

Gordon Nardell QC

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Languages: French (fluent); German (conversational); Italian (conversational)



Overview

Gordon specialises in international litigation and arbitration. He has a particular focus on claims by and against state bodies, especially in the areas of energy, infrastructure and utilities. Gordon is also known for his work in other sectors including regulated markets such as transport, public/private partnerships and financial services.

He has extensive experience of EU and public international law and is a member of the Dutch Brussels Bar EU-List. Gordon's cases often involve regulatory issues and international trade and investment disputes. Since the UK's 2016 EU referendum he has advised extensively on Brexit issues affecting business and government, serving bodies including the ICC's Brexit Advisory Group and the Mutual Market Access Working Group sponsored by the Department for Business, Energy and Industrial Strategy (BEIS).

Gordon accepts arbitral appointments, ad hoc and under the rules of the main institutions. He is also a Centre for Effective Dispute Resolution (CEDR) accredited mediator.

He began his professional career as a commercial litigation solicitor. In the 1990s he practised public international law at the Council of Europe and served as UK Parliamentary Counsel before moving to the Bar.

Publications

- *'The Agreement terminating intra-EU BITs: are its provisions compatible with investors' fundamental rights?'* Arbitration International, 2020 (co-author).
- *'Slovakia v Achmea - see you in court'* Lexis PSL (April 2018) (co-author).
- International Energy Law Review: Editorial Board (2016-).
- Contributor to *Burnett-Hall on Environmental Law* (3rd edn, Sweet & Maxwell 2012).

Professional memberships

- Asia International Arbitration Centre: Member of the panel of arbitrators
- Astana International Financial Centre International Arbitration Centre: Inaugural member of the panel of arbitrators
- Attorney-General's A and B Panels of Civil Advocates, England & Wales (2003-2010)
- Bar Council EU Law Committee: Chair (2015-16)

Education

- University of Leeds: LLB, First Class (1984)

- CIArb: Fellow; member of BAS arbitrators panel
- Commercial Bar Association
- Constitutional and Administrative Law Bar Association
- European Circuit of the Bar: Circuit Leader (2012-2014)
- International Bar Association (Arbitration and Power Law Committees)
- ICC
- International Council for Commercial Arbitration
- London Common Law and Commercial Bar Association
- LCIA
- LMAA: Supporting member
- Shanghai International Arbitration Centre (SHIAC): Member of panels of arbitrators and mediators; member of specialist aviation panel
- Society of Construction Law
- UK Environmental Law Association
- UK Human Rights Lawyers Association
- UK State Aid Lawyers Association

Lectures/talks

- 'The Long View: What parties to long-term project contracts need to know about disputes (and avoiding them)' (2021)
- Speaker at series of seminars (2020-21) on legal privilege and in-house investigation product in the wake of ENRC v SFO and R(Jet2) v CAA
- 'Monetising Claims': webinar with PwC Asia on claim funding and valuation (2020)
- 'The Future of BITs in Europe': moderating European Circuit Annual Conference session (2020)
- 'Steering Clarity on Contractors All-Risks Insurance': panellist at Asia International Arbitration Centre webinar (2020)
- 'Clearing the logjam': series of presentations/seminars on use of arbitration to enable resolution of disputes delayed by Covid-19 impacts on courts
- 'Hard Brexit: Continuity of contracts for cross-border services': presentation at Bar Council seminar 'No-Deal Brexit - Practical Consequences' (January 2019).
- 'Brexit and the Energy Charter Treaty': presentation at conference 'The Future of Investment Arbitration in Europe', Association for International Arbitration, Brussels (2018).
- 'Arbitration in the Gulf: What's Happening?': presentation at London

- 'Dispute resolution implications of UK EU withdrawal': speaker at Hong Kong Ministry of Justice Brexit Conference (2017).
- 'Brexit impacts on contract law': Scottish Arbitration Centre seminar on Contract Strategy for the Energy Industry (2017).

