity, etc)	92% of reporting MS indicated that they had the legal means to enforce the arms embargo
Other topics mentioned	Absence of internationally agreed definition resulted in loss of credibility and operational value of list	Legal challenges to the sanctions	SG report: "In larger freedom: towards development, security and human rights for all" (A/59/2005) pillars
	Based on MS reports, the sanctions regime has had limited impact	Chemical, biological, radiological, & nuclear weapons are still priority for al-Qaeda – MT to work with 1540 Committee	Sanctions do not impose a criminal punishment or procedure such as detention, arrest, or extradition (administrative measures only)
	FATF standards – most comprehensive regulatory regime – work toward full acceptance	Visa-free zones such as the EU (addressing absence of internal borders through	Legal challenges to the sanctions

		police & judicial cooperation to implement travel ban)	
	MT is developing country profile database of MS implementation efforts	58 MS party to all 12 Conventions (30%); 99 MS party to 10 or more (52%); 5 MS not party to any of the instruments (3%)	Interpol cooperation to offer significant support to each other's mandates
			EU is the best example for visa-free zone implementation

Appendix AB
Table 26: 2005 CTC & 1267 Committee briefings summary

UNSC Briefing	18 January 2005 (S/PV.5113) CTC briefing[1798]		25 April 2005 (S/PV.5168) Joint briefing[1799]			20 July 2005 (S/PV.5229) Joint briefing[1800]			26 October 2005 (S/PV.5293) Joint briefing[1801]		
	CTC Chair	MS	CTC Chair	1267 Chair	MS	CTC Chair	1267 Chair	MS	CTC Chair	1267 Chair	MS
MS reports	551 reports		580 reports			601 reports					
Non-reporting	✓		75 MS late		✓	67 MS late				✓	
Technical Assistance	✓	✓	✓		✓	✓		✓	✓	✓	✓
Country visits	✓		✓			✓			✓	✓	
International cooperation	✓	✓	✓	✓	✓		✓		✓	✓	✓
Website updates	✓										
Collaboration with other Committees	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
UNGA definition of terrorism		✓						✓			✓
HR protections		✓			✓			✓			✓

[1798] *Security Council: Sixtieth year: 5113th meeting, Tuesday, 18 January 2005, 10.40 a.m.: Hearing on S/PV.5113* (2005).
[1799] *Security Council: Sixtieth year: 5168th meeting, Monday, 25 April 2005, 10 a.m.: Hearing on S/PV.5168* (2005).
[1800] *5229th Meeting*.
[1801] *5293rd Meeting*.

Comprehensive CT strategy			✓			✓			✓			
1267 List	**Improvements needed**				✓	✓		✓	✓		✓	
	'Associated with' definition					✓		✓	✓			
	Delisting procedures				✓	✓		✓	✓		✓	✓
MS dialogue		✓	✓	✓	✓		✓		✓	✓	✓	✓
Best practices			✓	✓			✓		✓			
Legal challenges									✓			

Appendix AC
Table 27: 1267 Committee Report 2005

Topic covered in MS reports	Total MS	Additional information
1267 Reporting statistics	140	2003: 90 2004: 43 2005: 7
		CTC reporting total: 191 (at least once, some as many as 5 times)
1267 Non-reporting statistics	51* *(47 by the time of report)	Asia: 11 Africa: 29 Latin America: 10 Eastern Europe: 1
Circulation of Consolidated List to banks and authorities	146	(including non-reporting States)
Requests for humanitarian exception (Resolution 1452)	21	19 approved by Committee 2 on hold
Legal basis to freeze assets	117	
Legal basis for travel ban	130	
Embargo implementation	140	
Areas of concern	65	Lack of sufficient identifiers in List
	Over 50	Due process and trasnparency concerns of listing & delisting procedures
	12	Lack of response for additional information request
	15	Lawsuits in 5 MS as well as European Court of Justice
		Capacity-concerns: Lack of electronic equipment; Need for training; Lack of political will
Technical assistance request	44	
Technical assistance offer	78	

Appendix AC
Table 28: Joint CTC & 1267 Committee briefings in 2006

	Topics discussed	21 February 2006 (S/PV.5375)[1802]	30 May 2006 (S/PV.5446)[1803]	28 September 2006 (S/PV.5538)[1804]	20 December 2006 (S/PV.5601)[1805]
CTC	CTED	Became operational 15 December 2005	"Reporting fatigue"	Only 69 MS reports received under Resolution 1624 (2005)	Reporting fatigue
		Cleared the backlog of reports		21 of the 69 reported on incitement laws	
	Technical assistance	Policy guidelines adopted & available on updated website			Enhancing role as a facilitator of assistance
	Country visits	Increased dialogue with MS through country visits			
	Best practices	Overview of best practices to be published soon	Preliminary implementation assessment – analytical tool implemented to provide transparent monitoring option	Website updated with best practices	It is now routine to include human rights' aspects of MS implementation of Resolution 1373 (2001)

[1802] *Security Council Sixty-first year: 5375th meeting, Tuesday, 21 February 2006: Hearing on S/PV.5375* (2006).
[1803] *5446th Meeting*.
[1804] *Security Council: Sixty-first year: 5538th meeting, Thursday, 28 September 2006: Hearing on S/PV.5538* (2006).
[1805] *Security Council: Sixty-first year: 5601st meeting, Wednesday, 20 December 2006: Hearing on S/PV.5601* (2006).

	Top priorities	1. Streamlining of reporting 2. Enhancing technical assistance 3. Increasing regional & international cooperation	Ensuring systematic, transparent, and effective monitoring of MS implementation of Resolution 1373	Welcome adopted of UN GCTS (UNGA Resolution 60/288) which reiterates commitment to international cooperation	Increase work with more regional organisations
1267 Committee	**List**	17 individuals & 4 entities added	4 individuals added	6 individuals & 1 entity added	Statement of case & cover sheet included
		2 individuals removed	Working on improving the quality of List	1 individual removed	Focal point set up by Resolution 1730 (2006)
		Original language names to be included		Permanent reference numbers introduced	
	Guidelines	Partial revision approved by UNSC	Watson report presented by Germany, Sweden, & Switzerland		Consensus reached on listing guidelines - progress
	Cooperation	Interpol ties through special notices	MT to strengthen its links with international and regional bodies		
		International & regional bodies			
		CTED – joint country visit			
	Reports	45 MS haven't submitted under		54 checklists received from MS	

		Resolution 1455 (2003)			
		Cooperation with CTED & 1540 Committee to find common approach to non-reporting			
		New checklist for MS to assess effectiveness of measures			
	Top priorities	1. Revision of listing & delisting guidelines 2. Interpol cooperation 3. New ties with international organisations 4. Improve website	Revision of listing and delisting guidelines ("difficult & arduous task")[1806]	Concentrate on concluding the revision of listing and delisting guidelines (the Committee is aware of the numerous calls for its adoption)	"This is an evolving regime in which changes occurs to improve the situation"[1807]
MS Comments	**Human rights protections**	Improve quality of list	HR obligations	Delisting procedure to ensure transparency and due process	
		Review listing & delisting guidelines	Procedural fairness issues		

[1806] *5446th Meeting*, 4.
[1807] *5601st Meeting*, 5.

		Review humanitarian exceptions	Review mechanisms must be updated		
		Increase transparency			
		Incorporate due process standards			
	Definition	Terrorism		Terrorism	
	Comprehensive CT strategy	Based on SG proposed elements	Based on SG proposed elements	Welcomes GCTS	
	Proposals	Review mechanism for designees	Denmark: ombudsman	Comprehensive convention on international terrorism	
		CTC to take more active HR role	France: focal point	France: focal point	
		Simplify reporting	Watson report presented		
	Court challenges		Recent court decisions – conflicting with judicial norms?	Delisting procedure necessary to reduce the number of court challenges	
			50+ MS called for ensuring legality & transparency		
			ECJ decisions pending		

Appendix AD
Table 29: Inventory of UN system-wide counterterrorism activities

Objective	UN body	Activity
Dissuasion from terrorism	UNESCO	Promoting dialogue
	Special Representatives and Envoys of the Secretary General	Providing mediation support
	Department of Political Affairs	Facilitate peace agreements
	Peacebuilding Support Office	Enhance peacemaking and peacebuilding capacity
	UN Development Programme	Engagement with disaffected groups
	Department of Public Information	Works with media, educational institutions, & NGOs
Denying terrorists financial support	1267 sanctions regime	Frozen assets
	CTC & CTED	Assessed the relevant financial legislation of MS
Denying terrorist access to weapons (including WMDs)	International Atomic Energy Agency	Plan of Activities to Protect against Nuclear Terrorism
	Organisation for the Prohibition of Chemical Weapons	Inspect & inventory chemical agents of former weapons production facilities
	Department for Disarmament Affairs	Facilitate participation in transparency instruments
	1540 Committee & experts	Identify deficiencies in preventing access by non-State actors to WMDs
Denying terrorists access to travel	Interpol	Facilitate cross-border police cooperation
	International Maritime Organisation	Regulatory regime for ship and port facilities
Denying terrorists access to their targets and their desired impacts	UN peacekeeping operations	Provide more secure environment in conflict zones
	Interpol	Issue notices to warn authorities of threats
Deterring States from supporting terrorism groups	Monitoring Team	Report on travel bans and financial sanctions
	Thirteen universal instruments	Provide legal framework for multilateral actions against terrorism
Developing State capacity to prevent terrorism	CTED	Identify technical assistance needs, created Directory of Assistance on standards & best practices
Promoting the rule of law and effective criminal justice systems	UN Office of Drugs and Crime	Assist MS in becoming parties to the universal instruments
	UN Development Programme	Promote rule of law, support anti-money-laundering legislation, strengthen judiciary systems
	Department of Peacekeeping Operations	Provide training to national police
	Office of Legal Affairs	Prepares relevant publications

Promoting quality education & religious & cultural tolerance	UNESCO	Promote solidarity and dialogue
Countering the financing of terrorism	International Monetary Fund	Assessment of anti-money-laundering capacity
	World Bank	Assessment of compliance
	UN Office of Drugs and Crime	Train relevant authorities
Ensuring transport security	International Civil Aviation Organisation	Assist in protection of aircraft against attacks
	World Customs Organisation	Framework of Standards to Security and Facilitate Global Trade
	International Maritime Organisation	Advisory and training missions for maritime security
Prevention terrorists from acquiring nuclear, biological, chemical or radiological materials	World Health Organisation	Developed a global laboratory network to respond to outbreaks and biological threats
	International Atomic Energy Agency	Establish effective regulatory infrastructure, prepare to respond to act of nuclear or radiological terrorism
Improving defence of soft targets	Department of Safety and Security	Developing counterterrorism expertise
	Interpol	Coordination of police
	Office for the Coordination of Humanitarian Affairs	Develop emergency response capacity for security threats
Promoting UN system-wide coherence in CT	Counterterrorism Implementation Task Force	Ensure overall coordination and coherence among 23 UN entities
Defending human rights in counterterrorism	Office of the UN High Commissioner for Human Rights	Provide assistance and advice (upon request)
	Department of Public Information	Produce reports & tools to increase awareness of human rights law

Appendix AE

Table 30: Security-liberty balance shifts through norms convergence pathways (2001-2010)

Year	Convergence pathway				Overall shift in balance
	Politico-Strategic	Organisational	Procedural	Legal	
2001	←	→	←	←	←
2002	←	→	←	←	←
2003	→	→	→	←	→
2004	→	→	→	→	→
2005	→	→	→	←	→
2006	→	↔	→	←	→
2007	↔	→	↔	↔	↔
2008	↔	↔	→	←	↔
2009	→	→	→	→	→
2010	↔	→	↔	↔	↔

Graph key:

Security-Liberty Balance shift	
Shift towards Security norms	←
Shift towards Liberty norms	→
No shift in balance	↔

Appendix AF
Table 31: Counter-financing of terrorism actions taken by Member States[1808]

MS Action	Percent of responding MS	Notes
Submitted requests to the sanctions list	22%	
Froze assets of designees	24 %	
Provided monetary value of frozen assets	10 %	$61,318,210.77 total value
Freezing decisions challenged in court	51%	Half in the previous 3 years
Developed a counter-financing of terrorism strategy	70 %	
Still developing counter-financing of terrorism strategy	13 %	
Had no plans to adopt such strategy	15%	
Recently amended terrorism-financing laws	83%	14% between 2012-2014; 30 % between 2015-2017; 51 % since 2018; 6 MS' laws remained unchanged since 2011
Responded to human rights compliance question	>60 %	32% in accordance with international HR treaties

[1808] UNSC Monitoring Team, *MT Report 34*.

