

Ben Keith

YEAR OF CALL: 2004



"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."

BAND 1 - CHAMBERS AND PARTNERS 2017 FOR EXTRADITION

Overview

Ben Keith is a barrister specialising in Extradition, Immigration, Serious Fraud, Human Rights and Public law. He has extensive experience of appellate proceedings before the Administrative and Divisional Courts, as well as applications and appeals to the European Court of Human Rights (ECHR) and United Nations.

He is ranked in Chambers and Partners and Legal 500 in the top tiers. He has particular expertise in human rights and extradition proceedings in post-soviet states including Russia, Ukraine, Azerbaijan, Moldova and Kazakhstan. He represents politically exposed persons in immigration, extradition and financial proceedings.

"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."

Chambers and Partners 2019.

Ben is ranked in Chambers and Partners as a band 1 leader in the field of Extradition at the London Bar.

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

Chambers and Partners 2019.

"He is an excellent advocate who is very good at drafting, responds quickly, and is well-organised."

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

Chambers and Partners 2018.

Ben is also ranked in the Legal 500 as a band 1 leading individual in international crime and extradition at the London Bar:

‘A well-respected figure, who is popular with clients and appreciated for his clear and straightforward advice.’

Legal 500 2017.

‘He is regularly instructed to defend in extradition cases.’

Legal 500 2019.

He is appointed to the Attorney General's 'B' Panel of counsel and advises the Government Legal Department on a range of public law matters, including Judicial Review, Immigration, Extradition, Search Warrants, Inquests, Prison Law and detention cases.

He is appointed to the Kosovo Specialist Chambers as Counsel for Defendants and Victims

He has significant expertise in the challenge of INTERPOL Red Notices.

In 2014, he wrote submissions to the House of Lords Committee on Extradition Law on behalf of the Criminal Bar Association and gave evidence to the Committee. The transcript of his evidence can be found [here](#). The final published report is [here](#).

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Chambers and Partners 2017.

Additional Information

Ben is a Football Association affiliated lawyer.

Direct Public Access

Ben accepts Direct Public Access instructions and is qualified to litigate.

Ben lectures and provides training in Criminal, Extradition, Human Rights and Public Law to defence solicitors and prosecution agencies. He is an Associate Lecturer in Human Rights at Birkbeck College, University of London.

Professional Memberships

Defence Extradition Lawyers Forum

International Bar Association

Kosovo Specialist Chamber, List of Counsel

Fraud Lawyers Association

European Criminal Bar Association

Criminal Bar Association

Extradition & International

Ben is an extradition barrister specialising in extradition proceedings in first instance hearings at the Westminster Magistrates' Court, and also in appeals to the Administrative Court, including cases of murder, rape, people trafficking, terrorism and complex fraud. He also advises individuals in relation to Interpol Red Notices and their removal.

He has a busy Appellate practice and has appeared in over 100 cases before the Administrative and Divisional courts in cases dealing with Human Rights including Articles 2, 3, 5, 6 and 8 of the ECHR including allegations against requesting states of torture, political corruption, rendition and discrimination.

He has particular expertise in extradition cases to former Soviet states and especially where the requests are issued in order to persecute opposition politicians, he has represented clients in extradition requests from Russia, Ukraine, Azerbaijan, Kazakhstan and Moldova.

He also has extensive experience of extradition proceedings to all members of the EAW scheme having conducted in excess of 500 cases including Poland, Lithuania, Czech Republic, Romania, Netherlands, Bulgaria, Latvia, France, Spain, and Belgium.

Ben also represents in extradition requests in Category 2 jurisdictions including Albania, Canada, Turkey, USA, United Arab Emirates (UAE) Turks and Caicos, Canada, India, Nigeria and South Africa.

He 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.

Immigration

Ben is a barrister who acts in Immigration cases, including First Tier Asylum and Immigration Tribunal, Upper Tribunal and Court of Appeal. He has particular specialism in 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.

He has represented the Home Office in a series of judicial review cases involving unaccompanied minors in the Calais Jungle camp.

He advises both the Home Office, individuals and companies on all aspects of immigration.

He also acts in family rights cases and for Tier 1 investors in applications and appeals. He has expertise in representing individuals under the points based system and educational institutions on Tier 4 revocation and suspension proceedings.

He also advises on unlawful imprisonment and damages arising out of immigration proceedings.

Judicial Review & Public Law

He is appointed to the Attorney General's 'B' Panel of counsel. He is a barrister who has extensive experience of appearing before the Administrative and Divisional Court, on statutory appeals, judicial review and habeas corpus applications. His public law work encompasses: Prison law, Immigration, Inquests, applications to the European Court of Human Rights, and failure of disclosure in criminal and associated proceedings.

Ben appears in inquests and public inquiries. He acts for individuals and families, the Ministry of Justice, Home Office and other interested parties.

He has significant experience of search warrants and advises companies, government departments, police forces and individuals on the validity of search warrants and challenges to search warrants by judicial review.

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

Ben 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 for 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 Arab Emirates v AH

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.

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 Nigeria v Ojo

Extradition to Nigeria discharged on human rights grounds.

Government of Russia v AA (2017)

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

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.

Stanislav Dzгоеv v Russia [2017] EWHC 735 (Admin)

Representing appellant in extradition to Russia. Arguing that prison 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.

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 is 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

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)

In the recent 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.

Budaj v District Court of Presov Slovak Republic [2011] EWHC 193 (Admin)

Appeal on the basis that it was unjust and oppressive to extradite the Appellant because of the passage of time.

Wieslaw Kulig v Regional Court in Tarnow, Poland [2011] EWHC 791 (Admin)

Appeal on the basis that exceeding an overdraft did not constitute an offence under section 1 of the Theft Act 1968.

Mikitavicius v Prosecutor General, Lithuania [2011] EWHC 129 (Admin)

Appeal on the basis of Article 3 ECHR and where the Appellant had been extradited in spite of an extant appeal.

Kurtis Russell Mighall v Audencia Provincial of Palma De Malloca, Second Chamber, Spain [2010] EWHC

Appeal against Extradition order on grounds that the European Arrest Warrant was deficient.

Paczowsky v Regional Court in Warsaw, Poland [2010] EWHC 3531 (Admin)

Extradition appeal in relation to passage of time and abuse of process in Poland.

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.

Ciarch and 4 others v Circuit Court in Katowice, Poland and others [2010] EWHC 2772 (Admin)

Conjoined applications for strike out of extradition appeals and guidelines as to grounds of appeal.

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.

Zdenek Tous v District Court in Nymburk, Czech Republic [2010] EWHC 1556 (Admin)

Appeal against Extradition order in relation to right to retrial in the Czech Republic and the Burden and standard of proof required in section 20 of the Extradition Act 2003.

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

Junior counsel on behalf of the Hungarian judicial authorities in extradition case on Roma discrimination, and Articles 3 and 6 of the ECHR. Now the leading authority on the admission of further evidence on appeal.

Michal Tazbir v Regional Court in Gdansk, Poland [2009] EWHC 838 (Admin)

Appeal against extradition order on grounds that European Arrest Warrant was not compliant with section 2(4)c of the Extradition Act 2003.

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

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 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

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

