

Ben Keith

YEAR OF CALL: 2004



"Out of this world," he "has in-depth knowledge and has defended numerous individuals in the most serious cases." "knowledgeable, go-to junior" for cases stemming from Russia and Ukraine.

BAND 1 - CHAMBERS AND PARTNERS AND LEGAL 500: EXTRADITION

Overview

Ben Keith is a leading specialist in Extradition and International Crime, as well as dealing with Immigration, Serious Fraud, and Public law. He has extensive experience of appellate proceedings before the Administrative and Divisional Courts, Criminal and Civil Court of Appeal as well as applications and appeals to the European Court of Human Rights (ECHR)

and United Nations.

Ben is a Deputy Judge of the Upper Tribunal (Immigration and Asylum Chamber).

He has particular expertise in human rights and extradition proceedings in post-soviet states including Russia, Ukraine, Azerbaijan, Moldova and Kazakhstan. He is sought after to represent politically exposed persons in extradition, immigration and financial proceedings. He has significant expertise in the challenge and removal of INTERPOL Red Notices. He has expertise in the Middle East including UAE, Saudi Arabia, Bahrain and Egypt dealing with cases of torture, disappearance and universal jurisdiction.

Ranked in Chambers and Partners as a band 1 leader in the field of Extradition at the London Bar and in the Legal 500 as a band 1 leading individual in international crime and extradition. The guides say the following:

"A fount of knowledge who must have dealt with every country the UK has an extradition treaty with. He's very approachable and leads others to have confidence in him." "Out of this world," he "has in-depth knowledge and has defended numerous individuals in the most serious cases."

Chambers and Partners 2020

' Wins cases on preparation alone, excellent advocacy and witness handling. Goes out of his way to advise and assist solicitors.'

Legal 500 2020

"Gifted, very diligent and up-to-date on the law." "He is unafraid to raise challenges on all sorts of issues, and has his finger on the pulse." "He is a really clear, straight-to-the-point advocate."

"One of the most experienced barristers specialising in extradition relating to former Soviet states and the more complicated cases that involve political motivations."

"He has built a career in defending those from former Soviet states and is an expert in dealing with those countries." "His knowledge of Russia and the political situation is unrivalled."

"He is tactically astute, fantastic with clients, and adept at giving straightforward and accessible advice in the most complex cases."

He acts in private prosecutions under Universal Jurisdiction for breaches of international law and advises in cross-border litigation involving private prosecutions in multiple jurisdictions.

Appointed to the Attorney General's 'A' Panel of counsel, dealing with some of the most complex cases for the UK government. Advises the Government Legal Department on a range of public law matters, including Judicial Review, Immigration, Extradition, Search Warrants, Inquests, Public Inquiries, Prison Law and detention cases. Advised on the drafting of the Immigration rules post-Brexit.

Ben writes and provides legal commentary to national and international newspapers including: Guardian, Times, New Statesman, Independent, Daily Express, Deutsche Welle, Canadian Whig Standard, Wall Street Journal, BBC, ITV, Channel 4, Sky, CNN and Al Jazeera.

For more information about Ben's International Law, Reputation Management and Legal and Litigation Campaigns work please visit www.ihr-advisors.com

Professional Memberships

Deputy Judge of the Upper Tribunal (Immigration and Asylum Chamber)

Defence Extradition Lawyers Forum

International Bar Association

International Criminal Court, List of Counsel

Kosovo Specialist Chamber, List of Counsel

Fraud Lawyers Association, founding member

European Criminal Bar Association

Extradition & International

Ben is one of the most experienced and highly regarded extradition barristers. He regularly acts for clients based in foreign jurisdictions who seek his advice on extradition, Interpol and associated issues. He has a busy Appellate practice, appeared in over 100 cases before the Administrative and Divisional courts in cases dealing with Human Rights including allegations against requesting states of torture, political corruption, rendition and discrimination. He has conducted well over 500 extradition cases.