Appendix AF

Table 32: Security-liberty balance shifts through norms convergence pathways (2011-2020)

Year	Convergence pathway				Overall shift in balance
	Politico-Strategic	Organisational	Procedural	Legal	
2011					
2012					
2013					
2014					
2015					
2016					
2017					
2018					
2019					
2020					

Graph key:

Security-Liberty Balance shift	
Shift towards Security norms	
Shift towards Liberty norms	
No shift in balance	

Appendix AG
Table 33: UNSC counterterrorism sanctions-related Resolutions (1999-2020)

Res.	Date	Votes	Chapter VII	Topic
1267	Oct 15, 1999	15-0-0	✓	Claims that the Taliban's failure to comply with Resolution 1214 (1998) constitutes a threat to peace and security; puts specific targeted sanctions if the Taliban fails to turn over bin Laden within one month, including aviation ban and asset freezes; establishes 1267 Committee to monitor the sanctions measures
1333	Dec 19, 2000	13-0-2	✓	(Abstention: China, Malaysia), expands the 1267 sanctions regime to include an arms embargo over Taliban-controlled Afghan territory, freezes the financial assets of bin Laden and associates, mandates the 1267 Committee to consider exemption requests
1363	Jul 30, 2001	15-0-0	✓	Establishes the Monitoring Group (MG) and the Sanctions Enforcement Support Team to be deployed in Afghanistan
1368	Sep 12, 2001	15-0-0	X	Calls of the international community to increase counterterrorism efforts; recalls the right of self-defence
1373	Sep 28, 2001	15-0-0	✓	Calls upon MS to ratify all relevant conventions relating to terrorism, extends the scope of asset freezes to global reach, establishes the CTC
1388	Jan 15, 2002	15-0-0	✓	Removes 1267 measures on Ariana Afghan Airlines (paragraph 8(b) of Resolution 1333 (2000)
1390	Jan 16, 2002	15-0-0	✓	Extends sanctions regime to include bin Laden, turns regime into a global one by removing the territorial link to Afghanistan
1452	Dec 20, 2002	15-0-0	✓	Introduces humanitarian exceptions to the sanctions regime to be authorized by the 1267 Committee
1455	Jan 13, 2003	15-0-0	✓	Reaffirms sanctions regime, calls for 1267 Committee and CTC to increase coordination, extends MG mandate by 12 months
1456	Jan 20, 2003	15-0-0	X	Declares that MS must comply with international law, in particular international human rights, refugee, and humanitarian law when enacting counterterrorism measures
1526	Jan 30, 2004	15-0-0	✓	Establishes the Monitoring Team (MT) to monitor and report on implementation processes, requests MS to include identifying information with new listings
1535	Mar 26, 2004	15-0-0	X	Creates the Counterterrorism Executive Directorate (CTED) to enhance the CTC's capabilities; acknowledges the importance of country visits for implementation monitoring
1566	Oct 4, 2004	15-0-0	✓	Establishes the Working Group to develop practical recommendations for sanctions;

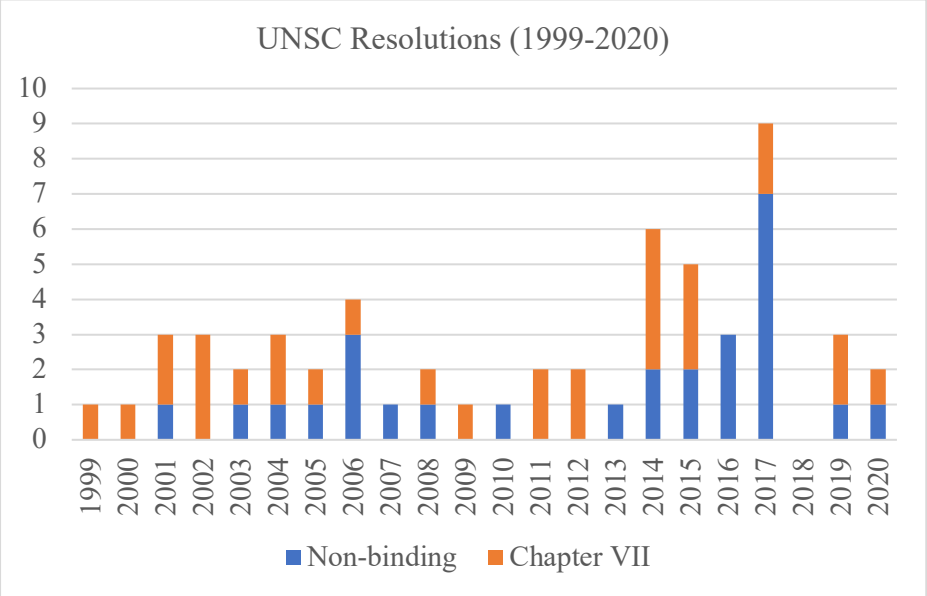
				comes close to defining terrorism (widely viewed as an operational definition)
1617	Jul 29, 2005	15-0-0	✓	Defines "associated with;" requests MS to provide a statement of case with new listings and inform designees of their status on the list
1624	Sep 14, 2005	15-0-0	X	Condemns incitement, justification, and glorifications of terrorism; calls for international law and human rights law compliance when countering terrorism
1699	Aug 8, 2006	15-0-0	X	Requests increased cooperation between the UN and INTERPOL to improve sanctions implementation
1730	Dec 19, 2006	15-0-0	X	Establishes Focal Point within the Secretariat to carry out delisting procedures
1732	Dec 21, 2006	15-0-0	X	Takes note of the Working Group fulfilling its mandate of reporting on best practices for sanctions subsidiary organs
1735	Dec 22, 2006	15-0-0	✓	Requests MS to identify with sections of the statement of case may be released publicly, states that change of behaviour can lead to delisting, extends MT's mandate
1787	Dec 10, 2007	15-0-0	X	Extends CTED's mandate until March 2008
1805	Mar 20, 2008	15-0-0	X	Extends CTED's mandate until December 2010, calls for increased cooperation with relevant international organisations
1822	Jun 30, 2008	15-0-0	✓	Directs 1267 Committee to publish a narrative summary of reasons for listing and review deceased designees, carry out annual review of names, report on non-compliant MS, and extends the MT's mandate
1904	Dec 17, 2009	15-0-0	✓	Establishes the Office of Ombudsperson to consider delisting requests (replacing the Focal Point)
1963	Dec 20, 2010	15-0-0	X	Extends CTED's mandate, requests it to submit global implementation surveys of Resolutions 1373 (2001) & 1624 (2005)
1988	Jun 17, 2011	15-0-0	✓	Split the 1267 List, established the 1988 List containing Taliban associates, created 1988 Sanctions Committee
1989	Jun 17, 2011	15-0-0	✓	Split the 1267 List, retained al-Qaeda listings, extended Ombudsperson's mandate to include recommendations
2082	Dec 17, 2012	15-0-0	✓	Reaffirms measures on Taliban associates, welcomes cooperation with the Afghan government, extends the Monitoring Team's mandate for a further 30 months
2083	Dec 17, 2012	15-0-0	✓	Reaffirms measures on al-Qaeda associates, extends the mandates of the Ombudsperson and the Monitoring Team for a further 30 months, reverses assumption of confidential identity for designating MS

2129	Dec 17, 2013	15-0-0	X	Extends CTED's mandate until 31 December 2017 and directed the organ to research emerging issues and trends relevant to UNSC resolutions
2133	Jan 27, 2014	15-0-0	X	Expresses concern regarding the increased number of hostage-taking and kidnappings by terrorists and calls upon MS and related organisations to integrate relevant international frameworks through collaboration (FATF, GCTF).
2160	Jun 17, 2014	15-0-0	✓	Reaffirms measures against Taliban associates, extends the Monitoring Team's mandate for a further 30 months
2161	Jun 17, 2014	15-0-0	✓	Reaffirms measures against al-Qaeda associates, extends the mandates of the Ombudsperson and the Monitoring Team for a further 30 months
2170	Aug 15, 2014	15-0-0	✓	Designates ISIL and ANF as al-Qaeda associates eligible for sanctions listings
2178	Sep 24, 2014	15-0-0	✓	Addresses threat posed by foreign terrorist fighters, including prevention of radicalization, recruitment, cross-border travel, and disruption of financing terrorism
2195	Dec 19, 2014	15-0-0	X	Recognises the challenges of capacity and coordination in international counterterrorism, calls for greater regional and international support to facilitate assistance
2199	Feb 12, 2015	15-0-0	✓	Reaffirms that MS requirement to block assets or economic resources within their territory from contributing financially to ISIL, ANF, and other al-Qaeda activities, specifically including oil and related material, and cultural heritage items
2214	Mar 27, 2015	15-0-0	X	Designates groups that pledged allegiance to ISIL, Ansar Al Charia, and all others associated with al-Qaeda operating in Libya eligible for sanctions listings
2249	Nov 20, 2015	15-0-0	X	Condemns ISIL attacks, expresses intention to update 1267 sanctions to better reflect the threat posed by ISIL
2253	Dec 17, 2015	15-0-0	✓	Expands the listing criteria to include those supporting ISIL; extends the mandates of the Monitoring Team and the Office of the Ombudsperson to December 2019
2255	Dec 22, 2015	15-0-0	✓	Expresses concerns about ISIL affiliates presence in Afghanistan, condemns flow of weapons to the Taliban
2309	Sep 22, 2016	15-0-0	X	Calls for closer collaboration to ensure safety of global air services and prevent terrorist attacks; API usage for 1267 sanctions designees
S/2016 /1026	Dec 5, 2016	11-3-1	N/A	Draft resolution on the humanitarian situation in Syria vetoed by China and Russia, Venezuela voting no, and with Angola abstaining

2322	Dec 12, 2016	15-0-0	X	Calls for improved information-sharing through relevant authorities such as judiciary to counter terrorism financing
2331	Dec 20, 2016	15-0-0	X	Condemns all acts of trafficking, including ISIL's trade in persons; expresses intention to consider targeted sanctions for those involved in trafficking in conflict areas
2341	Feb 13, 2017	15-0-0	X	Calls for coordinated efforts for the protection of critical infrastructure from terrorist attacks
2347	Mar 24, 2017	15-0-0	X	Further expands MS obligations relating to preventing the direct and indirect trade of cultural property with ISIL, ANF, al-Qaeda and associates, and states that such engagement leads to eligibility for sanctions listing
2354	May 24, 2017	15-0-0	X	Urges MS to follow the guidelines aimed at countering terrorist narratives and extremist messages
2368	Jul 20, 2017	15-0-0	✓	Reaffirms sanctions measures; calls upon MS to develop competency to use Passenger Name Records (PNR); MS to report within 120 days; extends MT and Ombudsperson mandates to December 2021; specifies names to be listed in Annex III
2370	Aug 2, 2017	15-0-0	X	Urges MS to strengthen arms embargoes' monitoring mechanisms to prevent access of terrorist organisations to any form of weapons
2379	Sep 21, 2017	15-0-0	X	Calls for the establishment of UNITAD to preserve evidence of ISIL-related war crimes, crimes against humanity, and acts of genocide in Iraq
2388	Nov 21, 2017	15-0-0	X	Reiterates condemnation of all acts of human trafficking, particularly undertaken by ISIL; requests CTED & MT to review linkages between human trafficking and terrorist financing
2395	Dec 21, 2017	15-0-0	X	Extends CTED's mandate to December 2021; calls for close cooperation between CTED and UNOCT on implementation assistance and capacity building
2396	Dec 21, 2017	15-0-0	✓	Calls on MS to strengthen their efforts to prevent foreign terrorist fighter movement through the development and implementation of specific biometric databases, watchlists, and aviation safety standards
2462	Mar 28, 2019	15-0-0	✓	Further expands MS requirements in the suppression of terrorist financing and criminalize conduct even in the absence of a link to a specific terrorist act
2482	Jul 19, 2019	15-0-0	X	Expresses concern over links between terrorism and organised crime; encourages MS to consider civil society actors and NGOs when developing counterterrorism strategies

