

Julie Anderson

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Languages: French (proficient)

Appointed to the Attorney General's A Panel of standing Counsel to the Crown from 2012. First appointed as Panel Counsel in 1999.



Overview

Julie has an outstanding level of “hands on” litigation experience in the higher courts and specialist tribunals. Through the very highest levels of court appearances each year, she has built up exceptional expertise in managing civil litigation of all kinds.

Over 25 years, Julie has developed expertise and experience of public law, human rights, EU law, tax, social security, and Refugee Convention law and practice. In addition, she has practical experience of the wide range of areas in which public and EU law principles arise from chancery and commercial fields to sanctions and national security cases. Julie has uncommon experience in handling cases where a number of highly specialist areas intersect, often within a controversial factual context.

In both 2017 and 2018 she was listed in the top two junior barristers with the highest number of cases and hearing days in the UK higher courts and tribunals (The Lawyer, Litigation Tracker Reports for 2017 and 2018).

Julie appears frequently before all the higher courts, with an exceptional record of appearances before the Court of Appeal and the Administrative Court. In addition, she acts regularly in cases before the Supreme Court (UKSC). She has a wealth of experience before the specialist tribunals in both their appellate and judicial review jurisdictions. Julie is often instructed in cases before the European Court of Human Rights (ECHR). She has acted in cases before the Court of Justice of the European Union (CJEU) and EU

Publications

- Contributor to *EU Handbook for Bench & Bar*
- Contributor to *The European Advocate*
- Former editor of *Mellows: Taxation for Executors & Trustees*

Professional memberships

- Attorney General's Panel of Junior Counsel A Panel (from 1 March 2012), B Panel (2012–2003) and C Panel (2003–1999)
- Bar Council Member (for the EU Specialist Bar Association – Bar European Group)
- Honorary Secretary of the Bar European Group (1994 to date)
- The European Circuit

Education

- University of Oxford, Oriel College: MA in

General Court and has acted for the EU Commission. Also, she has advised on litigation at the highest level on instruction from overseas governments and authorities outside the EU. In particular, Julie has experience of cases in “offshore jurisdictions” relevant to tax and revenue issues including Jersey.

Julie also has a broad advisory practice. She was appointed to the Attorney General’s panel of counsel in 1999 and to the most senior A Panel in 2012. Julie has provided advice over 20 years to a wide range of government departments, local authorities and other public, non-governmental and regulatory bodies. Within her commercial practice, Julie advises a range of commercial organisations and private clients. She is qualified to undertake public access instructions.

Politics, Philosophy & Economics

- Associate Lecturer in Economics at the University of Surrey.
- City Guildhall University: Diploma in Law