Example cases

- *H v E* (2021): M&A indemnity dispute between oil majors (LCIA arbitration clause)
- *U v E Authority* (2019): acted in contractual adjudication about insurance obligations under PFI utility contract
- *R (Lasham Gliding Society) v Civil Aviation Authority* [2019] EWHC 2118 (Admin): acted for CAA successfully resisting challenge to airspace change approval
- *R (ERP) v Secretary of State for Business, Energy and Industrial Strategy*, English High Court (2018): acted for claimant in challenge to alteration of GB energy capacity payments regime.
- *RES UK and Ireland Ltd's Application for Judicial Review* [2018] NIQB 16, Belfast High Court: appeared for claimant on successful challenge to refusal of onshore wind scheme consent on environmental grounds.
- Downstream petroleum JV between European majors (2017): acted for operator in dispute with joint venturer.
- Infrastructure funding: acted in dispute between public and private bodies in relation to funding arrangements for transport scheme (2017).
- Marine installation straddling multiple territorial sea areas and EEZ (2017): advised on consenting and law of the sea issues.
- EU vehicle type certification (2017): advised manufacturer on compatibility of member state rules with EU automotive directives. Successfully prompted fresh national legislation to implement directives correctly.
- *A v State B* (2016): prospective Energy Charter Treaty claim against an EU member state (petroleum E&P).
- Mediation under the OECD Guidelines for Multinational Enterprises: advised and appeared in mediation under specific instance procedure in relation to African energy project (2014).

Commercial litigation and arbitration

- **Institutional and ad hoc arbitration** – appearing as counsel/acting as arbitrator in commercial and investor claims; bringing and defending enforcement, set-aside and annulment proceedings. Appointments accepted under the rules of all the major institutions (including ICC, LCIA, ICSID, AIAC, SIAC, SCC, SHIAC and LMAA). Member of list of specialist arbitrators for UK rail Access Disputes Committee. Member of Shanghai IAC specialist aviation panel. Inaugural member of panel of arbitrators of Astana IFC International Arbitration Centre. LMAA Supporting Member.
- **Commercial litigation** – appearing in high-value commercial disputes in England (and as co-counsel/shadow counsel in other jurisdictions); claims by and against public sector bodies; professional negligence claims; civil fraud and misrepresentation; sanctions issues; disputes arising from regulatory investigations. Handling disclosure and privilege issues, anti-suit and freezing injunctions.
- **Energy, natural resources and utilities** – disputes about funding, construction and performance of major projects, including offshore petroleum and renewables; marine plant and engineering; licensing, concession and JOA/JV disputes; power purchase and repricing; technical disputes about generation and transmission plant; grid connection and management issues; supply chain disputes; State support schemes; end-of-life and decommissioning issues.
- **Investment treaties and sovereign claims** – disputes under contracts and concessions awarded by government entities; inter-State and investment treaty claims; jurisdiction, enforcement and sovereign immunity issues; judicial review and administrative law disputes; sanctions issues.
- **Insurance and financial services** – Insurance/reinsurance disputes in the London market and elsewhere; coverage and non-disclosure disputes; contractors' insurance obligations; group policyholder and investor claims; regulatory disputes in

the insurance sector.

- **Property and development** – disputes about development of land including option agreements, funding arrangements, development management and enforcement, taxation and levies on development.
- **International transport and carriage of goods** – contract claims and international trade disputes about maritime, rail and road transport services; environmental impacts of maritime and aviation operations.
- **Infrastructure, engineering and construction** – ship- and aircraft-building disputes; claims relating to linear infrastructure; defective plant and equipment; consultancy services and professional negligence; liability on project termination.
- **Procurement and public/private partnerships** – contracting authority duties and procedures; disputes under framework agreements; anti-corruption issues; direct award/extension of contracts; shareholder and equivalent claims between JV partners; EU and public law issues in outsourcing.
- **Private international law and jurisdictional disputes** – intra-EU disputes, including Judgments Regulation/Lugano Convention issues; intra-ASEAN and intra-OHADA claims; resolving appropriate forum and governing law.
- **Competition and market regulation** – anti-trust, service concession, State aid and pricing issues; group and consumer claims including follow-on damages and claims against regulatory bodies; advising public bodies on legislation and decision-making in regulated markets.
- **Confidential information and IP** – claims for misuse of confidential information; licensing/manufacturing agreements in the energy and engineering sectors; data protection issues.
- **ADR** – mediation and conciliation of a range of disputes including commercial, public sector and public international law. Adjudication, dispute board and expert determination cases.

Major cases and instructions:

- *H v E* – acting in M&A indemnity dispute between oil majors (LCIA arbitration clause) (2021)
- *K Air Cargo v C Airlines* – acting for claimant in arbitral claim under air cargo agency agreement (2020)
- *U v E Authority* – acted in contractual adjudication about insurance obligations under PFI utility contract (2020)
- S Bank – acting for retail bank in dispute about outsourcing of credit services
- Data centre service agreements – disputes about power pricing (2019); terms of occupancy (2013).
- *X v Y* – enforcement of Gulf State arbitral award outside limitation period (2018).
- *D Ltd v C* – costs litigation arising out of allegations of professional negligence following a complex corporate M&A transaction (2017).
- Downstream petroleum joint venture dispute between European majors (2017).
- Infrastructure funding – dispute re. public/private financial arrangements for transport scheme (2017).
- Shipbuilding framework agreement – advising on governmental framework agreement for procurement and construction of vessels (2016).
- *A v State B* – prospective Energy Charter Treaty claim against EU Member State (petroleum E&P).
- Institutional arbitration (Asia) – power purchase agreement (award 2016).
- *C v State D* – prospective Energy Charter Treaty claim against EU Member State (offshore renewables).
- ICC Arbitration (Europe) – solar energy projects (award 2016).
- *Merong Mahawangsa v Sharyl Eskay Malaysian Federal Court* (2015) – public policy and infrastructure contract secured through influence-trading.
- Waste Management Contract – dispute (English arbitration clause) re validity of incentive payment provisions (2015). Bondholder dispute involving Chinese and other parties, Singapore High Court (2014).
- Mediation under the OECD Guidelines for Multinational Enterprises – petroleum exploration in environmentally sensitive African location (2014).
- Appointed expert determiner in Asian cross-border contract dispute about offshore petroleum plant (2014).
- *R (A) v Chief Constable of C* [2014] 1 WLR 2776 – fairness obligation in procurement of services with security implications.
- Multijurisdictional dispute – energy project funding in the PRC, Singapore arbitration/London litigation clauses (2014).
- Intra-EU claim for economic torts against State officials – application of Brussels I regulation to cross-border damages claim based on bad faith (2014).

- Utility dispute under ad hoc arbitration clause (England) – allocation of cost for reservoir construction (2013).
- The Lloyd's litigation: *Poole & others v HM Treasury* (CA) [2007] 2 CLC 727; *Society of Lloyd's v Laws* (CA) [2003] EWCA Civ 1887; *Society of Lloyd's v Jaffray* (CA) [2002] All ER (D) 399.

Energy, natural resources and environment

- **Litigation and arbitration** – appearing as counsel/acting as arbitrator in claims involving the energy and utilities sectors; bringing and defending enforcement, set-aside and annulment proceedings. Emergency relief and anti-suit injunctions. Appointments accepted under the rules of all the major institutions. Appearing in the English and EU courts in complex disputes including contract cases, claims by and against public bodies, professional negligence and other tort claims. Handling disclosure and privilege issues.
- **Major project disputes** – construction, financing and operation of major projects in Europe and Asia; allocation of consenting and funding risk; contractual liability and protection of confidential information on project termination.
- **Upstream oil & gas** – licensing, concession and JOA/JV disputes; petroleum exploration and production; supply chain disputes; contractual and regulatory liability in M&A transactions.
- **Offshore installations** – marine plant, engineering and servicing; impacts of maritime boundary disputes; pipeline, marine cable and interconnector issues; consenting issues; expert determinations; end-of-life and decommissioning.
- **Downstream energy and utilities** – State obligation and support schemes including the UK Renewables Obligation and Renewable Transport Fuel Obligation, contracts for difference and capacity market; petroleum transportation, storage and trading (including LNG); grid connection and management issues; PPAs; repricing/re-opener disputes; technical disputes about generation and transmission plant; liability for outages; IP licensing and manufacturing agreements.
- **Investment treaties and sovereign claims** – inter-State and investment treaty disputes including Energy Charter Treaty claims; claims disputes under contracts and concessions awarded by government entities; jurisdiction, enforcement and sovereign immunity issues; judicial review and administrative law disputes.
- **Energy markets** – energy market reform and regulation; competition, anti-trust/State aid and pricing issues in the utility sector; EU public service obligations; emissions trading.
- **Environmental regulation and enforcement** – advising and appearing in regulatory appeals and enforcement proceedings; civil penalties; global investigations.
- **EU and international environmental law** – Environmental Impact Assessment of energy and infrastructure projects in EU Member States, Asia and Africa; application of biodiversity legislation including the Habitats Directive, Birds Directive and Environmental Liability Directive; EU waste and pollution law; environmental human rights and CSR issues.
- **Shipping, aviation and ports** – transboundary waste and fuel shipment; OSPAR and Bunker Convention issues; environmental impacts of shipping; application of EU Habitats Directive to extension and construction of passenger and freight port facilities; airspace regulation; environmental impacts of airport development.
- **Nuclear power** – reactor design and safety issues including Euratom safety regime.
- **Extractive industries** – grant and review of dredging and mining consents; application of EU waste legislation to spoil and by-products.
- **Water resources** – discharge, abstraction and management; regulation of water utility undertakers; EU groundwater and waste legislation; toxic tort and pollution claims; flood defence issues.
- **ADR** – mediation and conciliation of a range of energy and utility disputes including commercial contracts and public international law. Adjudication, dispute board and expert determination cases.