2501	Dec 16, 2019	15-0-0	✓	Reiterates sanctions regime against Taliban associates pursuant to Resolution 1988 (2011), extends MT mandate of supporting the Taliban-related sanctions activities until December 2020
S/2020 /852	Aug 31, 2020	14-1-0	N/A	Draft resolution on the prosecution, rehabilitation, and reintegration of foreign terrorist fighters
2557	Dec 18, 2020	15-0-0	✓	Reaffirms sanctions regime against Taliban and associates (1988 Sanctions List); extends the mandate of the MT to December 2021 in assisting the sanctions regime
2560	Dec 29, 2020	15-0-0	X	Encourages MS to submit listing requests to the sanctions regime and calls on the MT to evaluate the exemptions procedures

Appendix AH
Table 34: UNSC Resolutions under Chapter VII[1809]



1999: 1 (**1267**)
2000: 1 (**1333**)
2001: 3 (**1363**, 1368, **1373**)
2002: 3 (**1388**, **1390, 1452**)
2003: 2 (**1455**, 1456)
2004: 3 (**1526**, 1535, **1566**)
2005: 2 (**1617**, 1624)
2006: 4 (1699, 1730, 1732, **1735**)
2007: 1 (1787)
2008: 2 (1805, **1822**)
2009: 1 (**1904**)
2010: 1 (1963)
2011: 2 (**1988, 1989**)
2012: 2 (**2082, 2083**)
2013: 1 (2129)
2014: 6 (2133, **2160, 2161, 2170**, **2178**, 2195)
2015: 5 (**2199**, 2214, 2249, **2253**, **2255**)
2016: 3 (2309, 2322, 2331)
2017: 9 (2341, 2347, 2354, **2368**, 2370, 2379, 2388, 2395, **2396**)
2018: 0
2019: 3 (**2462**, 2482, **2501**)
2020: 2 (**2557**, 2560)

[1809] *The Resolution numbers in **bold** refer to being adopted under Chapter VII powers*

Appendix AI

Table 35: Overview of pre-9/11 European counterterrorism-related action

Date	Event	Organisation	Act	Content
1977	1972 Munich massacre	Council of Europe	1977 Convention on the Suppression of Terrorism	Minimum harmonization of European counterterrorism
1976		European Parliament	Parliamentary resolution	Called for direct action responding to terrorism
1978	Kidnapping of PM Aldo Moro	European Council	Declaration on terrorism	Called for intensified cooperation and the establishment of the European judicial area
1975	1972 Munich massacre	European Political Cooperation	TREVI group	Practical application, forum of exchange on security, working group on CT, police cooperation
1979	Inadequate CT progress	European Communities	Dublin Convention	Agreement concerning the application of the European Convention on the Suppression of Terrorism between the Member States of the European Communities
1986	Vienna and Rome airport attacks December 1985	EPC	EPC statement 27/01/1986	Condemned 'barbaric acts of terrorism,' called for increased CT cooperation
1986	Berlin bombing April 1986	EPC	EPC statement 14/04/1986	Diplomatic sanctions and arms embargo on Libya
1992		European Communities & EPC	Maastricht Treaty	Treaty on European Union, listed counterterrorism as a common interest
1995	Aznar assassination attempts, Paris metro bombings, Tokyo, Oklahoma City	European Council	La Gomera Declaration	Terrorism is a threat to human rights, called for improved judicial and police cooperation
1997		European Council	Treaty of Amsterdam	Created the Area of Freedom, Security and Justice (ASFJ), and the role of the High Representative for CFSP

Appendix AJ

Table 36: All counterterrorism sanctions-related EU measures, legislation, and activity

Date	Organisation	Action	Content	Notes
17 December 1996	Council of the EU	Common Position 96/746/CFSP[1810]	Arms embargo on Afghanistan	
15 November 1999	Council of the EU	Common Position 1999/727/CFSP[1811]	Implementing UNSCR 1267 (1999)	Aviation embargo and financial assets freeze on Taliban
14 February 2000	Council of the EU	Council Regulation (337/2000/EC)[1812]	Implementing CP 1999/727/CFSP	
22 January 2001	Council of the EU	Common Position 2001/56/CFSP[1813]	Implementing UNSCR 1267 (1999) & 1333 (2000)	Condemns terrorism
				Urges the Taliban to comply with UNSCR 1267 (1999) and 1333 (2000)
				To be reviewed within 12 months of adoption
26 February 2001	Council of the EU	Common Position 2001/154/CFSP[1814]	Implementing UNSCR 1267 (1999) & 1333 (2000)	Amended CP 96/746/CFSP
				Arms embargo as described in UNSCR 1333 (2000)
				EUMS personnel advising the Taliban to be withdrawn
				Humanitarian or protective equipment exempt from arms embargo as approved by the UN Sanctions Committee
6 March 2001	Council of the EU	Council Regulation 467/2001/EC[1815]	Implementing UNSCR 1267 (1999) & 1333 (2000)	Defines 'funds' and 'freezing of funds'
				Arms embargo, aviation embargo, exemptions as described in UNSCR
				Mentions rights and obligations under UN Charter and other international agreements
				Annex I: sanctions list by Taliban Sanctions Committee
4 July 2001	Commission	Commission Regulation 1354/2001[1816]		Amends Council Regulation 467/2001/EC to reflect changes in the UN Taliban Sanctions Committee list

[1810] CP 2001/154/CFSP.
[1811] CP 1999/727/CFSP.
[1812] Council Regulation (EC) No 337/2000 of 14 February 2000, 337/2000/EC 1 (2000).
[1813] CP 2001/56/CFSP.
[1814] CP 2001/154/CFSP.
[1815] Council Regulation 467/2001 (EC).
[1816] Commission Regulation (EC) No 1354/2001 of 4 July 2001, 1354/2001 1 (2001).

11 September 2001	9/11 attacks			
12 September 2001	Commission	Presidential Statement (IP/01/1265) [1817]	Calling on the EP and the General Affairs Council for a common approach to terrorism	Described 9/11 as "acts of barbaric crime" and a watershed event. Dedicated to work for the defence of freedom
14 September 2001	EC, EP, Commission, Heads of State, HR/VP	Joint Declaration [1818]	Joint EU-wide response to the events of 9/11	Calls on countries who share universal ideals and values to join in combating terrorism
				Calls on police and judicial authorities to intensify efforts
				Pledges to make the European Security and Defence Policy operational as soon as possible
				Calls for the acceleration of the implementation of the European judicial area, and mutual recognition of legal decisions and verdicts
				Calls for the creation of a European warrant for arrest and extradition
19 September 2001	Commission	Proposal for a Framework Decision[1819]	Proposing a common definition for 'terrorist offences'	Places the EU fight against terrorism within the realm of criminal law
				EU is founded on respect for human rights, fundamental freedoms, and the protection of these rights
20 September 2001	Justice and Home Affairs Council (Council of the EU)	Conclusions adopted SN 3926/6/01 [1820]		Speed up judicial cooperation efforts (Eurojust)
				Propose European arrest warrant (EAW) to handing over terrorism perpetrators
				Calls to establish a common definition of a terrorist act
				Calls on EUMS to ratify the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (2000)

[1817] European Commission, *Commission President Statement*.
[1818] European Commission, *Joint Declaration*.
[1819] European Commission, *Framework Decision Proposal*.
[1820] Council of the European Union, *JHA Conclusions*.

				Requests Europol to update the Directory of Specialised CT Competences, Skills and Expertise of 1996
				Pledges to update the EP on the Terrorism Situation and Trends (TE-SAT) annually
				Pledges to adopt a Framework Decision on financial assets freezes & terrorist financing
				Invites the Commission to examine the security-human rights relationship
21 September 2001	European Council	Conclusions and Plan of Action[1821]	Identifying counterterrorism as an EU priority objective	Calls for global counterterrorism under the UN umbrella
				Pledges that the EU will address terrorism through a coordinated, inter-disciplinary approach while respecting fundamental freedoms
				Directs the JHA to flesh out the EAW agreement as well as adopt a common definition of terrorism
				Calls for the implementation of UN, OECD, etc., international conventions on terrorism
				Calls for the strengthening of aviation security through specific measures by 15 October 2001
				Instructs the General Affairs Council (GAC) to spearhead EU counterterrorism and integrate the issue further into CFSP
11 October 2001	Commission	Commission Regulation 1996/2001 [1822]	Amending Council Regulation 467/2001/EC	Amended the sanctions list to reflect changes made on the UN counterterrorism sanctions list by the UNSC or the Taliban Sanctions Committee (names added)
17 October 2001	Council of the EU (GAC)	Road map of coordination of implementation of the plan of action to	Exhaustive list of measures to be implemented under the Action Plan	Council of the EU Presidency to keep close contact with the EP to ensure optimum cooperation
				Ecofin Council to report on combating terrorist financing

[1821] European Council, *Action Plan*.
[1822] European Commission, "Commission Regulation (EC) No 1996/2001 of 11 October 2001," 1996/2001 § (2001).

		combat terrorism[1823]		JHA/Ecofin Council to examine money laundering measures
				JHA to examine EAW, and establish a common definition of terrorism
				Transport/Telecommunications Council to strengthen aviation security
				Roadmap to be regularly updated by Coreper
17 October 2001	Commission	Commission Report on the economic impact of 9/11[1824]	Overview of the economic implications of 9/11 in the short and long-term	Recommends, among others, the extension of effective cooperation between police and judicial instruments internationally
19 October 2001	Commission	Commission Regulation 2062/2001 [1825]	Amending Council Regulation 467/2001/EC	Amended the sanctions list to reflect changes made on the UN counterterrorism sanctions list by the UNSC or the Taliban Sanctions Committee (names added)
5 November 2001	Council of the EU	CP 2001/771/CFSP[1826]	Amending CP 2001/154/CFSP	To ensure that the sanctions are fully consistent with those in UNSCR 1333 (2000)
12 November 2001	Commission	Commission Regulation 2199/2001 [1827]	Amending Council Regulation 467/2001/EC	Amended the sanctions list to reflect changes made on the UN counterterrorism sanctions list by the UNSC or the Taliban Sanctions Committee (names added, including Al-Barakaat entities)
4 December 2001	Commission	Commission Regulation 2373/2001 [1828]	Amending Council Regulation 467/2001/EC	Amended the sanctions list to reflect changes made on the UN counterterrorism sanctions list by the UNSC or the Taliban Sanctions Committee (names added)
27 December 2001	Council of the EU	Common Position 2001/930/CFSP[1829]	Implementing UNSCR 1269 (1999) & 1368 (2001)	Lists international conventions and protocols relating to terrorism that EUMS shall become parties to

[1823] Council of the European Union, *Road Map*.
[1824] European Commission, *Report from the Commission: Overview of EU Action in Response to the Events of the 11 September and Assessment of Their Likely Economic Impact*, COM(2001) 611 (2001), 1–15.
[1825] Commission Regulation (EC) No 2062/2001 of 19 October 2001, 2062/2001 1 (2001).
[1826] Council Common Position of 5 November 2001 (2001/771/CFSP), 2001/771/CFSP 1 (2001).
[1827] Commission Regulation (EC) No 2199/2001 of 12 November 2001, 2199/2001 1 (2001).
[1828] Commission Regulation (EC) No 2373/2001 of 4 December 2001, 2373/2001 1 (2001).
[1829] CP 2001/930/CFSP.

27 December 2001	Council of the EU	Common Position 2001/931/CFSP[1830]	Application of specific measures to comply with UNSCR 1373 (2001)	Broadly defines what 'terrorist acts' and 'persons, groups and entities' mean
				EU sanctions list for financial assets freeze
				Those on the list added based on competent authority decision: judicial or equivalent authority
				List to be reviewed every 6 months
				Subsequent Council Regulation 2580/2001
27 December 2001	European Council	Council Regulation 2580/2001 [1831]	Implementing CP 2001/931/CFSP	Establishes EU financial sanctions list
				Addresses financial assets freezes of persons and groups not covered by UNSCR 1267 (1999) and 1333 (2000) implemented through Regulation 467/2001
				Referred to CP 2001/931/CFSP for a definition of 'terrorist act'
				Requested Commission to report on the impact of this list within one year and include amendment proposals if necessary
28 December 2001	Commission	Commission Regulation 2604/2001 [1832]	Amending Council Regulation 467/2001/EC	Amended the sanctions list to reflect changes made on the UN counterterrorism sanctions list by the UNSC or the Taliban Sanctions Committee (names added)
14 January 2002	Commission	Commission Regulation 65/2002[1833]	Implementing 11 January 2002 update of UN 1267 list	Strengthened the aviation ban and extended the financial assets freeze
18 January 2002	Commission	Commission Regulation 105/2002[1834]		Added new names to the 1267 list
27 February 2002	Commission	Commission Regulation 362/2001[1835]		Removed listed entities from the list (as determined by the UNSC and the 1267 Committee)

[1830] CP 2001/931/CFSP.
[1831] Council Regulation 2580/2001.
[1832] Commission Regulation (EC) No 2604/2001 of 28 December 2001, 2604/2001 1 (2001).
[1833] Commission Regulation (EC) No 65/2002 of 14 January 2002, 65/2002 1 (2002).
[1834] Commission Regulation (EC) No 105/2002 of 18 January 2002, 105/2002 1 (2002).
[1835] Commission Regulation (EC) No 362/2002 of 27 February 2002, 362/2002 1 (2002).