Provides advice on mutual legal assistance and extradition requests both inside and outside the European Arrest Warrant Framework including advice on persons being requested to return from foreign jurisdictions to the UK and liability for arrest and detention.

He regularly advises individuals on the removal of Interpol Red notices and diffusions.

He wrote submissions to the House of Lords Committee on Extradition Law on behalf the Criminal Bar Association and gave evidence to the Committee.

Interpol

Criminal Defence

International Crime

Ben is appointed to the International Criminal Court and Kosovo Tribunal counsel lists in the Hague. Recently presented at the UN conference on Reparations in Doha, Qatar as well as for the Arab Organisation for Human Rights in London and Geneva. Advises individuals and NGO's on international law and Universal Jurisdiction.

Business Crime

Crime and Serious Fraud

Ben is instructed in serious and complex criminal matters as trial counsel. He advises in relation to MLA and cross boarder financial crime issues including confiscation and corruption as well as offshore frauds in criminal proceedings.

He has expertise in search warrants and associated public law challenges in criminal cases.

He also has expertise in appeal proceedings and judicial review of criminal cases.

Immigration

A Deputy Judge of the Upper Tribunal (Immigration and Asylum Chamber).

Specialises in complex asylum claims linked to extradition proceedings and Interpol Red Notices and especially those claiming asylum from former soviet states. He has recently acted in cases involving asylum claims from Ukraine, Russia, Kazakhstan and Turkey as well as judicial review proceedings. A specialist in political cases and those arising from corporate raiding (see recent seminar at Chatham House [here](#))

Advises and represents in relation to nationality applications, Restrictive Leave to Remain policy in sensitive and high-profile cases as well as human rights applications.

Experienced in complex trafficking and asylum support cases as well as cases on the points based system.

Judicial Review & Public Law

Significant experience in judicial review and Habeas corpus acting for both individuals and government departments in a range of work, including complex inquests into deaths in custody

and subsequent judicial review proceedings. Experienced in advising and representing in public inquiries, including the Independent Inquiry on Child Sexual Abuse. Advises individuals and corporates and government departments on criminal and civil liability arising from inquests and inquiries.

Advises on unlawful detention matters for the GLD as well as wide public law issues such as the use of Acknowledgements of service by HMCTS.

Cases of Note

Immigration

Chanda v Secretary of State for the Home Department [2018] EWCA Civ 2424

Acting for the Home Office in the Court of Appeal examining the meaning of Paragraph 322(1A) of the Immigration Rules on the submission of false documents during immigration proceedings.

AB(Russia)

Successful challenge to a refusal to grant British Nationality. Representing a Politically Exposed Person in an application for nationality where the individual was accused of immigration fraud under the ETS litigation. Client was cleared of using a proxy to sit the English Language exam and nationality was granted.

Z(Russia)

Representing individual before the ECHR and UN CAT in relation to asylum and extradition proceedings to Russia.

Y(Ukraine) v Secretary for State for the Home Department

Successfully obtained asylum for leading Ukrainian politician accused of fraud. The criminal case was found to be fabricated against the appellant for political reasons.

X(Ukraine) v Secretary for State for the Home Department

Representing leading Ukrainian Politician in asylum proceedings

"Calais Jungle" Cases

Represented the Home Office in a series of Judicial Reviews of asylum cases involving the Dublin III regulations and unaccompanied minors. The cases were highly sensitive and reported in the press and BBC and involved a series of refusals to admit unaccompanied minors from the Calais 'jungle' camp. The cases were all emergency judicial review applications and listed before the President of the Upper Tribunal, Mr Justice McCloskey. The cases were politically and factually sensitive given the age of the children

MUDIYANSELAGE and ors v Secretary of State for the Home Department and ors [2018] EWCA Civ 65

The leading case on the points based system before the Court of Appeal and the President of the Queen's Bench Division. Ben acted on behalf of the Government in the case of the Appellant Kokab who was applying for a Tier 1 Entrepreneurs visa to enter the UK from Pakistan.