Major cases and instructions:

- *H v E* – M&A indemnity dispute between oil majors (LCIA arbitration clause) (2021)
- UK Renewable Transport Fuels Obligation – acting for major overseas fuel supplier in relation to operation of scheme (2020)
- UKCS offshore asset transaction – advising on decommissioning liability of funder/purchaser (2019).
- *R (ERP) v Secretary of State for Business, Energy and Regulatory Reform*, English High Court – challenge to alteration of GB energy capacity payments regime (2018).
- *RES UK and Ireland Ltd's Application for Judicial Review* [2018] NIQB 16, Belfast High Court – successful challenge to refusal of onshore wind scheme consent on environmental grounds.
- Downstream petroleum joint venture dispute between European majors (2017).
- Installation straddling multinational territorial sea and EEZ – advising on consenting and Law of the Sea issues (2017).

- UK Renewables Obligation Scheme – advising on impact of early closure of scheme on onshore renewables projects (2016).
- *A v State B* – prospective Energy Charter Treaty claim against EU Member State (petroleum E&P). Institutional arbitration (Asia) – power purchase agreement (award 2016).
- *C v State D* – prospective Energy Charter Treaty claim against EU Member State (offshore renewables). ICC arbitration (Europe) – solar energy projects (award 2016).
- *R (Barraud) v Civil Aviation Authority* (2015) – consultation requirements in relation to environmental impacts.
- *Powys County Council v the Welsh Ministers and RES Developments (UK and Ireland) Ltd* [2015] EWHC 3284 (Admin) – adequacy of turbine decommissioning arrangements; devolution issues in relation to policies on renewable energy consenting.
- Water Resources Management Plan Inquiry, South East Water (2010).
- Mediation under the OECD Guidelines for Multinational Enterprises – petroleum exploration in environmentally sensitive African location (2014).
- Multi-jurisdictional dispute – energy project funding in the PRC, Singapore arbitration/London litigation clauses (2014).
- *Barnwell Manor Wind Energy Ltd v English Heritage and others* [2014] 1 P&CR 22, CA – seminal authority on heritage impacts of onshore wind projects.
- Utility dispute under ad hoc arbitration clause (England) – allocation of cost for reservoir construction (2013).
- *R (RWE Npower Renewables Limited) v Milton Keynes Council* [2013] EWHC 751 (Admin) – lawfulness of separation distances for onshore wind.
- *R (Manchester Ship Canal Co and another) v Environment Agency* [2013] JPL 1406, CA – canal flood defences.
- *R (Walker) v Secretary of State for Energy and Climate Change* [2013] EWHC 2048 – approval of reactor type under Euratom Basic Safety Directive.
- *R (Akester) v DEFRA and Wightlink Ltd* [2010] Env LR 33 – 33 erosion to protected habitat from estuarine shipping operations.
- *X and Trustees for Y v British Waterways Board* (2008) – claim under Canal Act for damage to fishery from navigation operations.

EU and competition

- **EU energy law and policy** – advising on funding and policy support for renewables under EU law; cross-border interconnection issues; application of EU environmental and biodiversity legislation; EU emissions trading scheme.
- **Brexit** – advising businesses, trade organisations and public bodies on implications of Brexit, transitional arrangements and future trade implications. Member of various advisory and sector groups including ICC Brexit Advisory Group and DBEIS Mutual Market Access Working Group. Vice-Chair of Bar Council Brexit Working Group 2016-18.
- **Investment treaties and sovereign claims** – handling post-Achmea and State aid issues in intra-EU investment claims; jurisdiction, enforcement and sovereign immunity issues; Francovich claims; privatisation/nationalisation disputes.
- **Privacy and data protection** – civil claims and regulatory disputes about confidential information, data protection, surveillance and interception. Advising on cross-border data transfers for regulatory and sanctions enforcement purposes. Advising on extraterritorial application of GDPR.
- **Cross-border transport and free movement of goods** – disputes involving cabotage rights for cross-border goods vehicle operators; goods and passenger vehicle operators’ obligations in relation to competition and safety; franchising, procurement and State aid in the maritime and rail transport sectors; trade remedies.
- **Competition and State aid** – Anti-trust State aid and pricing disputes in the energy, utilities, transport and automotive sectors; bringing and defending Francovich and other damages claims against regulatory bodies; advising trade organisations and governmental bodies on policy and legislative proposals in regulated markets.
- **Jurisdiction, judgments and choice of law** – cross-border claims, including Judgments Regulation/Lugano Convention issues; resolving appropriate forum and governing law; claims involving parties domiciled in European offshore jurisdictions.
- **Procurement and public/private partnerships** – contracting authority duties and procedures; disputes under framework agreements; anti-corruption issues; engineering and construction claims; direct award/extension of public contracts; shareholder and equivalent claims between JV partners; EU and public law issues in outsourcing.
- **EU environmental law** – environmental impact assessment; environmental impacts of maritime operations under EU and international instruments; environmental impacts of petroleum E&P operations; disposal and transboundary

shipment of waste and petroleum by-products; cross-border tort claims for environmental damage; compatibility of development and industrial operations with EU waste and biodiversity legislation.