27 May 2002	Council of the EU	CP 2002/402/CFSP[1836]	Implementing UNSCR 1390 (2002)	Measures applied to Usama bin Laden, AQ and Taliban associates and entities
27 May 2002	Council of the EU	Council Regulation 881/2002[1837]	Implementing UNSCR 1390 (2002) & CP 2002/402/CFSP	Called for a publicly shared procedure for amending the list within the EU
				Empowered the Commission to amend the list on the basis of UNSC, Sanctions Committee, and MS decisions
				Called for application of human rights obligations within the sanctions
13 June 2002	Council of the EU	Council Framework Decision on Combating Terrorism[1838] (2002/475/JHA)	Common definition of 'terrorist offences' – Art(1)	Framework Decision not to alter the obligation to respect fundamental rights
				EUMS to take criminal law approach to dealing with terrorism including specific sentencing guidelines
				EUMS to establish provisions for implementing the Framework Decision within their national law structures by 31 December 2002
11 July 2002	Council of Europe	Guidelines on human rights and the fight against terrorism[1839]	Concentrated on the limits to be considered in the fight against terrorism	Stated that it is not only possible, but absolutely necessary, to fight terrorism while respecting human rights
				When a measure restricts human rights, they must be precisely defined, necessary, and proportionate
				Discussed the right to a fair hearing by an independent, impartial tribunal
3 September 2002	Council of the EU	Working method of the Clearing House[1840]	Declassified document (2007), follow-up of EU measures implementing UNSCR 1373 (2001)	Review of EU lists (CP 2001/931/CFSP, and 2580/2002/EC) to be reviewed every six months by ad hoc forum – "the Clearing House" – made up of EUMS, Commission, & General Secretariat
				Included working method of the Clearing House

[1836] CP 2002/402/CFSP.
[1837] Council Regulation 881/2002/EC.
[1838] Framework Decision 2002.
[1839] Council of Europe, *Guidelines*.
[1840] Council of the European Union, *Clearing House Guidelines*.

				When a court case arises regarding a listed individual or group, the Clearing House should be convened for a meeting
24 October 2002	European Council	Presidency Conclusions (Seville)[1841]	Declaration on the contribution of the CFSP, including the ESDP, to the fight against terrorism	Reiterated that the fight against terrorism will continue to be a priority objective for the EU and its external policy
				Pledged to coordinate with the UN, NATO, OSCE, and other states such as the US
				Welcomed the European Security and Defense Policy (ESDP) becoming operational
19 February 2003	Commission	Green Paper[1842]	On procedural safeguards for suspects and defendants in criminal proceedings	First step towards common minimum standards throughout EU judiciary systems
27 February 2003	Council of the EU	CP 2003/140/CFSP[1843]	Implementing specific exceptions mandated by UNSCR 1452 (2002)	
27 March 2003	Council of the EU	Council Regulation 561/2003/EC[1844]	Implementing UNSCR 1452 (2003)	Amended Council Regulation 881/2002/EC to include humanitarian exemptions for those listed
20 June 2003	EU High Representative Solana	A Secure Europe in a Better World[1845]	Proposal for EU defence strategy	EU is a global actor, thus should take responsibility for global security
				Terrorism is one of three key threats to the EU (both a target and a base for international terrorism)
				Priority should be given to developing stronger international institutions and a rule-based international order
				Mentioned NATO, OSCE, Council of Europe, and the UN as priority for EU
				Called for a more coherent, more capable European CFSP and ESDP
1 October 2003	European Council	Presidency Conclusions	Report on EU external action in the fight	EU had been participating in all major UN developments

[1841] European Council, *Presidency Conclusions* (2002).
[1842] European Commission, *Green Paper*.
[1843] CP 2003/140/CFSP.
[1844] Council Regulation 561/2003/EC.
[1845] Solana, *A Better World*.

		(Thessaloniki)[1846]	against terrorism	Developing a more coordinated, cross-pillar approach to counterterrorism
				Providing third countries with technical assistance required under UNSCR 1373 (2001)
8 December 2003	Council of the EU	Sanctions guidelines [1847]	Aimed to standardize & strengthen sanctions implementation	Highlighted the importance of respect for human rights as well as protection of due process rights
				If sanctions are in conflict with international obligations, a common approach for dealing with the situation needed to be developed
				In the case of UNSC resolutions, the EU must strictly adhere to the resolution when implementing sanctions
12 December 2003	European Council	European Security Strategy[1848]	Adopted the Solana proposal on European security with minor adjustments	UNSC had primary responsibility for peace and security maintenance
11 March 2004	Madrid bombing			
18 March 2004	Commission	Commission paper to the Council on Terrorism[1849]	Providing input for the European Council	Set out 5 types of action: -Declaration of solidarity -Implementation of existing instruments -Strengthening terrorism financing -Enhanced coordination -External action
19 March 2004	Council of the EU (Irish Presidency)	Draft Declaration [1850]	Authored by Gilles de Kerchove	Called for a revised EU Plan of Action to combat terrorism
				Proposed the creation of an EU Counterterrorism Coordinator (EU CTC)
25 March 2004	European Council	Declaration on combating terrorism[1851]		Created the EU CTC and appointed Gijs de Vries
26 May 2004	EU CTC	Discussion paper &	On implementatio	The Declaration does not specify ways to monitor

[1846] European Council, *Presidency Conclusions* (2003).
[1847] Council of the European Union, *Sanctions Guidelines*.
[1848] European Council, *ESS 2003*.
[1849] European Commission, *Commission Paper*.
[1850] Council of the European Union, *Draft Declaration*.
[1851] European Council, *Declaration on Combating Terrorism*.

		Provisional findings[1852]	n of existing counterterrorism instruments	implementation of instruments and measures
				EUMS reports are "slow and sketchy" regarding implementation
1 June 2004	Council of the EU	EU Plan of Action on Combating Terrorism[1853]	Revised Roadmap with 7 objectives defined	Prioritized cooperation and coordination with relevant UN agencies
				Assigned certain responsibilities to the EU CTC as the competent body to deal with specific objectives
20 October 2004	Commission	Commission Communication[1854]	Overview of EU fight against terrorist financing	Implementation gaps remained regarding existing EU-level financial sanctions and other measures
				EU sanctions list was not comprehensive nor effective
7 July 2005	London bombings			
13 July 2005	JHA Council	Council Declaration on the EU response to the London bombings[1855]	Outline of counterterrorism actions to be concluded by the end of 2005	Declared as an immediate priority the strengthening of EU frameworks pursuing and investigating terrorists across borders
				Pledged to take action on combating terrorist financing with specific deadlines assigned: -Regulation on Wire Transfers (Dec 2005); -Third Money Laundering Directive (Sept 2005); -Code of Conduct on charities (Dec 2005); -Review overall EU performance (Dec 2005) -EU Strategy on radicalization and recruitment (Dec 2005)
				Emphasized the global nature of the agenda and stated that the EU would continue to support the key role of the UN
2 September 2005	Terrorism Working Group (Council of the EU)	'New ideas' on Counterterrorism: Next Steps[1856]	EUMS proposals for EU counterterrorism policy agenda	

[1852] De Vries, *Provisional Findings*.
[1853] Plan of Action.
[1854] European Commission, *Commission Communication* (2004).
[1855] JHA Council, *JHA Declaration*.
[1856] Terrorism Working Group, *New Ideas*.

20 September 2005	Council of the EU	Council Decision 2005/671/JHA[1857]	On the exchange of information and cooperation concerning terrorist offences	EUMS points of contact to be created for provision of information concerning terrorist offences to Europol & Eurojust
				Measures to be carried out by EUMS by 30 June 2006
21 September 2005	Commission	Commission Communication on terrorist recruitment[1858]		Emphasized the priority status of addressing radicalization within counterterrorism
				Highlighted the importance of maintaining balance between human rights and security
				Committed the Commission to gather and consolidate best practices into a guideline for EUMS on cooperation
28 September 2005	Council of the EU	EU Annual Review on Human Rights[1859]	Drafted by the General Secretariat	Highlighted the importance of security-liberty balance in counterterrorism
22 November 2005	Council of the EU	Strategy on combating radicalization and recruitment to terrorism[1860]	Stated that terrorism perpetrated by al-Qaeda has become the main terrorist threat to the EU	Pledged to ensure respect for fundamental rights while combating radicalization and terrorist recruitment
				Placed the primary responsibility on EUMS, with a pan-European level framework
				Resolved to disrupt terrorism networks activities; highlight mainstream opinions over extremism; & promote more vigorously security, justice, & democracy
30 November 2005	European Council	EU Counterterrorism Strategy[1861]	Revised EU approach to counterterrorism through a 4-pillar structure: Prevent, Protect, Pursue, & Respond	Strategic commitment to combat terrorism while respecting human rights
				Political oversight: European Council
				High-Level Political Dialogue on Counterterrorism: Council of the EU, Commission, & EP during every Presidency
				EU CTC & COREPER to facilitate work
				Specified EU added value

[1857] Council Decision 2005/671/JHA.
[1858] European Commission, *Commission Communication* (2005).
[1859] Council of the European Union, *HR Report 2005*.
[1860] EU Radicalisation Strategy.
[1861] EU CT Strategy.

				Highlighted UN's impact on global counterterrorism
4 October 2006	Commission	Commission Regulation 1546/2006/EC[1862]	Amended the 2003 regulation on aviation security and banned major liquid containers on board	The specifics described in the Annex were labeled 'secret'
6 October 2006	Council of the EU	Framework Decision 2006/783/JHA[1863]		Application of mutual recognition of confiscation orders in relation to freezing assets orders
15 November 2006	Council of the EU and the EP	Regulation 1717/2006/EC[1864]	Instrument for Stability	Established a budget for 2007-2013, with 7% allocated to measures relating to security-related activities, including counterterrorism
28 June 2007	Council of the EU	10826/07[1865]	Established the 'CP 931 WP' for the implementation of CP 931/2001/CFSP	Statement of reasons
				Notification procedure
				Review process
				Requests for delisting
				General Secretariat at point of contact
19 September 2007	HR/VP Solana	S256/07[1866]	Gilles de Kerchove appointed as EU CTC	
16 November 2007	Council of Europe	Parliamentary Assembly Report 11454[1867]	Stated that procedures used by UN and EU counterterrorism sanctions do not meet minimum standard HR obligations	Called on MS of the Council of Europe to use their influence at the UN and EU to overhaul the procedural and substantive standards of counterterrorism sanctions
23 January 2008	Council of Europe	Parliamentary Assembly Resolution 1597[1868]	On UNSC and EU blacklists	Procedural and substantive standards applied to counterterrorism sanctions violate human rights
4 September 2008	EP	Resolution 2008/2031(INI)[1869]	Evaluated EU sanctions as part of the EU's action and policies in	

[1862] Commission Regulation 1546/2006/EC.
[1863] Framework Decision 2006/783/JHA.
[1864] Intrument for Stability.
[1865] Council of the European Union, *Implementation of CP 2001/931/CFSP*.
[1866] Solana, *EU CTC Appointment*.
[1867] Council of Europe Parliamentary Assembly, *Blacklists*.
[1868] Resolution 1597.
[1869] Resolution 2008/2031(INI).