Part 2 Extradition Cases

United States of America v D [2020]

Representing the Defendant in USA extradition request over allegations of insider trading, fraud and money laundering brought by the Securities Exchange Commission and Department of Justice.

Sanchez v United States of America [2020] EWHC 508 (Admin)

Representing in USA extradition case on allegations of large scale drug trafficking. Now on appeal to the European Court of Human Rights in relation to the issue of life imprisonment without parole. Led by David Josse QC.

Government of Azerbaijan v Zamira Hajiyeva (2019)

Allegations of fraud linked to the UK's first Unexplained Wealth order.

Yilmaz and Yilmaz v Government of Turkey [2019] EWHC 272 (Admin)

Representing Appellants in leading case dealing with Article 3 of the European Convention on Human rights and prison conditions in Turkey.

United Arab Emirates v AH (2018)

Extradition to the United Arab Emirates discharged due to a lack of extradition offence. Client was accused of committing cheque fraud and the judge found that there was not evidence to show that the Defendant has a case to answer.

Government of Ukraine v Bondarchuk (2018)

Extradition request of leading Ukrainian politician discharged.

Government of Moldova v MB (2018)

Representing Defendant facing extradition to Moldova to serve a sentence for people trafficking - case discharged under Article 3 of the European Convention of Human Rights and Moldovan prison conditions.

Government of Nigeria v Ojo (2018)

Extradition to Nigeria discharged on human rights grounds.

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.

Government of Russia v AA (2017)

Representing in Russian extradition request for fraud. Extradition discharged as politically motivated prosecution against the Defendant.

Government of India v Angurala and Angurala (2017)

Extradition request discharged on basis of passage of time.

Stanislaz Dzgoev v Russia [2017] EWHC 735 (Admin)

Representing appellant in extradition to Russia. Arguing that prisons conditions in Siberia were not in compliance with Article 3 ECHR.

Government of Russia v Roman Solodchenko (2016)

Representing the Defendant in extradition request from Russia in relation to the BTA Bank (Kazakhstan) litigation. The case was discharged after it was conceded that the case had no merit.

Government of Moldova v Moldeveanu (2016)

Representing the Defendant in extradition request from Moldova. The case was discharged on Article 3 ECHR grounds as Moldova were unable to provide adequate assurances on prison conditions.

Government of Ukraine v Roman Solodchenko (2016)

Representing the Defendant in extradition request from Ukraine in relation to the BTA Bank (Kazakhstan) litigation. The case was discharged on Article 6 ECHR grounds. The issues of abuse and political motivation were not ruled on by the court.

United Arab Emirates v WC (2015)

Extradition to the United Arab Emirates (UAE) was discharged on the basis of breaches of human rights grounds. The court found that extradition for fraud offences should be barred as there was a real risk of torture and that the Defendant would not receive a fair trial.

Government of the Russian Federation v AE (2015)

Representing the Defendant in extradition request from Russia in relation to the BTA Bank (Kazakhstan) v Mukhtar Ablyazov litigation. The case was discharged as Russia conceded the case had no merit.

Government of the Russian Federation v Igor Kononko (2015)

Representing the Defendant in extradition request from Russia in relation to the BTA Bank (Kazakhstan) v Mukhtar Ablyazov litigation. The case was discharged on Article 6 ECHR grounds. This was the first case where Russian prisons have been inspected.

Government of Turkey v Ozcan Ucar (2014)

Representing Defendant in extradition to Turkey in relation to allegations of political corruption and violence. The request was discharged as an abuse of process.

Government of Ukraine v Igor Kononko [2014] EWHC 1420 (Admin)

Representing the requested person in extradition appeal by Ukraine in relation to the BTA Bank (Kazakhstan) v Mukhtar Ablyazov litigation. The case was found to be an abuse of the courts process by Ukraine.

Lutsyuk v Government of Ukraine [2013] EWHC 189 (Admin)

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.

