

Mark Smith

YEAR OF CALL: 2012



Mark Smith is a specialist barrister in extradition, international family, and immigration law. He is recognised in the Legal 500 for international crime & extradition, immigration, and family. He is recognised in Chambers & Partners for extradition and immigration.

'Mark is extremely good and one of the best in arguing and winning cases on legal and technical grounds, and he is also one of the best when it comes to an overlap with extradition and family law proceedings.'

The Legal 500 2024 | Extradition.

Overview

Mark is a barrister specialising in extradition, international family and immigration matters. He has particular expertise in cases involving cross-border issues and parallel proceedings across multiple jurisdictions.

He is recognised within the Legal 500 for his work in international crime & extradition, immigration and family: Children. Mark is recognised in Chambers & Partners for extradition and immigration.

Mark has appeared in the Supreme Court and the Court of Appeal, as well as the High Court Family Division in relation to international family matters and the Administrative Court in extradition proceedings.

“He's a really first-class immigration lawyer, who is razor-sharp, hard-working and a safe pair of hands, and has very good judgement.”

Chambers & Partners 2024 | Immigration.

‘Mark is very personable and exceptionally bright. He is hard working, with an eye for detail and excellent judgement. Mark is particularly knowledgeable in matters concerning extradition.’

The Legal 500 2024 | Immigration.

“A very good advocate, both orally and in writing.”

Chambers & Partners 2024 | Extradition.

He is an experienced extradition practitioner and regularly appears in the High Court (Admin) in relation to extradition appeals. He is instructed in relation to both import and export extradition, concerning request from both EU states and Part 2 countries.

Mark is an international family specialist and appears in child abduction and permanent relocation proceedings before the High Court Family Division. He is also regularly instructed in private children and care proceedings, especially those involving an international element.

He is a key member of the 5SAH immigration team with experience encompassing Tier 1 and business visa applications, derivative rights applications under Appendix FM, the EU Settlement Scheme, and asylum proceedings.

Mark is currently instructed in immigration proceedings following an extradition request, and in an extradition matter with parallel family proceedings. Mark regularly advises on disclosure of documents between family and immigration or extradition proceedings.

Direct Access

Mark is Direct Access qualified and can be directly instructed by members of the public through Direct Public Access. Please contact the clerks at 5SAH if you would like to instruct him directly.

Professional Panel Appointments

Attorney General's Panel of Counsel: C Panel.

CPS Specialist Extradition Panel, Level 3.

'Mark is very diligent in his preparation of cases. He is also very committed to clients and goes out of his way to assist even post the hearing. He is very knowledgeable and has experience in private children's law matters.'

The Legal 500 2024 | Family: Children.

"Mark Smith is extremely good with legal, and especially technical, arguments. He is highly intelligent."

Chambers & Partners 2024 | Extradition.

Professional Memberships

Defence Extradition Lawyers' Forum (DELF).

Child Abduction Lawyers Association (CALA).

Immigration Legal Practitioners' Association (ILPA).

Extradition & International

Mark is an experienced barrister in relation to extradition and international law proceedings. He regularly appears in extradition proceedings at first instance and on appeal in the High Court (Admin). Mark has recently resisted a request for a police informant by the Czech Republic and a Bulgarian request for a government minister involving allegations of political corruption. Mark is currently instructed for the Secretary of State in a US extradition request under Part 2 of the Extradition Act 2003.

Interpol

Family & Children & International Family

Private children

Mark specialises in international family law. Mark recently appeared in a High Court application for a passport seizure order where the child had already been abducted from Bolivia to the USA and then to the UK, advised on the enforcement of child arrangement orders in Belarus, and resisted contempt proceedings in a High Court for breach of a return order.

Mark frequently advises on the interplay with parallel asylum applications, and applications to recognise foreign adoption orders. Mark is currently instructed in applications for permanent relocation from the UK to Dubai, USA, Jamaica, Italy and Switzerland, child abduction proceedings in relation to New Zealand, and an application to recognise a foreign adoption order from Nigeria.

Public children

Mark recently appeared in wardship proceedings brought by a local authority where the children had been removed to Lebanon, care proceedings before the High Court where the child was born in Italy and jurisdiction was disputed, and an application before Lieven J for FMPOs in relation to four children taken to Afghanistan where consideration was given to instructing special advocates. Mark

is currently instructed in care proceedings before the High Court where the Syrian children were allegedly abducted from Germany and there are outstanding applications for asylum in behalf of the abducting parent with children as dependants.

Immigration

Mark appears in immigration and associated judicial review proceedings. Mark recently advised on a judicial review involving a foreign ex-government minister who had previously been granted political asylum and successfully appealed the Home Office's decision to refuse his client's asylum claim made on the basis of genuine fears of honour-based violence on return to Pakistan. Mark is currently instructed in a Tier 1 (Investor) application involving a complex loan scheme, and an application for leave to enter from Nicaragua.

Judicial Review & Public Law

Mark has experience of judicial review proceedings and advises on a wide range of public law issues. Mark has recently advised on judicial reviews involving applications for ILR, visit visa applications, asylum support, and Turkish business visa applications under the Ankara Agreement.

Cases of Note

R (R) v SSHD [2024]

Appeared for the SSHD in judicial review before the Administrative Court relating to the adequacy of asylum accommodation where dispersal to a different area would interrupt the Claimant's adult education.

R (E) v SSHD [2024] EWHC 1097 (Admin)

Instructed by SSHD in judicial review before Sheldon J relating to effectiveness of service by email where the Claimant had been denied re-entry to the UK due to cancellation of his spousal visa.

M v Norway [2024] EWHC 300 (Admin)

Challenge to extradition to Norway on dual criminality grounds involving detailed consideration of the appropriate test as set out in Cleveland.