			the area of human rights	
28 November 2008	Council of the EU	Framework Decision 2008/919/JHA[1870]	Amended Framework Decision 2002/475/JHA	Extended the definition of terrorist offences to include public provocation to commit a terrorist offence, recruitment for terrorism, and training for terrorism when committed intentionally
1 December 2009	Council of the EU	Treaty of Lisbon[1871]	Amended the Treaty on the European Union	CJEU extended powers, creation of HR/VP position, EP and Commission gained new responsibilities
4 May 2010	European Council	Stockholm Programme [1872]	Focused on the development of AFSJ policies between 2010-2014	Terrorism continued to be highlighted as a threat and the measures combating it should respect fundamental rights
22 November 2010	Commission & Council of the EU	The EU Internal Security Strategy[1873]	Identified five security objectives for 2010-2014	Prevention of terrorism and addressing radicalization and recruitment was identified as objective 2 of the strategy
17 January 2011	Council of the EU & EU CTC	2011 Review of Action Plan[1874]	Called for the immediate lodging of appeals in the 2010 Kadi ruling	
14 April 2011	Council of the EU	Draft working method for closer cooperation and coordination in the field of EU security[1875]	Established inter-institutional meeting structure to discuss the internal and external implications of certain threats, such as terrorism	
2 May 2011	Osama bin Laden's death[1876]			
10 June 2011	Council of the EU	Council Conclusions on enhancing the links	Focused on attaining maximum synergies across EU	

[1870] Framework Decision 2008/919/JHA.
[1871] Lisbon Treaty.
[1872] Stockholm Programme.
[1873] 2010 Internal Security Strategy.
[1874] Council of the European Union, *2011 Action Plan Review*.
[1875] Council of the European Union, *Closer Cooperation*.
[1876] Bossong, *The Evolution of EU Counter-Terrorism*, 120.

		between internal and external aspects of counterterrorism[1877]	counterterrorism	
15 June 2012	Council of the EU	Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy[1878]	Updated guidelines to reflect the developments of previous years in the counterterrorism sanctions regime	Court of Justice jurisprudence must be acknowledged and followed by sanctions regimes when it comes to due process and judicial remedy
25 July 2013	Council of the EU	Council Implementing Regulation 714/2013[1879]	Added Hezbollah's military wing to the EU's autonomous sanctions regime (CP 931/2001/CFSP)	
7 January 2015	Charlie Hebdo attack in Paris[1880]			
30 January 2015	Council of the EU	Riga Joint Statement[1881]	In response to Charlie Hebdo attack	Called for balance of security and human rights; emphasized the need to build on existing tools in combating terrorist financing
9 February 2015	Foreign Affairs Council	3367th Council meeting[1882]	Counterterrorism would be mainstreamed into EU foreign policy	Highlighted the need to speedily implement UNSCR 2170 & 2178 (2014) with full respect for human rights
12 February 2015	European Council	Informal meeting of heads of state or government [1883]	Identified three priorities for EU counterterrorism work	1. Ensuring the security of citizens 2. Preventing radicalization and safeguarding values 3. Cooperating with international partners

[1877] Council of the European Union, *Council Conclusions*.
[1878] 2012 Guidelines.
[1879] Regulation 714/2013.
[1880] Petrikowski, 'Charlie Hebdo Shooting'.
[1881] Council of the EU, *Riga Joint Statement*.
[1882] Council of the European Union, *3367th Meeting*.
[1883] European Council, 'Informal Meeting of the Heads of State or Government Brussels, 12 February 2015 - Statement by the Members of the European Council'.

28 April 2015	Commission	2015 Agenda on Security[1884]	Called for a renewed Internal Security Strategy for 2015-2020	Identified three core security priorities: terrorism, organised crime, and cybercrime
20 May 2015	EP & Council of the EU	Directive (EU) 2015/849[1885]	On the prevention of the use of financial systems for the purposes of terrorist financing or money laundering	
22 October 2015	Council of Europe	Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism[1886]		
13 November 2015	Bataclan attacks in Paris			
2 February 2016	Commission	Commission Communication on strengthening the fight against terrorist financing[1887]	Stocktaking of action plan to combat terrorist financing	Highlighted specific areas in which the Commission would take action to better implement counterterrorism sanctions measures
22 March 2016	Brussels airport attack			
20 April 2016	Commission	Commission Communication on Security Union[1888]	Addressed the necessity of an EU Security Union combining internal and external security activity	
28 June 2016	HR/VP Mogherini	Global Strategy for the European Union's Foreign and Security Policy[1889]	Prioritized EU strategic autonomy within a rules-based global order	Pledged to further develop human rights-compliant anti-terrorism cooperation

[1884] European Commission, *2015 Agenda on Security*.
[1885] Directive 2015/849.
[1886] Additional Protocol 217.
[1887] European Commission, *Action Plan 2016*.
[1888] European Commission, *Commission Communication 2016*.
[1889] Mogherini, *GSEU*.

14 July 2016	Nice Promenade attack			
2 August 2016	Commission President Jean-Claude Juncker	Mission Letter for the Commissioner for Security Union[1890]		
19 September 2016	AFSJ Commissioner Sir Julian King appointed			
20 September 2016		Council Decision 2016/1693/ CFSP[1891]	Concerning restrictive measures against ISIL (Da'esh) & al-Qaeda	Repealed Common Position 2002/402/CFSP; created a consolidated legal instrument implementing UNSC sanctions; referred to the case-law of the CJEU
20 September 2016		Regulation (EU) 2016/1686 [1892]	Implementing Council Decision 2016/1693	Specified right to effective remedy and a fair trial, the right to property, and the right to protection of personal data as human rights obligations within the sanctions regime
19 December 2016	Berlin Christmas market attack			
15 March 2017		CT Directive (EU) 2017/541 on combating terrorism[1893]	Replaced Framework Decision 2002/475/JHA and Council Decision 2005/671/JHA	Harmonized the EU definition of terrorist offences, including references to the foreign terrorist fighter phenomenon
4 May 2018	Council of the EU	2018 Sanctions Guidelines Update (5664/18)[1894]	Discussed the legal context in which EU restrictive measures presided	Referred to the jurisprudence of CJEU regarding the right to defence and the right effective judicial protection
4 May 2018	Council of the EU	2018 Update of the EU Best Practices (8519/18)[1895]	Claimed to be non exhaustive list of recommendations for sanctions implementation	Discussed the procedure of court proceedings in relation to sanctions listing
24 July 2019	Commission	Communication towards better	Summarized the recent EU anti-money	Discussed persistent horizontal vulnerabilities as well as structural

[1890] Juncker, 'Commissioner Mission Letter'.
[1891] Council Decision 2016/1693.
[1892] Regulation 2016/1686.
[1893] Directive 2017/541.
[1894] Council of the European Union, *2018 Sanctions Guidelines*.
[1895] Council of the European Union, *2018 Best Practices*.

		implementation[1896]	laundering and countering terrorist financing action	problems within the legislative framework
13 May 2020	Commission	Action Plan for a Comprehensive Union Policy[1897]	Pledged to introduce new measures for combating terrorist financing and money laundering	
24 July 2020	Commission	Communication on the EU Security Union Strategy[1898]	Introduced the 2020-2025 Security Union Strategy	Four interdependent strategic priorities: (1) Future-proof security environment (2) Tackling evolving threats (3) Protecting Europeans from terrorism and organised crime (4) Strong European security ecosystem
11 December 2020	Commission	A Counterterrorism Agenda for the EU[1899]	Introduced the 2020 EU CT Agenda	New, four-strand approach: (1) Anticipate threats and risks (2) Prevent radicalisation and violent extremism (3) Protect people and infrastructure (4) Respond effectively to attacks

[1896] European Commission, *Commission Communication 2019*.
[1897] European Commission, *Commission Communication 2020*.
[1898] European Commission, *2020 Security Union Strategy*.
[1899] European Commission, *2020 EU CT Agenda*.

Appendix AK

Table 37: 2001 Road map[1900] (excerpt of relevant terrorism financing objectives)

Objective	Means/ instruments	Deadline	Body responsible	Progress already made	Forthcoming work
General Affairs Council					
6: UN: ensure follow-up to Resolution 1373 adopted by the UNSC	Various measures to be adopted (particularly as regards the freezing of assets)	End of the year (90 days from the date of adoption of the Resolution)	Member States/ Commission GAC and other Councils		-Examination to be continued by the Working Party on External Relations, in close collaboration with the other competent fora -Preparation of a common response (including contributions from the Member States)
6a: Combat all forms of funding of terrorist activities	Proposal for a Regulation on specific restrictive measures directed against certain persons and entities with a view to combating international terrorism (2/10/01)	Immediate	GAC	Initial examination by the Working Party on External Relations on 11 October on the basis of the Commission proposal Acceptance by the Parliament following the urgent procedure (4/10/01); examination by Coreper on 5/10/01	Examination by Coreper continues
7: UN: follow-up to any decisions concerning the freezing of Taliban assets taken by the Sanctions Committee set up in UNSC Resolution 1267	Amendments by Commission to Council Regulation (EC) No 467/2001	Depends on decisions taken in New York	Presidency/ Commission	Amendments already adopted on 11 October 2001	Depends on development
8: UN: conclusion of a UN General	Negotiations with the UN	Immediate	GAC/ Member States	-Coordinated position finalised by COTER on	-Negotiation to be monitored by COTER in close collaboration with CATS

[1900] Council of the European Union, *Road Map*.

Convention on International Terrorism	partners with a view to reaching global agreement			26 September -Troika demarches currently under way to promote successful conclusion of the Convention	-Ongoing coordination by the 15 at the UN Sixth Committee Working Party (15-26 October)
9: UN: signing and ratification of the Convention for the Suppression of the Financing of Terrorism		Signing by all the Member States before the end of October	Member States	13 signatures and 1 ratification	Monitoring of the progress of ratification by the COTER Working Party
10: UN: speeding up of the signing, ratification and rapid implementation of all relevant international conventions (NB. There are 12 sectoral Conventions)	Political dialogue/ demarches	Immediate	GAC/SG/HR	Troika demarches currently under way	-Use of Ministerial meetings during the UNGA Ministerial week -Monitoring of the progress of ratification by the COTER Working Party
JHA Council: Legislative Measures					
13: make Eurojust operational	- Framework Decision - Headquarters Decision	6/7 December 2001 No later than end of year	Council [of the EU]/ European Council	Political agreement on Articles 1-8 (JHA Council on 27 and 28 September)	
14: European arrest warrant	Framework Decision	The details must be fixed urgently and no later than 6 and 7 December 2001	JHA Council	-Detailed examination by CATS on 2/10 and 10/10 -Questions of principle put to the JHA Council on 16/10 (12646/01 COPEN 61 CATS 30)	-Meetings of CATS on 22-23/10 and 22-23/11 -Consultation of the EP under way (urgent procedure) -ISL/N question

15: Definition of terrorism	Framework Decision	The details must be fixed urgently and no later than 6 and 7 December 2001	Council [of the EU]	-Detailed examination by CATS on 1/10 and 9/10 -Questions of principle put to the JHA Council on 16/10 (12647/01 DROIPEN 85 CATS 31)	-Meetings of CATS on 22/10 and 2 days in November (dates to be fixed) -Consultation of the EP under way (urgent procedure)
16: Freezing of assets	Framework Decision	Urgent	Council [of the EU]	CATS on 8-10/10 prepared two questions of principle to be submitted to the Joint JHA/ECOFIN Council on 16/10 (12635/01 COPEN 60)	Speed up the work of the WP (bringing forward of the meeting on 15 and 16/10 to 10 and 11/10) so that the Council can adopt it on 6 and 7 December 2001
JHA: Operational measures					
25: Identification of presumed terrorists in Europe and of the organisations which support them in order to draw up a common list of terrorist organisations	Cooperation between services of Member States/Europol	Immediate	Council [of the EU], Persons responsible for anti-terrorist units, intelligence and Europol		-Meeting of heads of intelligence services before the end of October -The Working Party on Terrorism is meeting on 26/10 and 8/11 to examine the outcome of proceeding
45: Internal security and compliance with international obligations regarding protection of fundamental rights	Report	Urgent	Council [of the EU]/ Commission		Commission proposal to come
Ecofin Council					
58: Examination of	Commission report	Immediate	Council [of the EU]		

relevant EC and EU instruments ensuring that banking systems do not permit the financing of terrorism					

Appendix AL

Table 38: 2004 Roadmap[1901] ((excerpt of relevant objectives, [*emphasis*] added by researcher)