Key cases

- *Hemmati & others* [2019] 2 WLR 814: leading litigation to be heard on an expedited basis by the UKSC in July 2019. The cases concern whether binding, published guidance counts as “law” for the purposes of Article 28 of the EU Dublin III Regulation and whether a breach of EU law at a system level automatically gives rise to liability for damages for unlawful imprisonment for all immigration detention even if the breach was not sufficiently serious to give rise to an EU law remedy.
- *TN (Vietnam) v SSHD* [2019] 1 WLR 2647; *TN (Vietnam) v FTT* [2019] 1 WLR 2675: lead litigation that concerns whether a finding of unlawfulness at a system level automatically renders every decision made under that system unlawful. The procedural rules governing 10,000 asylum and ECHR appeals heard by the First-tier Tribunal over a decade were held to be unlawful as giving rise to a significant risk of unfairness. The litigation decides the status of the decisions and whether the FTT had jurisdiction to set aside decisions made under an earlier legal regime. UKSC application pending.
- *ASK & MDA* [2019] pending judgment: lead litigation concerning mental illness, mental capacity and detention.
- *DN (Rwanda)* [2018] EWCA Civ 723: this appeal will be heard by the UKSC in October 2019. It concerns whether the unlawfulness of one decision automatically renders related decisions unlawful.
- *R (O) v SSHD* [2016] 1 WLR 1717: UKSC case concerning whether the most fundamental test in public law (the “*Wednesbury*” test) for court supervision of public decision-makers should be replaced with a new more intrusive approach.
- *MS (India) & another* [2018] 1 WLR 389: lead litigation brought by foreign nationals found to be involved in terrorism challenging the “restricted leave” regime. Under this regime limited leave to remain with conditions is given for short periods only to foreign nationals whose misconduct could lead to their exclusion from the Refugee Convention where it is not possible to deport them and only rarely is settlement granted.
- *VC v SSHD* [2018] EWCA Civ 57: this concerns discrimination and equality obligations to the disabled, in particular those without mental capacity. UKSC application pending.
- *Hrabkova v Department for Work and Pensions* [2018] 1 CMLR 5: lead case on free movement of persons and discrimination between workers and self-employed EEA nationals and entitlement to UK benefits. Also, it considers a preliminary ruling from the CJEU and the test for making a second reference.
- *R (Gureckis and others) v Secretary of State for the Home Department* [2017] EWHC 3298 (Admin): lead case on EU principle of “abuse of rights”, lawfulness of UK policy concerning EEA rough sleepers and free movement of persons
- *R (Derrin Brothers Properties Ltd) v HMRC* [2016] 1 WLR 2423; [2016] All ER 203: the leading Court of Appeal decision upholding the UK system of exercise of tax information powers and international treaty obligations under challenge based on Article 8 ECHR privacy rights.
- *Ariel v Halabi* [2018] 1 WLUK 561; [2018] BPIR 1559; Court of Appeal Jersey and Royal Court of Jersey; *HMRC v Ariel* [2017] 1 WLR 319 Chancery Division, Bankruptcy Court; *Ariel v FTT* (Tax chamber) [2017] UKFTT 87 (TC); [2017] 1 WLUK 203: lead litigation concerning use of tax information powers to obtain documents provided under bankruptcy powers to a trustee in bankruptcy in the UK courts and tribunals and Jersey courts.
- *R (Troitino Arranz) v National Crime Agency and SSHD & another* [2017] EWHC 931 (Admin): the leading decision of the

Divisional Court on the interaction of the extradition system and asylum/deportation appeal systems. The challenge was brought by a former ETA terrorist responsible for killing 22 individuals in bomb attack in Madrid.

- *VM v United Kingdom* May 2019 (second decision) of the European Court of Human Rights: this is one of eight cases acting for the UK government, concerning applicants who challenged whether UK common law had the necessary “quality of law” for Article 5 ECHR purposes. The initial challenge was successfully defended in the lead decision of *JN v United Kingdom* [2016] 5 WLUK 423; Times, 3 June 2016.

