

David Josse Q.C.

YEAR OF CALL: 1985 | YEAR OF SILK: 2009



"He's what every extradition barrister aspires to be: a lawyer known internationally for the quality of their work."

EXTRADITION - CHAMBERS AND PARTNERS 2018

Overview

David Josse QC is a barrister specialising in extradition, human rights, international war crimes and serious crime, both nationally and internationally.

David is ranked in Chambers and Partners as a Band 2 silk in the field of extradition at the London Bar.

"Very good to work with. He's a charming man with a wealth of experience, whose tactical strategic thinking is second to none."

Chambers and Partners 2019.

"He has extensive international experience and is good for highly complicated cases."

Chambers and Partners 2017.

David is ranked in the Legal 500 as a Tier 1 silk in international crime and extradition at the London Bar.

'Knowlegable, caring for clients and determined to get the right result.'

Legal 500 2019.

'A very well-versed advocate.'

Legal 500 2017.

Since taking Silk he has specialised in extradition work encompassing the full range of requests but with a particular emphasis on political corruption and prison conditions in former communist states. He spent 5 years at the International Criminal Tribunal for the former Yugoslavia (ICTY) based in The Hague defending in two lengthy trials. Firstly, representing a leading Bosnian Serb politician charged with genocide and ethnic cleansing and secondly, a General facing a wide variety of allegations relating to the Srebrenica massacre.

Additional Information

He is a regular commentator on Sky News and LBC radio in relation to extradition, human rights and international criminal law. He is available to lecture and contribute to seminars both on

issues relating to international war crime trials as well as in connection with domestic extradition law.

Professional Memberships

International Criminal Court (ICC) list counsel.

International Criminal Tribunal for the former Yugoslavia (ICTY) list counsel.

Special Tribunal for Lebanon (STL) list counsel.

Defence Extradition Lawyers Forum

Criminal Bar Association.

Fraud Lawyers Association.

Business Crime

David has defended in many fraud cases, in particular those brought by Her Majesty's Revenue and Customs (HMRC).

In 1999-2000 David spent 9 months representing one of the defendants in the widely reported Palmer Timeshare fraud trial.

Crime

David is a vastly experienced criminal barrister and since taking silk has defended in numerous cases including: murder, rape, child abuse, human trafficking, serious fraud and armed robbery. He also prosecutes on behalf of Local Authorities and in private prosecution matters.

His criminal practice is complementary and overlapping with his experience of International War Crimes and extradition law. He is frequently instructed in cases with a cross border and international element dealing with difficult areas of international and immigration law. He receives instructions nationally and internationally to advise and represent defendants in crime and extradition matters.

Extradition & International

Since taking Silk he is a barrister who has specialised in defending in extradition encompassing the full range of requests but with a particular emphasis on political corruption and prison conditions in all former communist states. Has led in many of the leading Article 3 authorities of recent years, often involving issues relating to assurances provided by requesting state:- Aleksynas (Lithuania), Wolkowicz (Poland), Florea and Blaj (Romania), Lustyuk (Ukraine), AM (Azerbaijan), Vasilev (Bulgaria) and Kapoor (India). In these cases he has combined his specialist knowledge of such countries derived from his first degree in Russian and Soviet history with his work at the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague in cases that required a detailed understanding and analysis of a state in transition following the collapse of communism.

Extensive international experience, initially gained from 5 years defending in two lengthy and complicated war crime trials in The Hague. He remains actively involved in International Criminal and Humanitarian Law by amongst other things being a member of the ICTY Rules Committee.

He advises on applications and appeals to the European Court of Human Rights (ECHR) in extradition and criminal cases. In both rule 39 injunction applications and fully contested matters before the Court.

He also advises clients on the removal of Interpol Red Notices and associated immigration issues.

Immigration

In immigration proceedings he often advises on immigration issues alongside extradition cases or in political asylum cases from former soviet states. He also advises in relation to the withdrawal of Interpol Red Notices in political and associated asylum cases.

Judicial Review & Public Law

David accepts judicial review and public law instructions.

Professional Discipline & Regulatory

David accepts instructions in Professional Discipline & Regulatory matters.

Cases of Note

EXTRADITION

Beshiri v Albania [2018] EWHC 91 (Admin)

Albanian extradition appeal. Appellant alleged torture and mistreatment in custody. The case gave guidance on the use of evidence on appeal where the Appellant was unrepresented at first instance.

LMN v Turkey [2018] EWHC 210 (Admin)

Successful appeal in Turkish extradition case where the state of the Turkish penal system post the July 2016 coup was examined. There were serious allegations by the appellant of torture when previously incarcerated in Turkey leading to PTSD and other complications.

Vasilev v Bulgaria [2016] EWHC 1401 (Admin)

Extradition appeal on whether Bulgarian prisons breached article 3 of the ECHR. The case found that whilst Bulgarian Prison condition did not comply with human rights, assurances from

the requesting state were enough to allow extradition.

Poland v Czubala and ors [2016] EWHC 1653 (Admin)

Extradition appeal in relation to 3 cases and the definition of proper service in appeal proceedings.

Spaczynski v Latvia [2016] EWHC 2570

Extradition appeal in relation to the ability of the requesting state to adduce further evidence in EAW cases.

Zagorskij v Lithuania [2015] EWHC 2335 (Admin)

Extradition Appeal on the Treatment of gay men in the Romanian prison system

Blaj v Romania [2015] EWHC 1710 (Admin)

Extradition appeal on overcrowding and assurances in Romanian prisons under article 3 ECHR.

Kapoor v India [2015] EWHC 1378 (Admin)

Extradition appeal on Prima facie case evidence, involving the adequacy of the handwriting evidence provided by the requesting state.