Measure/Action	Competent Body	Deadlines	Status/Observations
Objective 1: To deepen the international consensus and enhance international efforts to combat terrorism.			
1.1: Support the key role of the UN in sustaining international consensus and mobilizing the international community as a whole, in particular the General Assembly and the work of the Security Council, inter alia, through its Counterterrorism Committee and the Taliban/Al Queda Sanctions Committee, as well as the Terrorism Prevention Branch of the UN Office of Drugs and Crime	Presidency/ HR and *Coordinator*/ Commission	Ongoing	
1.1.1: Specify ways to work in a more coordinated way in the General Assembly and, with and within the 6th Committee	All	Ongoing – Progress should be reported on by each Presidency	
1.1.2: Establish and develop contacts between the CFSP Working Group on Terrorism and the Counterterrorism Committee	COTER/PSC Presidency, *Coordinator*, Commission, MS	June 2004 and ongoing – Progress should be reported by each Presidency	Troika meetings were held with the 1373 Committee in May 2004/Commissioner Vitorino & the Coordinator also met Chairman of UNCTC in May. Further contacts will now be pursued with the focus on enhancing the efficiency of the relationships.
1.1.3: Establish and develop contacts between the CFSP Working Group on Terrorism and the 1267 Committee	COTER/PSC Presidency, *Coordinator*, Commission, MS	June 2004 and ongoing – Progress should be reported by each Presidency	Troika meetings were held with the Chair of the 1267 Committee in May 2004/Commissioner Vitorino & the Coordinator also met Chairman of 1267 Committee in May. Further contacts will now be pursued with the focus on enhancing the efficiency of the relationships.
1.1.4: Share information on EU priority countries with the appropriate Committees and/or their structures for assisting in the implementation of commitments under UNSCR 1267 and 1373	MS/ Commission	End 2004	
1.2: Work to ensure universal adherence to, and full implementation of, the UN Convention on Terrorism, and to agree Comprehensive UN Conventions on terrorism and on the Suppression of Acts of Nuclear Terrorism (25/3/04 EC Declaration – Section 12)	All	Ongoing – report on progress following each UNGA	

[1901] Plan of Action.

1.2.1: All EUMS to ratify 12 International Conventions against Terrorism and continue to lobby for this in third countries both bilaterally and at EU level	MS	1 Jan 2005	
1.2.2: Identify and demarche Third Countries which are failing to meet their commitments under UNSCR 1373	HR/ *Coordinator* and Commission	Ongoing – report on progress by end of 2004	
1.2.3: Coordinated EU position on reservations to Conventions should be encouraged	Council/MS/ Commission	Ongoing – report on progress by end of 2004	
1.2.4: Efforts should be made within the EU to develop a strategy for agreeing a UN definition on Terrorism	MS at UNGA and the 6th Committee of the UNGA	Ongoing – report on progress following each UNGA	
1.2.5: Promote the adoption of a Comprehensive UN Convention on the Suppression of Acts of Nuclear Terrorism	MS at UNGA and the 6th Committee of the UNGA	July 2004	EUMS need to agree on establishing a Common Position at the UNGA and the 6th Committee of the UNGA, and build consensus and committed support for agreeing a Comprehensive Convention on the Suppression of Acts of Nuclear Terrorism amongst other Members of the UN. The EU should aim at establishing the broadest base of countries possible.
1.2.6: Promote the adoption of Comprehensive UN Convention against Terrorism	MS at UNGA and the 6th Committee of the UNGA	July 2004	EUMS need to agree on establishing a Common Position at the UNGA and the 6th Committee of the UNGA, and build consensus and committed support for agreeing a Comprehensive Convention on the Suppression of Acts of Nuclear Terrorism amongst other Members of the UN. The EU should aim at establishing the broadest base of countries possible.
1.3: Work with and within regional and international organisations to ensure their effective contribution to combating terrorism in accordance with UN obligations (25/3/04 EC Declaration – Section 12)	All	Ongoing – Progress should be reported on by each Presidency	
1.3.1: Support the Council of Europe's work on combating terrorism and in particular support the CoE Committee of Experts on Terrorism (CODEXTER) in their work on formulating a limited scope instrument or instruments dealing with the prevention of terrorism and	MS/ *Coordinator*/ Commission	Ongoing – Progress should be reported on by each Presidency	

covering existing lacunae in international law or action			
Objective 2: To reduce the access of terrorists to financial and other economic resources			
2.1: Ensure the effectiveness of EU asset freezing procedures, including the non-financial economic resources, in accordance with UN obligations and the need to respect due process and the rule of law	COTER/ Commission / *Coordinator*	Ongoing – Progress should be reported on by each Presidency	New work practices were introduced within relevant Council structures during Irish Presidency
2.1.1: Ratification and full implementation of the 1999 UN Convention for the Suppression of the Financing of Terrorism and to giving effect to the provisions of UNSCR 1373 directed to the freezing of assets (25/3/04 EC Declaration – Section 10)	MS	1 January 2005	Action also under Objective 1.2.1. Encouragement and assistance needs to be provided to the four MS who have not yet ratified the 1999 Convention for the Suppression of the Financing of Terrorism
2.2: Establish operational links and improve cooperation between relevant bodies to facilitated enhanced exchange of information on terrorist financing			
2.3: Develop and implement an EU strategy on the suppression of terrorist financing, including the regulation of charitable organisations and alternative remittance systems			
2.3.1: Identification of measures to improve the effectiveness and efficiency of the mechanism set up to freeze the assets of terrorists and terrorist organisations and to identify the holders and true beneficiaries of bank accounts, irrespective of their place of residence (25/3/04 EC Declaration – Section 10)	Council/ Commission / *Coordinator*	September 2004 and Ongoing	Reform to the working methods of the mechanism carried out under the Irish Presidency now allows for a speedier designation of terrorists and terrorist organisations. […]
2.4: Cooperate closely with the Financial Action Task Force (FATF) on all issues regarding the financing of terrorism and ensure that the EU framework is adapted to the eight special recommendations on terrorist financing			
2.4.2: Review EU and terrorist financing legislation and structures in particular on their compatibility with FATF standards.	Council/MS/ *Coordinator*	December 2005	[…]
Objective 3: To maximize capacity within EU bodies and Member Stated to detect, investigate, and prosecute terrorists and prevent terrorist attacks			
3.1: Developing and implementing the legislative framework for combating terrorism			
3.1.3: Framework Decision on Combating Terrorism Implementation (25/3/04 EC Declaration – Section 5 (a))	MS SCLWG (to report)	June 2004	9 EUMS have reported completion of implementation measures. Commission Report adopted on 05/04/04
3.7.2: Putting in place new committee structures capable of ensuring greater operational	Council/ COREPER		Review underway

cooperation on security and terrorism (25/3/04 EC Declaration – Section 6)			
Objective 4: To protect the security of international transport and ensure effective systems of border control			
Objective 5: To enhance the capacity of the EU and MS to deal with the consequences of a terrorist attack			
5.1: Identify areas for closer cooperation in consequence management with other international organisations within their respective competences, including NATO	All	Ongoing	
Objective 6: To address the factors which contribute to support for, and recruitment into, terrorism			
Objective 7: To target actions under EU external relations towards priority Third Countries where counter-terrorist capacity or commitment to combating terrorism needs to be enhanced			

Appendix AM

Table 39: Actions taken in relation to the counterterrorism sanctions of CP 2001/931/CFSP declassified in 2007

Date	Action taken
2 March 2005	Improved the procedures of the Clearing House
12 July 2006	Discussed the need to improve listing and delisting procedures
31 October 2006	Recommended that a statement of reasons be established for each designee
20 December 2006	Established procedures for informing those listed in the sanctions measures
22 March 2007	Endorsed recommendations to strengthen the review procedure
13 June 2007	Established a Foreign Relations Counsellors Working Party ("CP 931 WP")

Appendix AN
Table 40: Kadi case saga

Cases	Date	Court	Case	Action/Decision	Result/Notes
Kadi I	18 Oct 2001			US sanctions list	
	19 Oct 2001			UNSC sanctions list (under UNSCR 1267 (1999) & 1333 (2000)	Kadi added to the list by the UN Sanctions Committee
	19 Oct 2001			EU list (CP 2001/930/CFSP)	Kadi added to the EU list through Regulation 2062/2001/EC
	18 Dec 2001	CFI	Case T-315/01[1902]	Kadi – action brought to challenge the listing	3 grounds for annulment: -right to a fair hearing; -right to respect for property & proportionality; -right to effective judicial review
	16 Jan 2002			UNSCR 1390 (2002) adopted	Measures directed at bin Laden & associates
	27 May 2002			EU CP 2002/402/CSFP	Implemented UNSCR 1390 (2002)
	27 May 2002			Council Regulation 881/2002/EC	Added Kadi to the measures against bin Laden & associates
	14 October 2003	CFI	Case T-315/01	Oral arguments heard	
	21 Sept 2005	CFI	Case T-315/01 judgment[1903]	Dismissed Kadi claim	Stating it lacks jurisdiction to review UNSCR
	17 Nov 2005	CFI	Case C-402/05 P[1904]	Kadi – appeal brought against judgement (21 Sep 2005)	
	16 Jan 2008	CFI	Case C-402/05 P[1905]	Opinion of Advocate General Poiares Maduro	CFI 2005 decision should be annulled
	3 Sept 2008	ECJ	Joint cases (C-402/05 P & C-415/05 P)[1906]	Delivered judgment	Annulled the EU regulation implementing the UN listing for violation of HR

[1902] *Kadi action 2001*.
[1903] *CFI Judgment 2005*.
[1904] *Kadi appeal 2005*.
[1905] *AG Maduro Opinion*.
[1906] *2008 Kadi judgment*.

Kadi II	8 Sept 2008			France, on behalf of EU requested the Sanctions Committee the summary of reasons	
	21 Oct 2008			Chairman of Sanctions Committee communicated summary of reasons to France	Describing his connections to the Muwafaq Foundation which historically operated under the umbrella of the Makhtab Al-Khidamat organisation founded by bin Laden, as well as his financial activity in Albania during the 1990s
	22 Oct 2008			France shared the summary of reasons with the Commission	To enable it to comply with the 2008 Kadi judgment
	22 Oct 2008			EU Commission informed Kadi of his extended designated status	Purpose of letter: to give Kadi the opportunity to comment on the summary of reasons
	10 Nov 2008			Kadi submitted his comments to the Commission	Requesting evidence supporting the assertions as well as the opportunity to comment & refute the evidence
	28 Nov 2008			Commission re-listed Kadi	Commission Regulation 1190/2008/EC
	8 Dec 2008			Commission replied to kadi stating that it had complied with the Court of Justice's ruling	Stating that the judgment did not require the disclosure of further evidence requested by Kadi
	26 Feb 2009	General Court	Case T-85/09[1907]	Kadi filed new challenge	Against Commission Regulation 1190/2008/EC
	30 Sept 2010	General Court	Judgment T-85/09[1908]	Ruled in Kadi's favour	Annulled the relisting citing insufficient

[1907] *Kadi appeal 2009*.
[1908] *2010 Kadi Judgment*.

					judicial protection
	13 Dec 2010	General Court	Case C-584/10 P[1909]	European Commission appealed the General Court's decision	Court's findings were vitiated by errors of law regarding applicable standards of judicial review
	16 Dec 2010	General Court	Case C-593/10 P[1910]	Council of the EU appealed the General Court's decision	Claimed that the General Court failed to take into account the creation of the UN Ombudsperson's Office
	16 Dec 2010	General Court	Case C-595/10 P[1911]	UK appealed the General Court's decision	Stating that a full judicial review is contrary to EU Treaties and competence
	5 Oct 2012			Kadi delisted from UN list[1912]	
	19 March 2013		C-584/10 P, C-593/10 P, & C-595/10 P[1913]	Opinion of AG Bot	
	18 July 2013	ECJ	Case C-584/10 P[1914]	Upheld annulment of relisting	Dismissed Commission, Council of the EU, and UK appeals

[1909] *Commission appeal*.
[1910] *Council of the EU appeal*.
[1911] *UK appeal*.
[1912] UNSC, *Kadi Delisted*.
[1913] *AG Bot Opinion*.
[1914] *2013 Kadi Judgment*.