- **European public affairs** – drafting and advocacy at all stages of the legislative process; acting as expert in proposals on data protection, e-commerce, and regulated markets including energy and transport.

Major cases and instructions:

- W Ltd – advising on Brexit issue in relation to claims-handling by “non-admitted” EEA insurer (2021)
- Data export from EEA: advising a major financial service provider on data transfers for law enforcement purposes (2020).
- *R (ERP) v Secretary of State for Business, Energy and Regulatory Reform*, English High Court – State aid challenge to alteration of GB energy capacity payments regime (2018).
- EU vehicle type certification – advising manufacturer on compatibility of Member State rules with EU Automotive Directives (2017).
- Military hardware – advising on EU procurement and State aid issues in relation to long-term contracts for high-value materiel (2016).
- Scottish island ferry services – advising on procurement and State aid issues under the EU Maritime Cabotage Regulation (2015).
- EU Fourth Rail Package – advising rail industry players on draft Governance Directive and Passenger Service Operators Regulation; contributing to expert round table on the proposals (2015).
- Intra-EU claim for economic torts against State officials (2014) – application of Brussels I Regulation to cross-border damages claim for misconduct in public office.
- *R (RMT, TSSA and ASLEF) v Secretary of State for Transport* (2014) – award of rail contracts without public tenders – compatibility with EU Rail Regulation (EC) 1370/2007. EU Automotive Directives – advising on compatibility of reforms to Member State competent authority with the Directives, general principles of EU law and ECHR (2013).
- EU Third Energy Package – advising on compatibility of proposed energy market reforms with Public Service Obligation provisions of Directives 2009/72/EC and 2009/73/EC (2013).
- *R (Walker) v Secretary of State for Energy and Climate Change* [2013] EWHC 2-48 (Admin) – approvals for civil nuclear reactors under Basic Safety Standards Directive 96/29/EURATOM.
- *Nolan Transport v Secretary of State* [2012] UKUT 221 (AAC) – carriage of goods by road – cabotage rules under Directive 92/106/EEC. Y Ltd – compatibility of hazardous waste proposals with EU waste and groundwater legislation (2012).
- *Wright v Vehicle and Operator Services Agency* (QBD) [2011] R7R 35 – interpretation of EU Passenger Transport Regulation.
- *R (Akester) v DEFRA and Wightlink Ltd* [2010] Env LR 33 – erosion to protected habitat arising from estuarine shipping operations.
- *Poole & others v HM Treasury P(CA)* [2007] 2 CLC 727 – Francovich damages claim by investors for failure to implement the First Non-Life Directive in the Lloyd’s market.
- *R (Stone) v South East Coast Strategic Health Authority* (QBD) [2006] EWHC 1668 (Admin) – Data Protection Directive issues concerning publication of medical information as part of inquiry report.

Maritime, rail and aviation

- **Litigation and arbitration** – appearing as counsel/acting as arbitrator in claims involving the maritime, land and air transport sectors; bringing and defending enforcement, set-aside and annulment proceedings. Emergency relief and anti-suit injunctions. Appointments accepted under the rules of all the major institutions. Member of list of specialist arbitrators for UK rail Access Disputes Committee. Appearing in the English and EU courts in complex disputes including contract cases, claims by and against public bodies, international trade and free movement of goods and services. Member of Shanghai International Arbitration Centre specialist aviation panel of arbitrators/mediators.
- **Investment treaties and sovereign claims** – disputes under contracts and concessions awarded by government entities; inter-State and investment treaty claims; jurisdiction, enforcement and sovereign immunity issues; judicial review and administrative law disputes.
- **Shipbuilding and infrastructure** – shipbuilding disputes; claims relating to funding and construction of port facilities and transport infrastructure; Parliamentary and governmental consenting processes; claims for defective plant and equipment; anti-corruption issues in contract award; allocation of consenting and funding risk; consultancy services and professional negligence; contractual liability and protection of confidential information on project termination.