Atraskevic v Lithuania [2015] EWHC 131 (Admin); [2015] A.C.D. 57

Extradition appeal, the leading case on forum in Part 1 cases.

Agardi v Hungary [2014] EWHC 3433 (Admin); [2015] A.C.D. 29

Extradition Appeal involving extension of time, discrimination against non-UK nationals and EU Law.

Florea v Romania [2014] EWHC 2528 (Admin); [2015] 1 W.L.R. 1953 & [2014] EWHC 4367 (Admin)

Extradition appeal and the Leading authority on Romanian prison conditions and Article 3 of the ECHR in the context of extradition proceedings. Case also considered the reliability of the assurances given by Romanian authorities as to the type and quality of the detention regime.

Alekysnas & Others v. Lithuania [2014] EWHC 437 (Admin)

Extradition Appeal in relation to Lithuanian Prisons Conditions and their Compliance with Article 3 ECHR heard by the Divisional Court, evidence was provided showing breaches of the assurances by Lithuania in relation to some individuals who had been extradited. Much of appeal dealt with legality and effectiveness of such generic assurances in a Part 1 case.

Wolokowicz and ors v Poland and ors [2013] EWHC 102 (Admin)

Leading authority on the risk of suicide in extradition proceedings, including argument on article 3 ECHR and section 25 of the Extradition Act 2003

Lutsyuk v Government of Ukraine [2013] Divisional Court, 18 January 2013

Extradition to Ukraine discharged due to the likelihood of a breach of Article 3 ECHR. The Judgement also makes Immigration Country Guidance Cases applicable to extradition proceedings and sets the test for assurances in extradition proceedings as being the same as the European Court of Human Right Judgement in Othman (Abu Qatada) v UK

Vatoci v Government of Albania: [2011] All ER (D) 327 (Mar) (High Court)

Murder extradition appeal on the question of proof of identity where the extradition request had already been discharged in another jurisdiction.

Government of Ukraine v K (Westminster MC)

Representing a close ally of the imprisoned former Prime Minister of Ukraine Yulia Timoshenko in what is suggested to be a political and highly manipulative Ukraine extradition request.

Government of Ukraine v G (Divisional Court)

Representing G who was a respondent to an appeal launched and then abandoned by the Government of Ukraine against discharge in extradition proceedings solely involving Article 6 ECHR.

Popa v Regional Court in Plzen Mestro, Czech Republic [2011] EWHC 329 (Admin) (High

Court)

Extradition Appeal to Divisional Court alleging abuse of process due to illegal detention of defendant on a defective EAW.

R (on the Application of Zaporozhchenko and Redya) v Westminster Magistrates Court and Secretary of State for the Home Department [2011] EWHC 34 (Admin) [2011] 1 W.L.R. 994 (Divisional Court)

Successful Judicial Review of the decision of the Magistrates Court not to discharge a Ukrainian extradition request because the Secretary of State had failed to order extradition in relation to an allegation of large scale fraud in the Ukraine.

Government of Azerbaijan v AM (Westminster MC)

Defending a member of the Azerbaijan Democratic Party on allegations of fraud. The Extradition request was found to be a sham based on political motives and the Defendant was discharged.

WAR CRIMES

Prosecutor v. Krajisnik (2005-2006)

Momcilo Krajisnik was a member of the Bosnian Serb leadership during the Bosnian civil war (1992-1995). In essence it was alleged that he was the second most powerful and influential Serb politician in the Republika Srpska after Radovan Karadzic and that the two of them ran their self-proclaimed state in tandem. The indictment dealt with crimes committed throughout much of 1992 in 37 of the 109 municipalities of Bosnia-Herzegovina. In order to put the events of 1992 into context, the case dealt extensively with the political events in Bosnia from the advent of the multi-party system in 1990 to the outbreak of the war in Spring 1992, when the crimes alleged began to take place. The trial transcript ultimately amounted to in excess of 27,000 pages. Krajisnik was acquitted of genocide, but was convicted of various crimes the most significant of which being extermination, murder (of approximately 3000 persons) and persecutions. Some of these convictions including extermination and murder were in turn quashed on appeal.

Prosecutor v. Popovic et al (2006-2010)

Represented Milan Gvero in this seven defendant case. The trial which lasted in excess of three years was the largest war crimes trial in terms of the number of accused persons since

Nuremberg. The case involved the events surrounding the Srebrenica massacre in July 1995, the worst massacre in Europe since the Second World War, where approximately 8,000 Muslim men were allegedly murdered by soldiers from the Bosnian Serb army. Gvero faced charges of murder, persecutions, forcible transfer and deportation. He was the most senior officer on trial having been a Lieutenant General at the material time. In June 2010 he was acquitted of a number of the charges including murder and received a sentence of only 5 years imprisonment which resulted in his immediate release for time served.

CRIMINAL

R v JW [2011] EWCA Crim 1620 (Court of Appeal)

Sentencing of 83 year old for historic (50-30 years ago) serious sexual offences.

R v Woolley [2006] EWCA Crim 1707 (Court of Appeal)

Requirement to hold a Newton Trial in major drug conspiracy.

R v Lee [2005] EWCA Crim 3459 (Court of Appeal)

Cut throat defence when co-defendant being tried in absence.

R v Salami [2003] EWCA Crim 3831 (Court of Appeal)

Effect of no comment interview in Operation Trident firearm case.

R v Tuberfield 2000 WL 699297 (Court of Appeal)

Unlawful confiscation order.

R v Lamb [1998] 1 Cr. App. R. (S.) 77

Obscene publication sentencing.

R v W [1997] 1 Cr. App. R. 166 (Court of Appeal)

Disclosure of Local Authority records in serious sexual crime allegations.

R v Menard [1995] 1 Cr. App. R. 306

Application of S.78 PACE.

Accreditation