Appendix AO

Table 41: Excerpt of Strategic Objectives Proposed by the 2010 EU Internal Security Strategy[1915]

	Objective	Actions	Specific measures
1	Disrupt international **crime networks**		
2	Prevent **terrorism** and address **radicalisation** and recruitment	Action 1: empower communities to prevent radicalisation and recruitment	Creation of EU radicalisation-awareness network
			Ministerial conference on prevention of radicalisation and recruitment
			Develop a handbook of actions and experiences
		Action 2: cut off terrorists' access to funding and materials and follow their transactions	Devise a framework for administrative measures for freezing of assets by 2011
			Develop a policy for extracting financial messaging data by 2011
		Action 3: protect transport	
3	Raise levels of security for citizens and businesses in **cyberspace**		
4	Strengthen security through **border management**		
5	Increase Europe's resilience to **crises and disasters**		

[1915] 2010 Internal Security Strategy.

Appendix AP

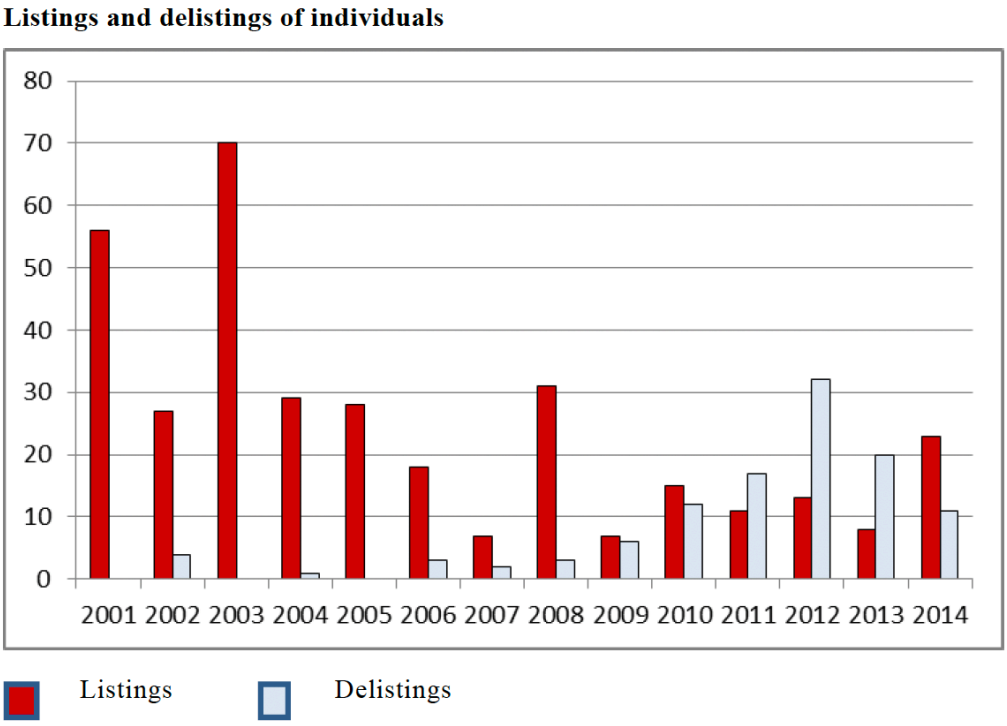
Table 42: Major EU counterterrorism and security-oriented strategies & legislation 2001-2020

Date	Name	Focus	Notes
2001	CP 2001/56/CFSP	Implementing UNSCR 1267 (1999) & 1333 (2000)	
2001	CP 2001/931/CFSP	Implementing UNSCR 1373 (2001)	Established EU autonomous sanctions regime
2001	Council Regulation 2580/2001	Implementing CP 2001/931/CSFP	
2002	Framework Decision 2002/475/JHA	Common definition of terrorist offences	
2003	European Security Strategy	External, defence strategy	
2004	Declaration on combating terrorism	Created EU CTC	
2004	EU Plan of Action on Combating Terrorism	Roadmap	
2005	EU CT Strategy	4-pillars: prevent, protect, pursue, & respond	
2005	Strategy on combating radicalisation and recruitment to terrorism		
2009	Treaty of Lisbon		CJEU extended powers, creation of HR/VP position, EP and Commission gained new responsibilities
2010	Stockholm Programme	Internal	Focused on the development of AFSJ policies between 2010-2014
2010	Internal Security Strategy	Internal security	Identified five security objectives for 2010-2014
2015	European Agenda on Security	Improving information sharing and preventing radicalization	Renewed Internal Security Strategy for 2015-2020
2015	Directive (EU) 2015/849		On the prevention of the use of financial systems for the purposes of terrorist financing or money laundering
2016	Security Union	Internal-external bridge	Addressed the necessity of an EU Security Union combining internal and external security activity
2016	Shared Vision, Common Action: A Stronger Europe	External	Prioritized EU strategic autonomy within a rules-based global order

2017	Directive (EU) 2017/451 on combating terrorism	Replaced Framework Decision 2002/475/JHA and Council Decision 2005/671/JHA	Harmonized the EU definition of terrorist offences, including references to the foreign terrorist fighter phenomenon
2020	EU Security Union Strategy	Internal	2020-2025 Security Union Strategy
2020	A Counterterrorism Agenda for the EU	4 strands: anticipate, prevent, protect, & respond	

Appendix AQ

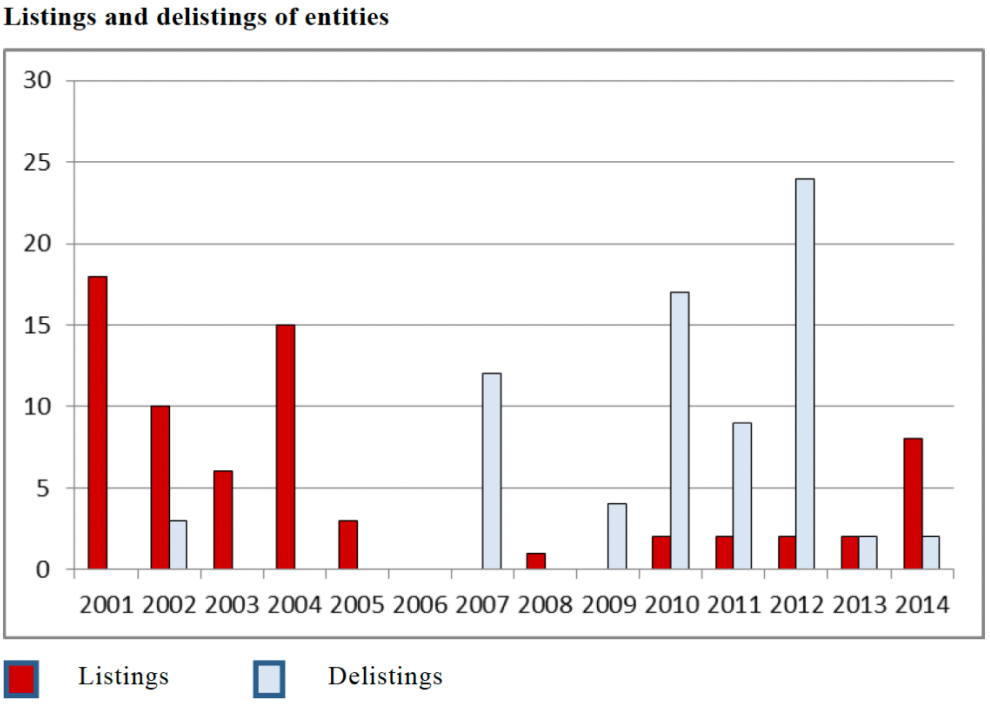
Table 43: Listings and delistings of individuals between 2001-2014[1916]



[1916] UNSC Monitoring Team, *MT Report 18*, 16.

Appendix AR

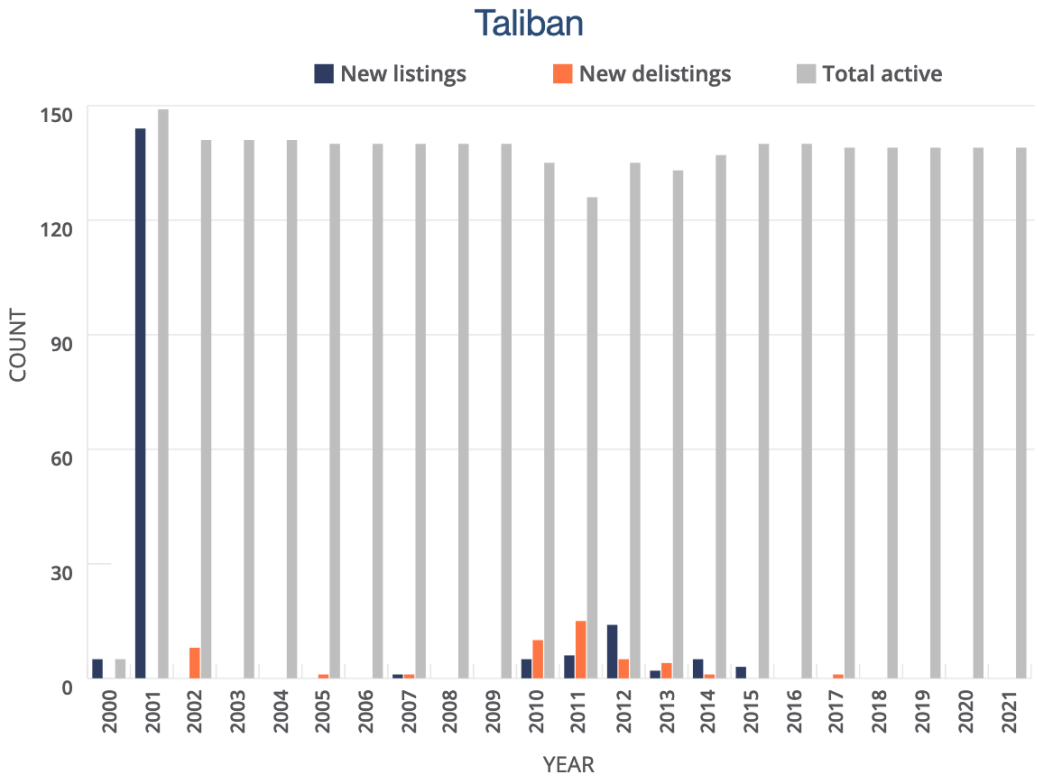
Table 44: Listings and delistings of entities between 2001-2014[1917]



[1917] UNSC Monitoring Team, *MT Report 18*, 17.

Appendix AS

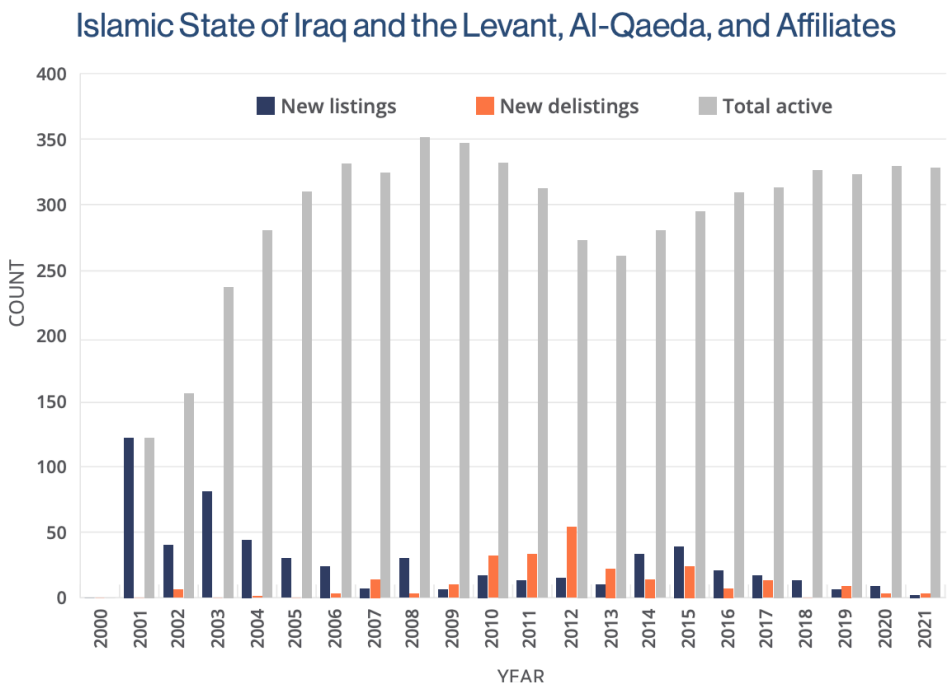
Table 45: New Taliban listings and delistings between 2000-2021[1918]



[1918] Aurel Niederberger and Thomas J. Biersteker, *UN Individual Sanctions Listings and Delisting Patterns and Their Interaction with Autonomous Measures: Considerations for Mediators* (United Nations University, 2022), 53.