- **Rail industry contracting and regulation** – passenger rail franchising/contracting disputes including direct awards/extensions and termination; public service contracts under EU law; advice and drafting on regulatory rules; access, compensation and freight transfer disputes including UK ADC and Network Code procedures; advising on EU legislation and proposals. Member of UK ADC arbitrators panel.
- **Tram and light rail** – public consenting procedures; PPP/PFI contract disputes.
- **Cross-border transport and free movement of goods and services** – maritime and road cabotage; vehicle operators’ obligations in relation to competition and safety; procurement and State aid issues.
- **Shipping operations and port development** – transboundary waste and fuel shipment; OSPAR and Bunker Convention issues; environmental impacts of shipping; application of EU Habitats Directive to extension and construction of port facilities; EU maritime cabotage rules and public service contracts.
- **Aviation** – advising and appearing in disputes about airspace regulation and environmental impacts of airport development; aircraft manufacture and delivery disputes.
- **Navigable waterways** – waterways maintenance and management disputes; liability and funding issues in relation to flood defence; control structures and flood defences.
- **ADR** – mediation and conciliation of a range of transport and infrastructure disputes including commercial contracts, environmental impacts and public international law. Adjudication, dispute board and expert determination cases.

Major cases and instructions:

- *K Air Cargo v C Airlines* – acting for claimant in arbitral claim under air cargo agency agreement (2020)
- *R (Lasham Gliding Society) v Civil Aviation Authority* [2019] EWHC 2118 (Admin) – acted for CAA successfully resisting challenge to airspace change approval
- Marine installation straddling multinational territorial seas and EEZ – advising on consenting and Law of the Sea issues (2017).
- Infrastructure funding – dispute re. public/private financial arrangements for transport scheme (2017).
- Airports XXX and YYY – disputes about environmental impacts of changes to departure arrangements (2016-17).
- Shipbuilding framework agreement – advising on governmental framework agreement for procurement and construction of vessels (2016).
- Scottish island ferry services – advising on procurement and State aid issues under the EU Maritime Cabotage Regulation (2015).
- EU Fourth Rail Package – advising rail industry players on draft Governance Directive and Passenger Service Operators Regulation (2015).
- *Merong Mahawangsa v Sharyl Eskay Malaysian Federal Court* (2015) – public policy and infrastructure contract secured through influence-trading.
- *R (Barraud) v Civil Aviation Authority* (2015) – consultation requirements in relation to environmental effects of change in arrivals pattern.
- *R (RMT, TSSA and ASLEF) v Secretary of State for Transport* (2014) – award of rail contracts without public tenders – compatibility with EU Rail Regulation (EC) 1370/2007.
- *R (Manchester Ship Canal Co and another) v Environment Agency* [2013] JPL 1406, CA – status of control structures on navigable waterway.
- EU Automotive Directives – advising on compatibility of reforms to Member State competent authority with the Directives, general principles of EU law and ECHR (2013).
- *Nolan Transport v Secretary of State* [2012] UKUT 221 (AAC) – carriage of goods – cabotage rules under Directive 92/106/EEC.
- *Wright v Vehicle and Operator Services Agency* (QBD) [2011] R7R 35 – interpretation of EU Passenger Transport Regulation.
- *R (Akester) v DEFRA and Wightlink Ltd* [2010] Env LR 33 – erosion to protected habitat arising from estuarine shipping operations. UK National Policy Statement on port development – advising on compatibility of policy with Habitats Directive (2010).
- *X and Trustees of Y v British Waterways Board* (2008) – claim under canal Act for damage to fishery from navigation operations.
- M. urban metro extension – advising on scope of authorising instrument (2008).

PIL, investment treaties and human rights

- **Investment treaty advice and disputes** – advice on structuring deals and investments; arbitral claims under bilateral and multilateral investment treaties including the Energy Charter Treaty. Advising on liability, quantum of compensation, interim measures, annulment/set-aside proceedings and enforcement. Advising on procedural issues including parallel domestic proceedings and “fork-in-the-road” issues. Arbitral appointments accepted under ICSID, SCC and other major institutional rules and ad hoc.
- **Expropriation and compensation claims** – advice and advocacy in claims for expropriation and property damage under host State law and international instruments including the European Convention on Human Rights.
- **International human rights law and corporate social responsibility** – advising and appearing in claims before regional human rights bodies including the European Court of Human Rights; acting in disputes under “soft law” instruments including the UN Guiding Principles on Business and Human Rights and OECD Guidelines for Multinational Enterprises; advising on modern slavery issues including supply chain due diligence; cross-border transparency and anti-corruption issues; advising on historic abuses by colonial and occupying forces; fair trial rights; claims under the EU Charter of Fundamental Rights.
- **International and EU environmental law** – environmental impact assessment in international law; environmental impacts of maritime operations under EU and international instruments including the OSPAR and Bunker Conventions; environmental impacts of petroleum E&P operations; cross-border tort claims for environmental damage; compatibility of development and industrial operations with EU waste, biodiversity and EIA legislation.
- **Privacy and data protection** – claims under EU and ECHR law about confidential information, data protection, surveillance and interception, including proceedings in the UK Investigatory Powers Tribunal.
- **Treaty drafting and constitutional co-operation programmes** – advice and assistance to governments and international organisations on preparation of international instruments in the fields of trade and investment, life sciences, data privacy, environmental protection and human rights; assisting in co-operation programmes on constitutional reform and human rights legislation.