Lumenica (aka Bedri Cala) v Government of Albania [2012] EWHC 2589 (Admin) and [2012] EWHC 3802 (Admin)

Leading authority on the powers of the Administrative Court to extend time for the service of appeals. Represented the Government of Albania in relation to a case of double murder.

Government of Turkey v A (2012)

The Turkish extradition request accused the Defendant of being a member of the PKK and conspiring to murder 5 individuals in 1999 in Turkey. Allegation of torture and mistreatment were made against the Turkish Government. The case was discharged due to injustice and oppression because of the passage of time.

Government of Moldova v Antonov

Extradition request by the Government of Moldova. Representing the Defendant who was discharged on the grounds that Moldovan detention and prison facilities did not meet Article 3

requirements as there was a real risk of torture.

Government of Ukraine v EK [2012]

Extradition request by the Government of Ukraine. Representing a close associate of the former Prime Minister Yulia Tymoshenko, who has recently been convicted at a sham trial instigated by political opponents. Client is accused of miss-selling of promissory notes for gas assets to Russia and Vladimir Putin, the request we allege is politically motivated. Arguments in relation to political corruption Articles 3, 5 and 6 ECHR.

Government of Azerbaijan v AM

David Josse QC led Ben Keith 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.

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

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

R(on the Application of Zaporazhchenko and Redya) v Westminster Magistrates Court and Secretary of State for the Home Department [2011] EWHC 34 (Admin)

David Josse QC led Ben Keith in a 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. Judicial review granted.

South Africa v Ian Armstrong [2010]

Extradition request by South Africa successfully negotiated the withdrawal of a request involving the theft of gold mining equipment.

A v Government of Croatia [2010] EWHC (Admin)

Appeal against Extradition order in relation to a breach of Article 8 of the European Convention on Human Rights.

PART 1 EAW EXTRADITION CASES

Greece v X, Y and Z (2019)

Acting in 3 separate Greek EAW requests for extradition on charges of murder, drug trafficking and child abduction. All cases were discharged on the basis of the lack of a right to retrial in Greece. Two of the cases were also discharged on a combination of prison conditions, abuse of process and mental health grounds.

Malik and ors v Public Prosecutors Office, Ausberg, Germany [2018] EWHC 3479

Representing lead Appellant in 7 Appellant extradition appeal in an allegation of multi-Million MTIC VAT fraud.

Obert v Greece [2017] EWHC 303 (Admin)

The Divisional Court allowed the extradition appeal of Obert v Greece. Mr Obert was accused of handling a stolen car in Greece and Italy in 2002. Greece had done nothing to prosecute the case since 2002 and no evidence was produced. Extradition was not requested until 2014 year after the evidence had been destroyed. The case had also been discharged by Italy in 2015 as being time barred. The Divisional Court found that given the passage of time it would be oppressive to extradite.

Muldoon v Spain [2016] EWHC

Appeal against extradition to Spain where no action was taken by the Spanish authorities for over 14 years. The Appeal was allowed on the basis that there was no offence disclosed on the European arrest warrant.

Da Silva v Portugal [2015] 2540 (Admin)

Representing the Appellant in extradition proceedings to Portugal. This case dealt with the right to re-trial in Portugal under section 20 of the Extradition Act 2003.

Domenico Rancadore v Italy [2015] EWHC (Admin)

Instructed as Junior Advocate for the Appellant in resisting extradition to Italy in relation to alleged leader of Cosa Nostra.

Florea v Romania [2014] EWHC 2528 (Admin)

Leading authority on Romania Prisons and Article 3 of the European Convention on Human

Rights in extradition proceedings. Romania were asked to give assurances as to the type and quality of prisons that the Appellant will be held in.

Brazuks and ors v Latvia [2014] EWHC 1021 (Admin)

Leading Authority on Latvian Prisons and Article 3 of the European Convention on Human Rights in Extradition proceedings.

