

PROF. DAN SAROOSHI K.C.

ESSEX COURT CHAMBERS

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PROFESSIONAL PRACTICE

Prof. Dan Sarooshi K.C. is a specialist in public international law, investment treaty arbitration, and public and constitutional law. He also has considerable experience in high value commercial litigation.

He is an experienced advocate with a track record of success in high profile cases. He has argued over 90 cases as advocate and counsel for States, international organisations, and corporations in international courts (International Court of Justice, European Court of Human Rights, WTO, UN Tribunals), investment arbitrations (ICSID, ICSID AF, ECT, PCA, NAFTA, ICC, UNCITRAL, and LCIA), and the highest domestic courts in the UK, Hong Kong, BVI, and Bahamas as well as in domestic employment tribunals.

His clients include 23 States (e.g. UK and USA), 22 international organizations, and corporations (e.g. BAT, Exxon Mobil, and Tesco). Before being appointed King's Counsel, he was a member of both the UK Attorney General Panel of Counsel for Public International Law cases and the AG Panel of Counsel for Constitutional and Commercial Law cases.

In parallel with his litigation and advisory services, he is Professor of Public International Law at the University of Oxford (since 2006). He joined the Oxford Law Faculty in 2003 and was in 2006 promoted to full Professor of Public International Law.

WHAT OTHERS SAY:

Legal 500, Chambers & Partners, Best Lawyers UK, Spears 500 and associated client quotes say he has "The finest legal mind of his generation particularly in matters of public and private international law and English law", has "superior skill and creativity as an elite advocate," is a "superb advocate", and "has the well-earned reputation to be counted among the finest in London". He "wins again and again and again", "is a superstar", is "as good as they come", has "a brilliant strategic mind and masterful advocacy", "clearly one of the leaders at the Bar for public international law", and is "a precious commodity" "at the top of his game". "His written and oral advocate armed with encyclopedic knowledge of international and investment law", has "formidable advocacy skills" "whose articulation of public international law is second to none", and is an "extremely bright advocate with a keen sense of strategy and excellent litigation instincts". His "masterful cross-examination and oral argument got us the win below and excellent briefing and oral argument secured the win on appeals", he "combines immense intelligence" with "an excellent record of representing governments, international organisations and FTSE 100 companies" and has "a wealth of experience of appearing before international

and domestic courts, including the ICJ and the English High Court". "Dan is unique in that he combines very deep knowledge of the law with vast negotiations and trial experience." "He is a natural and easy leader of a team. Clients trust him with bet-the-country/company cases." He is "a dream to work with", and as "a resourceful advocate he offered answers and avenues of recourse in situations where other UK counsel could offer none".

CASES IN UK AND OTHER NATIONAL COURTS:

Acted as advocate and counsel in cases involving public international law, constitutional/public law, enforcement/challenge of arbitral awards, and commercial law:

- UK SUPREME COURT:
 - (1) "Maduro Board" of the Central Bank of Venezuela ("BCV") v. "Guaido Board" of BCV (ex parte The Bank of England) [2023] AC 156 (deciding control over c. \$2 billion of gold in the Bank of England: UK law position on recognition of foreign Judgments; Act of State; and recognition of Heads of State).
 - (2) "Brexit case" *R* (*Miller*) *v. UK* [2018] AC 61 (for Ms. Miller: whether it was the UK Parliament or Government that in effect can terminate the UK's membership of the European Union).
 - (3) *Taurus v. SOMO* [2018] AC 690 (for SOMO: Iraq's Oil Ministry: resisting recognition and enforcement of UNCITRAL award, letters of credit, situs of debt, third party debt orders, and State/Central Bank immunities).
 - (4) *Rahmatullah v. Secretary of State for Defence* [2013] 1 AC 614 (for UK Government: constitutional law, judicial review and habeas corpus).
- ENGLISH COURT OF APPEAL:
 - (5) *Kingdom of Bahrain v. Shehabi & Another* (State immunity; alleged State hacking of persons in UK appeal pending).
 - (6) The Central Bank of Venezuela case [2021] WLR Civ 1 (CA) (see above).
 - (7) *R* (*BAT*) *v. SoS* (*Health*) [2018] QB 149 (for BAT in this multi-billion pound case against UK "plain packaging" cigarette packaging regulations).
 - (8) Benkharbouche v. UK SoS (FCO) and Janah v. Libya [2016] QB 347 (for Libya: the Court of Appeal (affirmed by UK Supreme Court) changed UK law to permit Embassies to be sued by their employees; landmark State immunity case);
 - (9) Taurus v. SOMO, Iraq Oil Ministry [2016] 1 Lloyd's Rep 42 (see above).
 - (10) Westpark v. Kingfisher Airlines [2009] EWCA Civ 526 (contractual payments; liability; choice of law).
- ENGLISH HIGH COURT (HCt) AND OTHER UK TRIBUNALS:
 - (11) Mohammad v. Bahrain [2023] EWHC 89 (HCt) (alleged State hacking of persons in UK; State immunity under appeal)
 - (12) *Kuwait Investment Office v. Hard* [2022] EAT 51 (for Kuwait's sovereign wealth fund: status of wealth fund; diplomatic immunities).
 - (13) Taylor, Hard, and Vithlani v. KIO, ET Judgment, 16 December 2022, Case number: 2202296/2019 and 2202597/2020 (Mr S Hard) 2201544/2020 and 2203724/2020 (Ms C Taylor) & 2202346/2020 (Mr P Vithlani) (for KIO: diplomatic immunities).