Major cases and instructions:

- Appointed to investigate bribery allegations against senior official of a political party (2019).
- Prospective BIT claim against Gulf State – advising on ICSID claim arising out of real estate transactions (2017).
- Marine installation straddling multinational territorial sea and EEZ – advising on consenting and Law of the Sea issues (2017).
- *A v State B* – prospective Energy Charter Treaty claim and parallel domestic proceedings against EU Member State (petroleum E&P).
- UK Modern Slavery Act 2015 – advising Japanese corporation on compliance with supply chain transparency duty (2015); previously member of legal steering group assisting Parliamentarians on the Modern Slavery Bill.
- *Merong Mahawangsa v Sharyl Eskay Malaysian Federal Court* (2015) – use of international anti-corruption conventions in determining whether public policy prohibits recovery of fee for influence-trading.
- *C v State D* – prospective Energy Charter Treaty claim against EU Member State (offshore renewables).
- EU Data Protection Package – led the English Bar Council’s response to the proposal for the General Data Protection Regulation and replacement Directive.
- Mediation under the OECD Guidelines for Multinational Enterprises re petroleum exploration in an environmentally sensitive location (Africa, 2014).
- *R (C) v Commissioner of Police for the Metropolis* [2012] 1 WLR 3007 – ECHR Article 8 compatibility of blanket policy of retaining custody photographs.
- *Paton v Poole Borough Council*, 2010, IPT surveillance by local authority.
- *S. and Marper v UK* (2008) 48 EHRR 1169, ECtHR (GC): acting for intervener in proceedings re. Article 8 compatibility of English law on retention of DNA data of arrested persons.
- *Liberty and others v UK* (2008) 48 EHRR 1, ECtHR – telecommunications – Article 8 compatibility of powers to intercept international calls.
- *R (Stone) v South East Coast Strategic Health Authority* (QBD) [2006] EWHC 1668 (Admin) – lawfulness of publication of confidential medical information as part of inquiry report.
- *Plümecke and others v Germany*, ECtHR (2006) – ex-DDR expropriation claims.
- *R (West) v Society of Lloyd’s* [2004] EWCA Civ 506 – whether “private” regulator a public authority for the purpose of

ECHR claim under Human Rights Act 1998.

- *Society of Lloyd's v Lloyds* [2003] EWCA Civ 1887 and *Law & others v. UK* ECtHR (2005) – ECHR Article 6 compatibility of financial regulator's immunity from suit.
- *R (Alconbury Developments) v SSETR (HL)* [2001] 2 WLR 1389 – leading UK case on compatibility of ministerial decision-making with ECHR Article 6.
- *R v Director of Public Prosecutions ex parte Kebilene* (HL) [1999] 3 WLR 972 – retrospective effect of Human Rights Act 1998 in relation to criminal proceedings.

Regulation, Public Law and Parliamentary

- **Constitutional law and judicial review** – appearing in judicial review proceedings in the UK and EU; advising on regulatory and public law issues across Europe and Asia; dealing with issues of legislative competences and procedure, enforcement of treaty obligations in domestic law. Handling difficult and novel issues of statutory interpretation. Dealing with bias and similar issues in regulatory decision-making.
- **Parliamentary Drafting and Handling** – one of a small number of practising barristers undertaking specialist legislative drafting and advisory work in the UK, EU and Commonwealth. Frequently instructed in litigation and arbitration raising difficult or novel questions of statutory interpretation.
- **Energy and utilities** – Energy market regulation; grid connection and charging; competition and State aid issues; environmental impacts and consenting of energy projects; end-of-life and decommissioning obligations.
- **Procurement, contracting and public/private partnerships** – contracting authority duties and procedures; funding and anti-corruption issues; direct award/extension of contracts; outsourcing disputes; public contracts and project finance.
- **Financial and professional services** – regulatory disputes including claims against regulatory bodies; advice and drafting for professional and public bodies on rules, guidance and enforcement procedures; disciplinary proceedings in the financial and legal services sectors.
- **Infrastructure consenting** – advice and advocacy in inquiries and judicial review proceedings in relation to transport infrastructure, water resources, port development and other land uses; airport development and airspace regulation.
- **Environmental regulation and enforcement** – disputes involving EU and national environmental and biodiversity law; regulatory appeals and enforcement proceedings; challenges to consenting policies and decisions.
- **Public law ADR** – mediation and conciliation of a range of public law and regulatory disputes.