Appendix AT

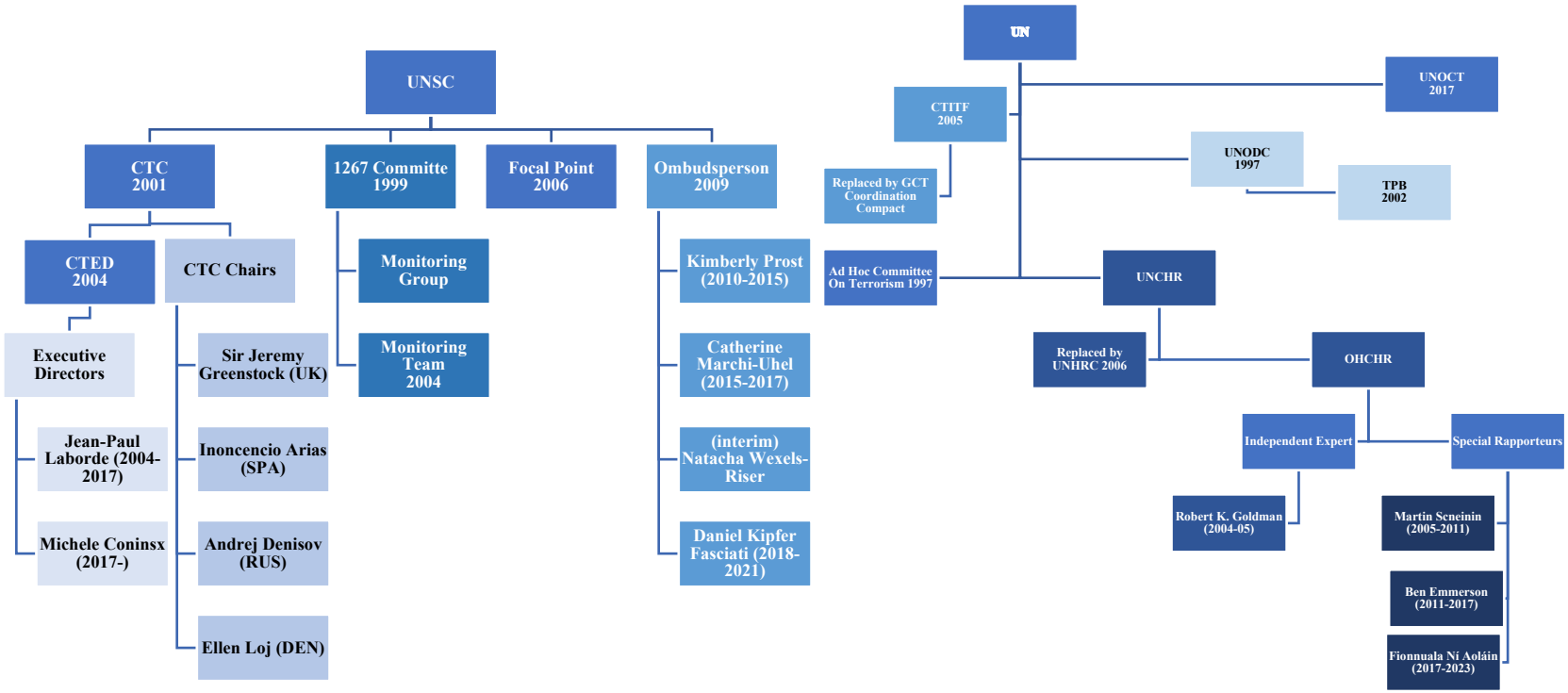
Table 46: New ISIL & al-Qaeda listings and delistings between 2001-2021[1919]



[1919] Niederberger and Biersteker, *Sanctions Interactions*, 38.

Appendix AU

Table 47: Overview of UN counterterrorism-related norms entrepreneurs' and organs' structure



Appendix AV

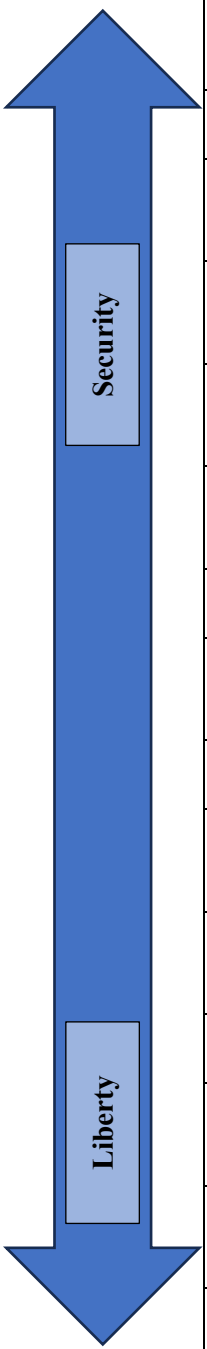
Table 48: EU counterterrorism actors and their rights to review sanctions listings

Entity/Role	Hierarchical level, sanctions process	Right to review	Current actions	Notable norms entrepreneurs, decision
CJEU	Top Judicial Review: Final review, annulment	Highest	Directs compliance, sets legal precedent	Kadi I/II, OMPI, AG Maduro, AG Bot
General Court/CFI	Initial Legal Review: First instance challenges	High	Sets procedural standards, influences appeals	OMPI, Sison
ECtHR	Human Rights Review: compliance	High (ECHR states)	Determines rights threshold for CT measures	Nada v Switzerland
European Council	Policy Setting: Strategic direction, approval	None (sets direction)	Steers sanctions agenda	Heads of State/Government
Council of the EU	Law Adoption: List adoption, legislative decision	None (policy not judicial)	Decides listings, procedural framework	EU CTC leadership, UK/Irish/Belgian Presidency
European Commission	Law Drafting, Enforcement: implementation	None	Manages process and ensures compliance	Official Declarations
European Parliament	Oversight, amendment	None (political)	Raises rights concerns, adapts legislation	
EEAS & HRVP	Diplomacy/External: Coordination, negotiation	None	Negotiates external compliance, messaging	Solana, Ashton, Mogherini
EU Counterterrorism Coordinator	Policy Coordination: Monitoring, reporting	None	Connects actors, bridges norms	Gilles de Kerchove, Gijs de Vries
Europol, Frontex, Eurojust	Law enforcement, operationalisation	None	Applies sanctions, shares data	
EU Agency for Fundamental Rights (FRA)	Fundamental rights: Rights analysis	Advisory	Reviews legislation, publishes recommendations	
Council of Europe, ECtHR Committees	Regional Standards: Human rights guidance	Advisory	Shapes rights benchmarks	

EUMS Domestic courts	Application, first review	National right	Reviews EU/national listings	Notable decisions in UN/EU cases

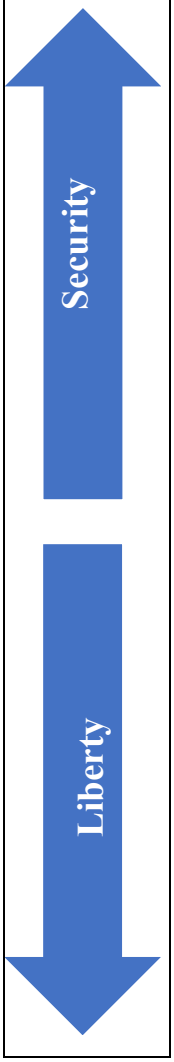
Appendix AW

Table 49: Security-Liberty Balance orientation of European counterterrorism norms entrepreneurs

Security–Liberty Balance Orientation	Name	Function	Norms Convergence Pathways
	Europol	Law enforcement, intelligence exchange; ECTC host	Organisational, Procedural
	Frontex	Border and Coast Guard Agency	Organisational, Procedural
	European Counterterrorism Centre (ECTC)	Strategic/operational hub (Europol-hosted)	Organisational, Procedural
	EU CTC	Strategic CT policy coordination	Politico-Strategic, Organisational, Procedural
	Council of the EU	Ministers of states; legislation/policy approval	Politico-Strategic, Organisational, Procedural
	European Council	Heads of state/government; sets broad priorities	Politico-Strategic, Organisational
	Council Secretariat	Admin/policy support for Council	Organisational, Procedural
	Commissioner for Security Union	Senior CT/organised crime/borders official	Politico-Strategic, Organisational, Procedural
	Eurojust	Judicial cooperation; cross-border prosecution	Organisational, Procedural, Legal
	European Commission	Proposes legislation; implements policy	Politico-Strategic, Organisational, Procedural, Legal
	HRVP/EEAS	Foreign/security leadership & coordination	Politico-Strategic, Organisational
	European Parliament	Elected body; democratic oversight	Politico-Strategic, Legal
	EU Agency for Fundamental Rights	Research/advocacy for fundamental rights	Legal, Procedural
	Court of Justice of the EU (CJEU)	Highest EU judicial authority; rights protection	Legal, Procedural, Politico-Strategic
	European Court of Human Rights	Human rights protection; sanctions/security rights	Legal, Procedural
	Council of Europe	Regional legal/human rights organisation	Legal, Politico-Strategic

Appendix AW

Table 50: Security-liberty balance and norms convergence of UN and EU counterterrorism sanctions-related entities

UN	Norms Convergence Pathways	Security-Liberty Balance Orientation	EU	Norms Convergence Pathways
UNSC	Politico-strategic, legal, organisational, procedural		Council of the EU	Politico-strategic, organisational, procedural
CTC & CTED	Politico-strategic, organisational, procedural		HR/VP & EEAS	Politico-strategic, organisational
UNOCT	Organisational, procedural		EU CTC	Politico-strategic, organisational, procedural
1267 Committee	Organisational, procedural		Frontex (EU Border Agency)	Organisational, procedural
Monitoring Team	Procedural		Europol / ECTC	Organisational, procedural
			European Commission	Politico-strategic, organisational, procedural, legal
Focal Point	Organisational, procedural		Eurojust	Organisational, procedural, legal
			EU Agency for Fundamental Rights (FRA)	Legal, procedural
UN Ombudsperson	Legal, procedural, organisational		**Court of Justice of the EU (CJEU)**	Legal, procedural, politico-strategic
			Council of Europe & ECtHR	Legal, politico-strategic

Appendix BA
Table 51: <u>Extended acknowledgements</u>

It is needless to say that I would not be here without Dr. James Fitzgerald, whom I first want to thank for being the founding member of my Master's programme, through which I had the opportunity to explore the magic of Ireland and realise that DCU is the best fit for my academic home. When I emailed him all those years ago during my COVID existential crisis, I had no idea whether I was even interested in a PhD project. Fortunately, he decided to skip the general chit chat and asked for a specific proposal instead, giving me a tangible goal rather than musing about the pros and cons of a hypothetical research project. I could go on about how he helped me with my research over the years, for which I could not be more grateful; however, I would rather spend a few hundred words on how James understood my research and writing style and encouraged me to tailor my projects so I could enjoy the best of academia. As someone who never believed in the limits of a "short summary," I appreciated how he acknowledged that this would be a challenge during the editing phase, but he never discussed a self-imposed limit to my ramblings in first drafts. He has always supported my desire to combine my academic interests with practical applications through my engagements with the UN, EU, and OSCE. Most importantly, James always reminded me that there's life beyond academia and that I should focus on balancing and enjoying all aspects of life. Outside of his invaluable guidance on the 'big picture' stuff, I cannot thank him enough for helping me navigate the paperwork and bureaucracy labyrinth that comes with grants from various institutions and also being a relative newcomer to the country. Given that this section has the potential to develop into a full PhD chapter, I will conclude here by reiterating my deepest gratitude: thank you, James, I would not be here without you.

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To the DCU Law and Government community, thank you! Dr. CK, I appreciate your invaluable insights on the scope of my research over the years. Dr. AB, although I didn't include my Stata results, they still guided my research direction, and I didn't even have an emotional breakdown trying to figure out the coding, which wouldn't have happened without you. Dr. WK, thank you for involving me in the DCU journey towards equality; I truly value the experience! Not to mention your comments on my IMSISS research project, which played a significant role in my research proposal.

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JBF, AFF, and AF, you continue to amaze me with your strength and passion. Your dedication to lifting others up and empowering women will forever inspire me to show up braver, louder, and more unapologetically myself every single day.

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