- (14) *Theognosia v. Turkey (SoS (FCO) intervening)* (HCt) (intervened on behalf of UK to obtain the discharge of freezing orders against 47 bank accounts of a foreign Embassy on grounds of State immunity).
- (15) Webster v. USA EAT [2022] EAT 92 (for USA: successful discharge of case on appeal on grounds of State immunity).
- (16) Wright v. USA EAT [2022] EAT 92 (for USA: successful discharge of case on appeal on grounds of State immunity).
- (17) London Borough of Barnett v. AG & Others (SoS (FCDO) Intervening) [2021] 3 WLR 875, [2021] EWHC 1253 (Fam) (diplomatic and State immunities case).
- (18) Chambers v. USA [2021] ET Cases No. 3318776/2019 & 3319503/2019 (for USA: successful discharge of case relating to US military bases in the UK on grounds of State immunity).
- (19) Congo (DRC) v. Blemain Finance (2020) (for Blemain: contractual issues; guarantees; DRC Embassy/Ambassador's residence).
- (20) The Central Bank of Venezuela case (Commercial Court) [2020] EWHC 3317).
- (21) Heiser and 132 others v. Iran: acting for deceased/injured US military personnel and families in litigation over 7 years relating to recognition and enforcement of c.\$775 million US Federal Judgments against Iran's commercial assets in the UK leading to three judgments: [2019] EWHC 2074, [2019] EWHC 2073, and [2012] EWHC 2938.
- (22) Webster v. USA [2019] 10 WLUK 500 (for USA: successful discharge of case relating to US military bases in the UK).
- (23) Wright v. USA [2019] 10 WLUK 500 (for USA: successful discharge of case relating to US military bases in the UK).
- (24) *Houghton v. USA*, ET Case No. 3321306/2019 (for USA: successful discharge of application).
- (25) A v. B (a State) [2018] 5 WLUK 366 (Comm) (enforcement of UNCITRAL award against a State).
- (26) *Progas v. Pakistan* [2018] 1 CLC 126 (Comm) (for Progas: challenge to UNCITRAL award; first case to deal with third party funding of investment arbitration).
- (27) UCP v. Nectrus [2018] 1 WLR 3409 (Comm) (investment services contract).
- (28) *Swan v. USA*, Case No. 3330976/2018 (for the USA: successful discharge of case relating to US military bases in the UK).
- (29) *Cruz City v. Unitech* [2015] 1 All ER 305 (Comm) (resisting recognition and enforcement of LCIA Award and discharge of "Chabra" freezing order).
- (30) Ben Rafael and 6 others v. Iran (HCt) [2015] EWHC 3203 (for family of diplomat killed in bombing of a US Embassy: seeking to recognise and enforce US Judgment c.\$US75 million against Iran's commercial assets; State immunity case).
- (31) *Harrington v. USA* 180 ILR 454 (2015) (for the USA: successful discharge of case relating to US military bases in the UK).
- (32) *Gard v. IOPC Fund* [2014] 2 CLC 699 (Comm) (for IOPC Fund: resisting imposition of £60 million freezing order; loans, indemnities, & immunity).
- (33) Gard v. IOPC Fund [2014] 1 CLC 624 (Comm) (discharge of freezing order).
- (34) Taurus v. SOMO (HCt) [2014] 1 All ER 942 (see above).
- (35) *Wokuri v. Kassam* (HCt) [2013] Ch 80 (contractual issues; diplomatic immunity: obtained eventual dismissal of claim).