L v Republic of South Africa [2024] EWHC 731 (Admin)

Challenge to extradition to South Africa before Fordham J on Article 3 and section 91 grounds regarding fitness to fly. Successfully argued in relation to the Secretary of State's role in the appeal process regarding human rights arguments and fitness to fly assessments.

B v Hungary [2023] EWHC 2235 (Admin)

Successful appeal before Williams J challenging a Hungarian extradition request. The judge agreed that the dual criminality test was not satisfied for forgery offences and for using copyrighted material without permission that was said to amount to an offence under the Computer Misuse Act 1990.

AA v SSHD [2023]

Instructed by SSHD as junior to KC in high-profile political asylum claim following Part 2 extradition proceedings. Complex and paper-heavy case against two KCs who called 7 expert witnesses over 13-day hearing.

M v Poland [2022] EWHC 1351 (Admin)

Mark appeared in an extradition appeal in the Administrative Court considering overlapping immigration and extradition issues including the effect of extradition on a pending application for settled status under the EU Settlement Scheme.

R (AK) v Secretary of State for the Home Department [2022]

Mark appeared in a judicial review on procedural grounds arising from the decision in Balajigari where the applicant had been refused due to false representations. The decision is

currently on appeal to the Court of Appeal.

W v Poland [2022] EWHC 1317 (Admin)

Mark represented the Requested Person in a High Court extradition appeal where the Appellant had a young child diagnosed with Autistic Spectrum Disorder who would struggle to comprehend his father's absence and may reject him upon his return.

J v H [2022] EWHC 862 (Fam)

Mark represented the SSHD in the High Court Family Division interpreting G v G where the abducted children were placed into foster care and the court exceptionally gave permission for the local authority to withdraw the children as dependants on their father's asylum application in order to allow their return to Germany.

Hungary v C [2022]

Mark secured an extradition discharge where there were parallel private family proceedings involving child protection and child abduction issues. The Requested Person was wanted in Hungary for fraud offences. The case was unusual as it involved cross-examination of the social worker who had provided a welfare report, as well as expert evidence from a psychiatrist and psychologist about the effect of extradition on the Requested Person's 5-year-old son.

Re D (Abduction Article 13(b) Child in Care) [2022] EWHC 317 (Fam)

Mark represented the SSHD in one of the first cases interpreting G v G where there are parallel child abduction and asylum proceedings. The case turned on whether the child could properly be considered a dependant on the asylum application, which the court agreed was a decision for the SSHD but subject to judicial review.

G v G [2021] UKSC 9

Mark was junior counsel representing child abduction charity, reunite ICAC, intervening in the Court and Appeal and then the Supreme Court. The decisions examine the interplay between asylum under the Refugee Convention 1951 and child abduction under the Hague Convention 1980 where the abducting parent and/or child makes a claim for asylum

H (Children) (Wardship: Lebanon) [2021]

Mark was instructed as junior counsel representing the father in the High Court Family Division in a complex case involving connected care and wardship proceedings where one child was living in the UK and the siblings were resident in Lebanon but the High Court had retained jurisdiction.

S v Romania [2021] EWHC 506 (Admin), DC

Mark appeared as junior counsel before the Divisional Court in extradition proceedings making an innovative argument for a modified Article 8 balancing exercise where the Requested Person has a right to retrial in the requesting state.

S (A Child) (Wrongful Retention: Portugal) [2020]

Mark represented the mother before the High Court Family Division in child abduction proceedings under the Hague Convention 1980, resisting a return order on the basis of a grave risk under Article 13(b) and the child's objections under Article 13(2).

Belgium v E [2019] EWHC 2413 (Admin)

Mark secured the discharge of a mother of two in extradition proceedings that considered a flawed interpretation of provisions of the Children Act 1989 on appeal to the High Court. One of very few cases to be remitted to the magistrates' court but allow for consideration of fresh evidence.

Re (A Child: International Relocation) [2018]

Mark appeared in the High Court Family Division resisting a child's permanent relocation to Spain on behalf of the mother after the father had previously abducted the child without written consent or the permission of the court.

K v Germany [2018] EWHC 3479 (Admin)

Mark appeared in a multi-handed appeal in the High Court against extradition for a £64 million international VAT carousel fraud. One of the first High Court cases to consider impact of the Supreme Court's decision in Goluchowski.

D v Poland [2017] EWHC 2171 (Admin)

Mark successfully appealed to the High Court against extradition for offences for possession of ammunition on the basis of Article 8 due to the short period of time remaining to be served following Chmura and Jesionowski.

N v Poland [2017] EWHC 833 (Admin)

Mark appealed to the High Court against extradition for offences of fraud, challenging the decision in Zengota that multiple EAWs can be considered as a whole when considering the passage of time bar to extradition.

K v Poland [2017] EWHC 577 (Admin)

Mark appeared in the High Court, arguing on appeal that of extradition to stand trial for fraudulently obtaining credit for a computer purchase in 2007 would be disproportionate under section 21A of the Extradition Act.

O v SSHD [2017]

Mark successfully resisted a Home Office appeal in the Upper Tribunal, having previously overturned a deportation order in the First-Tier Tribunal, arguing that there were no serious grounds to deport despite his conviction for theft and money laundering in 2013.

B v Poland [2016] EWHC 1639 (Admin)

Mark appeared in High Court extradition appeal and secured a rare discharge based on the private life of single male without relatives in the UK, as opposed to family life considerations.

G v Lithuania [2015] EWHC 707 (Admin)

Mark appeared in the High Court, which considered whether evidence in the European Arrest Warrant that the requested person's sentence would be unenforceable amounted to a bar to

extradition.

Accreditation