Goman v Poland [2013] EWHC 3606 (Admin)

Extradition appeal allowed on article 8 grounds. Ouseley J allows time spent on curfew to be taken into account in article 8 balancing exercise.

A and B v Hungary [2013] EWHC 3132 (Admin)

Divisional court hearing against an order for extradition to Hungary, in which Mr Keith was instructed for A the Divisional Court allowed the appeal of the sole carer B in relation to an offence of £100,000 mortgage fraud and a separate conviction of 2 years and 10 months custody with a 9 year old child involved. Moses LJ laid down new guidance on Article 8 in extradition proceedings.

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.

Coton v High Court of Dublin, Ireland [2012] EWHC 3874 (Admin)

Appeal against extradition to Ireland to face an allegation of contract killing after a passage of time of 23 years.

O'Brien v Governor of Wandsworth Prison [2012] EWHC 3474 (Admin)

Application for writ of habeas corpus for non-production of Defendant in extradition proceedings within time at Westminster Magistrates' Court.

Nikitins v Latvia [2012] EWHC 2621 (Admin)

Appeal against extradition order. Appeal allowed due to disproportionate interference with the

Appellant's Article 8 family rights.

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

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

Stojkova v Distirct Court in Okresny, Slovakia [2010] EWHC 3532 (Admin) (High Court)

Extradition appeal in relation to discrimination on the basis of sexuality and ethnicity in Slovakia.

Regional Court in Konin, Poland v Pawel Walerianczyk [2010] EWHC 2149 (Admin)

Represented the Respondent in an appeal against discharge. Argument about the applicability of time limits and the nature of a notice of appeal.

Sondy v CPS [2010] EWHC 108 Admin [2010] All ER (D) 41 (Jan)

Leading Authority on admission of further evidence on appeal by Requested persons in Extradition Proceedings. Extradition request discharged post appeal.

Szombathely City Court, Hungary and others v Roland Fenyvesi and Kalman Fenyvesi [2009] EWHC 231 (Admin), [2009] 4 All ER 234

The leading authority on the admission of further evidence on appeal.

ECHR CASES

Ruban v Ukraine (application no. 8927/11)

European Court of Human Rights. representing the appellant in an Application of Article 7 ECHR and maximum sentences after the abolition of the death penalty in Ukraine for client who is serving a life sentence for murder in Ukraine.

Rule 39 Applications

Dogaev v UK

Representing the Appellant

Florea v UK

Representing the Appellant

Brazuks v UK

(Unsuccessful on article 3 grounds)

Zibala v UK

Representing the Appellant -(Successful on article 8 grounds)

Vatoci v Albania

Representing the Appellant

DOMESTIC CASES

Holman Fenwick Willan v Police Service Scotland and ors [2016] EWHC 1005

Representing Police Service Scotland and the Lord Advocate in a judicial review of a search warrant granted in Scotland in relation to the Glasgow Rangers fraud case. The search warrant was executed in the UK against city solicitors and involved arguments of devolution and jurisdiction.

R v O (2018)

Defending in historic rape trial in Bolton Crown Court. Defendant sentenced to 18 years custody plus 4 years for dangerousness.

R v P (2018)

Southwark Crown Court defending in an allegation of cigarette smuggling

N v Nursing and Midwifery Council (2013)

Ben Keith defended Ms N against allegations of professional misconduct before the Nursing and Midwifery Council. Ms N was accused of misconduct as a nurse in 2010, after full hearing Ms N was found not to be impaired to practice as a nurse.

R v James Citro (Central Criminal Court)(2011)

Defending in a cold case review of a historic murder from 1998 of a neighbour in Wembley, the

Defendant having two previous convictions for rape in the Republic of Ireland in 1978.

Sternaj v DPP [2011] EWHC 1094 (Admin)

Instructed as led junior in an appeal by way of case stated on the interaction between the Refugee Convention 1951 and Immigration Act 1971 Offences.

Accreditation