- (36) Croatia v. Serbia (HCt) [2010] Ch 200 (for Serbia: State properties/SFRY succession).
- (37) Serbia v. Imagesat International [2010] 2 All ER (Comm) 571 (Comm) (for Serbia: challenge to ICC award, waiver, State succession, and non-justiciability).
- (38) Westpark v. Kingfisher Airlines Commercial Court [2008] EWHC 3233 (contractual payments; liability; choice of law).
- (39) Locke v. Kuwait Investment Office (ET) (for KIO: State/diplomatic immunity case for KIO: successfully settled).
- (40) *Hard v. Kuwait Investment Office* (ET) (for KIO: State/diplomatic immunity case for KIO: successfully settled).
- (41) *Taylor v. Kuwait Investment Office* (ET) (for KIO: State/diplomatic immunity case for KIO: successfully settled).
- (42) Vithlani v. Kuwait Investment Office (ET) (for KIO: State/diplomatic immunity case for KIO: successfully settled).
- (43) Case for EBRD in UK ET employment dispute (international organization immunity case settled on confidential basis).
- US DISTRICT COURT, PA: Acted as UK law expert for Grenfell Tower victims in US proceedings against the manufacturers of the cladding used on the Tower: (43) Behrens et al v. Arconic.
- HONG KONG COURT OF FINAL APPEAL: (44) FG Hemisphere v. Congo & Others [2011] HKCFA 41 (landmark State immunity case; recognition and enforcement of ICC awards in Hong Kong on the basis of English law).
- BAHAMAS SUPREME COURT: (45) STB & Bacon v. AG Bahamas (Government held in breach of the Constitution and Minister fined \$150,000 for reading out private emails in Parliament; scope and application of parliamentary privilege); and (46) SRG v. Public Utilities Commission & AG (Bahamas Supreme Court) (telecom regulation).
- EASTERN CARIBBEAN SUPREME COURT (BVI): (47) AB and CD v. AG of the British Virgin Islands and SoS (FCO) (BVIHCV20 19/006&4 0065) (constitutional challenge against UK Government & AG of BVI for breach of privacy caused by the imposition of a publicly accessible register of beneficial interests on the BVI).

PUBLIC INTERNATIONAL LAW IN INTERNATIONAL COURTS AND TRIBUNALS

International Court of Justice ("ICJ"): (1) Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem as lead advocate and counsel for the United Kingdom; (2) Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates) as joint lead advocate and counsel for the UAE. For oral advocacy by Professor Sarooshi K.C. in the International Court of Justice, see, e.g. UN Web TV https://media.un.org/en/asset/k1j/k1jb4b7ygj (go to time at: 1:10) and https://media.un.org/en/asset/k1j/k1j40xhbiy (Go to time at: 40:38); (3) UK v. Libya (Provisional Measures) (Lockerbie bombing/terrorism case) for UK working with Prof. Rosalyn Higgins QC, later ICJ President and Judge; (4) Chad v. Libya for Chad working with Prof. Higgins QC; (5) Slovakia v. Hungary for Slovakia working with Prof. Higgins QC; & (6) East Timor (Portugal v. Australia) for Portugal working with Prof. Higgins QC.