Major cases and instructions:

- *Musa and others v Government of State of Sabah and others*, Federal Court and Court of Appeal (Malaysia) – assisting in judicial review application raising novel questions of justiciability of dissolution of State legislature (2020)
- *R (Lasham Gliding Society) v Civil Aviation Authority* [2019] EWHC 2118 (Admin): acted for CAA successfully resisting challenge to airspace change approval.
- *R (ERP) v Secretary of State for Business, Energy and Industrial Strategy*, English High Court (2018): acted for claimant in challenge to alteration of GB energy capacity payments regime.
- *RES UK and Ireland Ltd's Application for Judicial Review, Belfast High Court*[2018] NIQB 16 – successful challenge to NI Planning Appeals Commission decision – misinterpretation of environmental policy and inadequate reasons for rejecting expert evidence.
- UK Bills and amendments: Topics include renewable energy development and markets, civil justice reform, compulsory purchase compensation, collective and individual employment rights, regulation of rental properties, hunting with dogs. Pro bono assistance for charities and NGOs with legislation on modern slavery, young voter registration, domestic abuse, victims of overseas terror incidents, modernisation of abortion law.
- UK High Speed 2 – advising interested party on Hybrid Bill for high-speed rail line (2016).
- *Scottish island ferry services*– advising on procurement and State aid issues under the EU Maritime Cabotage Regulation (2015).
- EU Fourth Rail Package – advising rail industry players on draft Governance Directive and Passenger Service Operators Regulation (2015).
- *Merong Mahawangsa v Sharyl Eskay* Malaysian Federal Court (2015) – public policy and infrastructure contract secured

through influence-trading.

- *R (Barraud) v Civil Aviation Authority* (2015) – consultation requirements in relation to environmental effects of change in arrivals pattern.
- UK Modern Slavery Act 2015 – advising Japanese corporation on compliance with supply chain transparency duty (2015).
- *R (RMT, TSSA and ASLEF) v Secretary of State for Transport*(2014) – rail franchising: consultation requirements and lawfulness of direct award.
- *R (A) v Chief Constable of C*[2014] 1 WLR 2776 – vetting of police authority contractor.
- *R (Manchester Ship Canal Co and another) v Environment Agency*[2013] JPL 1406, CA – environmental regulator’s interpretation of policy on flood defences.
- *R (Walker) v Secretary of State for Energy and Climate Change* [2013] EWHC 2048 – approval of reactor type under Euratom Basic Safety Directive.
- Leveson Inquiry into the Culture, Practice and Ethics of the Press- advice and drafting for an interested party on implementation of the Leveson recommendations (2012).
- *Lewis v Redcar and Cleveland BC* [2009] 1 WLR 83, CA – bias and predetermination in local authority decision-making.
- *R (Jackson) v Attorney-General* (HL) [2006] 1 AC 262 – validity of legislation enacted under Parliament Acts 1911-1949
- Legislative drafting panels – former member of Non-Executive Bill Drafting Panel of the Scottish Parliament; former member of Remote Legislative Drafters panel for the Falkland Islands Government.

Recommendations

He has excellent presentation skills and is commercial and considered." "He is an extremely bright and clever advocate. [Chambers UK Bar 2022](#)

Responsive, with a keen eye for detail, he is easy to work with and very commercial. [The Legal 500 UK Bar 2022](#)

He can see the arguments instantaneously and advise on the hoof. [The Legal 500 UK Bar 2021](#)

He is very willing to discuss. He is very open and talks about the issues." "He is cooperative and very easy to work with. [Chambers UK Bar 2021](#)

Very good with clients, extremely thorough, has a good mastery of the detail and is an accomplished advocate [Chambers UK Bar 2020](#)

Offers a mix of seniority, pragmatism and user-friendliness. [Chambers UK Bar 2020](#)

A decisive and accomplished QC [Chambers UK Bar 2019](#)

A good advocate who knows how to treat judges. He has a very warm personality and is good with clients. [Chambers UK Bar 2019](#)

He manages clients very well and grasps the issues very quickly. [Chambers UK Bar 2018](#)

He knows how the regulator thinks and has excellent presentation skills. He is easy to access, commercial and considered. [Chambers UK Bar 2018](#)