

Contents

Acknowledgments XI

List of Abbreviations XII

Introduction 1

1 Context 1

2 Why Sovereignty and Which Sovereignty? 5

3 International Organisations – Conflict of Legal Orders 8

4 Conflict of Branches 12

5 International Security – Conflict of Norms 14

6 Structure and Methodology 18

PART 1

The United Nations Counterterrorism Framework and Its Impact on Sovereignty

1 The Emergence of an International Counterterrorism Regime 25

1 Non-binding UN Counterterrorism Measures 26

2 The Security Council's Means of Action 28

2.1 *'Threat to International Peace and Security' – The Framework for Binding Measures Against Terrorism* 28

2.2 *Targeted Sanctions – From Punitive Measures to Concerted Framework* 31

2 Terrorism Obligations from the Security Council 33

1 The Definition of Terrorism as a 'Threat to International Peace and Security' – Allocation of Authority 33

2 Resolutions 1373 and 2178 – A Binding Global Framework 35

3 Compliance and Enforcement 43

1 Pre-September 11, 2001 44

2 The Counter-Terrorism Committee 46

3 Results and Analysis 48

3.1 *State Reports on National Counterterrorism Regimes* 50

3.2 *CTC Surveys on National Implementation* 52

- 4 **The Scope of the Security Council's Role** 55
 - 1 The Legality of the Security Council's Actions 57
 - 2 The Legitimacy of the Security Council's Actions 62
 - 3 Do States Care? 66

PART 2

The Role of Regional Organisations in International Counterterrorism

- 5 **The Mandate of Regional Organisations for Terrorism** 75
 - 1 Relationships with Member States: Distribution of Powers 76
 - 2 Relationship with the United Nations – Threats to Peace and Security: A Mandate for Counterterrorism? 79
- 6 **Regional Counterterrorism Measures** 81
 - 1 The Organisation of American States 81
 - 2 The African Union 83
 - 3 The Council of Europe 85
 - 4 The European Union 88
- 7 **Compliance and Implementation** 96
 - 1 The Organisation of American States 96
 - 2 The African Union 97
 - 3 The Council of Europe 99
 - 4 The European Union 100
- 8 **The Role of Regional Courts in Counterterrorism** 107
 - 1 The Organisation of American States 107
 - 2 The Council of Europe 111
 - 3 The European Union 114

PART 3

Terrorism Sanctions – Conflicts of Sovereignty

- 9 **Terrorist Sanctions – A Multilayered System** 121
 - 1 United Nations Sanctions Regimes 122
 - 2 European Union Sanction Regimes 125
 - 3 European Union Member States' National Sanctions Regimes 130
 - 4 Human Rights in Sanctions Regimes 133

10	Conflict of Sovereignties – A Case Law Study	137
1	EU Case Law	138
1.1	<i>1373 Regime – The OMPI Case</i>	138
1.2	<i>1267 Regime – The Kadi Case</i>	140
1.3	<i>Kadi II and Beyond</i>	145
2	UK Case Law	148
3	Council of Europe Case Law	154
11	The Impact of Case Law on the EU and UN Sanctions Regimes	159
1	European Union Measures	159
2	United Nations Measures	161
12	Conflicts	167
1	Conflict of Sovereign Legal Orders	167
2	Conflict of Branches or Traditional Separation of Powers?	173
	Conclusions	181
	Bibliography	185
	Index	197