- World Trade Organisation: various cases including Australia Measures Concerning Plain Packaging Requirements Applicable to Tobacco Products and Packaging, 28 June 2018, WT/DS435/R, WTO Panel Report (888 pages) (for British American Tobacco). Dan was also appointed in 2006 as a Member of the WTO Dispute Settlement list of Panellists (jointly nominated by the UK and EU). He has taught WTO Law at the graduate level since 1997 both at the University of Oxford and previously at University College London, University of London. He has represented and advised States and FTSE 100 companies as leading or joint counsel in a broad range of WTO/regulatory disputes and matters including: (1) the UK Trade Remedies Authority (TRA) on various aspects of a key TRA policy having regard to WTO law and related UK law and regulations; (2) the UK Government on: (i) proposed Transatlantic Trade and Investment Partnership (TTIP) negotiated by the EU and the USA; (ii) Proposed EU Regulations and Directives aimed at preventing future crises in financial markets and evaluating their compatibility with the EU/UK's obligations under the WTO; (iii) the scope and application of the WTO Subsidies Agreement; (iv) the scope and application of the Aircraft Sector Understanding; and (v) the OECD Arrangement on Officially Supported Export Credit; (3) British American Tobacco in the domestic case of R (British American Tobacco) v. SoS for Health (Court of Appeal) [2018] Q.B. 149; (4) Reuters using WTO law on its WTO/regulatory disputes: (i) with a State using the WTO GATS and competition law; and (ii) with a State that subsequently led to amendment of a draft Financial Services Reform Bill; (5) Tesco plc on its WTO/regulatory disputes with States: (i) that was preventing the opening of 42 retail stores; and (ii) that had imposed a "surcharge tax" on its operations; (6) Roche on its regulatory dispute with the EC and EMA; (7) a global telecommunications corporation in its regulatory and competition disputes with three separate WTO members using the WTO General Agreement on Trade in Services (GATS), Telecoms Agreement, and competition law; (8) another global telecommunications corporation in its regulatory dispute with a WTO member State using the GATS and the GATT; (9) the UN World Food Programme on a WTO member State's obligations under the WTO subsidies agreement and the WTO Agreement on Agriculture; (10) a large steel exporter to a State in South America on a dispute relating to application of the State's anti-dumping law; (11) the Commonwealth Secretariat on the GATS and Annex on Financial Services and their relationship with standards from the OECD, FATF, and Basel Committee; (12) the government of Albania on the WTO compatibility of its proposed sale and privatisation for 120 million Euros of Albtelecom (the State-owned telecoms provider); and (13) Hitachi (with Slaughter & May) on a regulatory investigation conducted by a multilateral development bank.
- European Court of Human Rights: various cases including *Nak Naftogaz v. UK*, App. 62976/12 (for UK: £27 million claim brought by natural gas supplier).
- UN Special Tribunal for Lebanon (anti-terrorism): *Prosecutor v. Ayyash et. al.*, 2012, STL-11-01/PT/TC (for UN Prosecutor).
- Elgin Marbles Parthenon Sculptures: Greece v. UK (for UK: case relating to Greek claims for the return of the Elgin Marbles: involved State succession/UNESCO treaties).
- Law of International Organizations (IOs): advised and represented 21 separate IOs on a very broad range of legal issues including, e.g.: (1) advising four IOs on their constituent treaties, and the scope of their powers and rights *vis-à-vis* those of Member States; (2) worked with Secretariats of three separate IOs to draft and advise on three Headquarters

Agreements, and in one case negotiating its terms on behalf of an organisation with a host State; (3) drafting two treaties on privileges and immunities for two IOs; (4) advising an IO on litigation before the International Court of Justice; (5) representing two IOs in UK domestic litigation relating to immunities (see section below); (6) advising five IOs on implications of various multilateral economic sanctions regimes; (7) advising six IOs on implications of laws in France, India, South Africa, UK and US as they affect IOs; (8) dissolution of IOs, including working with 1971 Fund based in London to wind up its activities; (9) advising and representing IOs in a variety of contractual disputes and arbitrations (UNCITRAL and *ad hoc*); (10) advocacy for four IO secretariats before plenary organs comprised of Member States; (11) advocacy for six IOs in international employment disputes (involving ILOAT and *ad hoc* dispute systems), including drafting of appeal systems, and representing IOs in going drafting of appeal systems, and representing IOs in place of the International Court of Justice relating to UN pension arrangements for filing in legal proceedings before a State's tax tribunal.

- Boundaries, State succession, Law of the Sea, and Environmental Law: advised and represented States and corporations in matters involving land and maritime boundaries and baselines; oil and gas concessions; State succession issues and related boundary questions in several international cases & arbitrations involving the former Soviet Union, the SFRY, the FRY, and the State Union of Serbia and Montenegro; UN Convention on Law of the Sea; costal States rights; IMO treaties; and environmental law. Examples include: (1) advised Chad on territorial boundaries in ICJ case Chad v. Libya; (2) advised the UK on its UK maritime boundaries and baselines; (3) advised a SE Asian State on boundary issues relating to delimitation of its territorial sea and continental shelf, and Exclusive Economic Zone ("EEZ") issues; (4) advised the State Attorney-General of Sarawak on the scope of Sarawak's territorial sea and continental shelf, and associated petroleum exploration rights of the State; (5) advised a southern African State on its land and maritime boundary claims and associated treaty issues; (6) advised a north African State on its land boundary claims; (7) advised an East African State on territorial boundaries, EEZ, and oil & gas concessions; (8) represented a private client in an *ad hoc* shipping arbitration, involving, e.g., the EEZ regime established by UNCLOS, and the content of the State's rights within the EEZ; (9) redrafted Terms of Business for Port of Salalah, involved commercial and environmental law and 14 maritime treaties (UNCLOS and IMO Conventions); (10) Advised a multinational corporation on the UNEP Basel Convention on the Control of Transboundary Movements of Hazardous Waste; and (11) advised Slovakia in ICJ case Slovakia v. Hungary: international environmental law and the law of treaties.
- Economic sanctions: argued sanctions cases in international courts and in the English Courts and has a broad advisory practice advising clients on a broad range of sanctions matters under United Nations, European Union, and UK sanctions regimes imposed against States including Colombia, Iran, Iraq, Libya, and Sudan. For example: (1) represented and advised the US Government in relation to several cases in the English courts involving US sanctions; (2) represented US clients against Iran in the English High Court arguing that US sanctions should preclude the English Court from ordering costs to be paid to the Government of Iran; (3) acting in an LCIA arbitration concerning an EU asset freeze regime (issues include, e.g., shareholders agreements and the continued operation of companies);
 (4) advised a number of entities designated by EU and UK sanctions as being subject to

asset freezes to ensure de-listing; **(5)** advised a UN agency on various UN, EU, and UK financial sanctions regimes; and **(6)** advised a 250 year-old UK plc on UN, EU, and UK economic sanctions against Iran.

Earlier in his career, Dan published four books on international law which were awarded the American Society of International Law Book Prize twice (2001 and 2006), 1999 Swiss Guggenheim Prize, and 2006 US Myres McDougal Prize. He is General Editor and author with former ICJ Judge Sir Christopher Greenwood of **Oppenheim's International Law** (forthcoming: 10th ed., OUP); served previously as joint General Editor of the Oxford University Press series Oxford Monographs in International Law; and has authored over 50 articles/chapters, including the 125 pp. co-authored chapter with Judge Dame Rosalyn Higgins (former ICJ President) entitled "Institutional Modes of Conflict Management".

He delivered the Hague Academy of International Law lectures on "*Immunities of States and International Organizations in National Courts*" in 2018; was elected in 2008 to the "Executive Council" of the American Society of International Law (now serving as ASIL Counsellor); and is a Trustee of the British Institute of International & Comparative Law.

INTERNATIONAL ARBITRATION

Acted as counsel or expert in over 40 investor-State arbitrations under ICSID, ICSID AF, ECT, ICC, LCIA, NAFTA, PCA, and UNCITRAL Rules, representing Claimants and States in relation to a variety of areas (agriculture, banking & financial regulation, construction, insurance, mining, oil & gas, property, renewable energy, ship building, steel, tax, and telecommunications). He teaches investment arbitration at the University of Oxford. Acted in various high-profile cases in the English Courts challenging, and recognising/enforcing, arbitral awards (see section **Cases before English Courts** below). Non-confidential cases include:

- Blasket Renewable Investments LLC v Kingdom of Spain (Federal Court of Australia Proceeding No. NSD2169 of 2019) (enforcement of ICSID Award).
- TMA v. Philippines, ICSID (for investor; large-scale printing business).
- Andraous v. Netherlands, UNCITRAL (for investor; insurance companies).
- Korsgaard v. Croatia, PCA No. 2019-02 (for investor; large-scale property investment).
- Mammoet v. Basrah Oil, ICC Case No. 23878/AYZ (for SOC Basrah Oil Company).
- **Gold Pool JV Ltd v. Kazakhstan**, PCA Case No. 2016-23 (for investor; concession granted by government in relation to gold mining).
- **MNSS and RCA v. Montenegro**, ICSID Case No. ARB(AF)/12/8 (for investor; concession granted by government in relation to only steel plant in Montenegro).
- *Exxon Mobil v. Canada*, ICSID Case No. ARB(AF)/15/6 (NAFTA) (concession granted by government in relation to oil exploration and exploitation).
- **Safa v. Greece**, ICSID Case No. ARB/16/20 (for Greece; concession granted by government in relation to naval shipyards).
- Imagesat International N.V. v. Serbia, ICC arbitration, Case No.14839/FM (for Serbia).
- *Murphy Oil v. Ecuador*, ICSID Case No. ARB/08/4 (for investor; concession granted by government in relation to oil exploration and exploitation).
- **Sempra Energy v. Argentina**, ICSID Case No. ARB/02/16 (for investor; concession granted by government in relation to oil exploration and exploitation).

- **Bernhard von Pezold v. Zimbabwe**, ICSID Case No. ARB/10/15 (for investor; large scale agricultural farming).
- **Border Timbers v. Zimbabwe**, ICSID Case No. ARB/10/25 (for investor; large scale agricultural farming).
- KS Invest GmbH & TLS v. Spain, ICSID Case No. ARB/15/25.
- **Surfeit Harvest Investment Ltd v. Taiwan**, PCA (for investor; loss of rights of management and control over a commercial bank/provision of financial services).
- Advised the UK on the proposed Transatlantic Trade and Investment Partnership (TTIP) treaty.
- Advised the UK on potential investment claims arising from expansion of Heathrow airport.
- Advised a bank on investment claims against a State in South East Asia.
- Advised the UK Government on arbitration-related issues arising from UK Government Covid-measures in relation to the operation of Eurotunnel and Eurostar services.

Dan was appointed by the UK and EU to the panel of arbitrators appointed to hear Brexit-related disputes. He has authored several publications including "The resolution of investment disputes by arbitration", 33 (1) *Butterworths Journal of International Banking and Financial Law* ("*BJIBFL*") (2018) 12; "Investment treaty arbitration and WTO Dispute Settlement", 49 *Texas International Law Journal* (2014) 445; "Provisional Measures and Investment Treaty Arbitration", 29(3) *Arbitration International* (2013); & "When international financial institutions arbitrate: what law governs investment treaty arbitration?", 27 *BJIBFL* (2012) 612.

CAREER

- 2020: Appointed by UK & EU to list of arbitrators to decide Brexit disputes
- 2020: Called to the Bar of the Eastern Caribbean Supreme Court (BVI)
- 2018: Appointment as Queen's Counsel (renamed as King's Counsel)
- 2013-18': Appointed by UK Attorney-General as Counsel to Crown (Public International Law)
- 2013-18': Appointed by UK Attorney-General as Counsel to Crown (Commercial & Constitutional Law)
- 2017: Called to the Bar of The Bahamas (*ad hoc* basis)
- 2012: Senior Research Fellow, The Queen's College, Oxford
- 2011: Called to the Bar of Hong Kong (*ad hoc* basis)
- 2009: Called to the Bar of The Bahamas (*ad hoc* basis)
- 2006: Appointed as Member, WTO Dispute Settlement list of Panellists.
- 2006: Member, Essex Court Chambers
- 2006: Professor of Public International Law, University of Oxford
- 2005: Called to the Bar of England & Wales.
- 2004-06': Assoc. Prof. of Public International Law, University of Oxford
- 2003-04': Herbert Smith Lecturer, Faculty of Law, University of Oxford
- 2001-04': Of Counsel, City of London firm Tite & Lewis (with Ernst & Young)
- 2002-03': Assoc. Prof., University College London, London University
- 1997-02': Senior Lecturer (before that Lecturer), UCL, London University