Public and regulatory law

- *R (O) v SSHD* [2016] 1 WLR 1717: Supreme Court; public law test applicable to ECHR-related decisions. The key issue of importance to public lawyers was whether the Wednesbury Test should continue to apply to Government decisions concerning fundamental Human Rights such as the right to liberty. The issue arose in the sensitive context of the policy concerning detention for immigration purposes of a foreign criminal with a serious psychiatric illness and the interaction of public law error and the right to damages for unlawful imprisonment in private law. An application to the European Court of Human Rights is pending.
- *Babar v SSHD* [2018] EWCA Civ 329: Court of Appeal; regulatory interpretation, crimes against humanity. This case concerned the legal approach to applications for settlement by foreign nationals who have been excluded from the protection of the Refugee Convention under Article 1 F. The Appellant was a senior police officer in Pakistan who had been involved in the systematic ill treatment of detainees over 20 years. Julie acted for the Secretary of State whose appeal was allowed applying a demanding test for settlement applications by foreign nationals excluded from the Refugee Convention.
- *DN (Rwanda)* [2018] EWCA Civ 723: Court of Appeal; law of precedent, civil liberties, damages. The Appellant argued that an earlier decision of principle of the Court of Appeal that determined his claim against him did not apply because the Court was always free to reconsider issues that bore on the right to liberty. The earlier decision established that an unlawfulness in a deportation decision (caused by reliance on a statutory order later set aside as *ultra vires*) did not automatically render unlawful in retrospect a decision to detain made in good faith when the order and deportation were believed to be lawful. Julie acted for the Secretary of State successfully upholding the law of precedent. An application for permission to appeal to the Supreme Court is pending.
- *MS (India)* [2018] 1 WLR 389: Court of Appeal; interpretation of policy, terrorism, Article 8 ECHR. The first appeal considering the UK’s ‘no safe havens’ policy (intended to prevent the UK from continuing to be used as a safe haven for those who perpetrate serious crimes including war crimes and crimes against humanity that lead to their exclusion from the Refugee Convention). Pursuant to that policy ‘Restricted Leave to Remain’ for limited periods on conditions was granted to MS whilst he could not be deported without breach of the ECHR. Julie acted for the Secretary of State which successfully overturned the High Court decision finding that settlement must be granted notwithstanding the judicial finding that MS had been involved in terrorism. Also, the Court upheld the decision of the Upper Tribunal rejecting MS’ judicial review challenge to the lawfulness of the Restricted Leave to Remain policy and its application to his case which Julie had defended successfully.
- *JM (Zimbabwe)* [2017] EWCA Civ 1669: Court of Appeal; statutory interpretation, right to liberty. This appeal raised an issue of wider importance in relation to the statutory interpretation of the phrase ‘in particular’. The High Court accepted JM’s interpretation that the use of ‘in particular’ restricted the general power to the matters referred to thereafter. Julie acted for the Secretary of State who established that the High Court had erred as the phrase ‘in particular’ denoted that the matters that followed were examples of matters within the scope of the general power but did not restrict its scope only to the specified matters. However, the Court dismissed the appeal finding that the scope of the general statutory power did not extend to requiring JM to cooperate with the deportation process to the extent required to achieve compliance with the deportation order in that instance. JM was a foreign criminal who had been ordered to leave the UK by a lawful deportation order following his conviction and imprisonment for serious drug offences and committed a continuing offence by unlawfully remaining in the UK. JM’s deportation could not be enforced for practical reasons where his passport had expired and he had not renewed it and the UK Government could not obtain a temporary travel document from the Zimbabwean authorities without JM’s full cooperation. The Zimbabwean authorities’ current policy was to issue such travel documents only where their national consented to return. The Secretary of State considered that s. 35 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (which provides powers to require foreign nationals to cooperate with their documentation for removal), meant that JM was obliged to give his consent to removal and inform the Zimbabwean authorities of that even if, given a choice, he did not want to return to his country of nationality. The Court rejected that interpretation and upheld the finding of unlawful detention with entitlement to substantial damages.
- *R (AB) v SSHD* [2017] EWCA Civ 59: Court of Appeal; Mandatory orders, fairness, unlawful procedure. This case concerned the difficult issue of the extent to which decisions that in some way relate to an earlier decision can be rendered unlawful for public law error if the earlier decision is subsequently held to be unlawful. The context was an appeal decision which was one of many decisions that had been held to be unlawful after the event when the procedural rules that governed the appeal process was held to be unlawful as giving rise to an unacceptable risk of unfairness. However, after AB’s appeal had been rejected he had been removed to his country of nationality (the Cameroon). Prior to removal AB had challenged removal in judicial review proceedings that had been rejected so the question arose as to whether the subsequent setting aside of the appeal decision automatically rendered removal unlawful in retrospect and whether that would mean the UK

was compelled to arrange for AB to be brought back to the UK whilst his asylum appeal was redetermined. Also AB sought to make serious allegations on impropriety against the Secretary of State for the first time at the appeal hearing. Julie acted for the Secretary of State who successfully defended the appeal. An application for permission to appeal is pending before the Supreme Court.

- *R (Antonio) v SSHD* [2017] EWCA Civ 48: Court of Appeal; statutory interpretation, right to liberty, damages. The key issue in this case was the interpretation of the power to make a deportation order under the UK Borders Act 2007. The Respondent had been convicted of very serious criminal offences. On release from prison he was deported to Portugal on the grounds that he claimed to be a Portuguese national (stating that his father was Portuguese and his mother was a Jamaican national), but the Portuguese authorities did not accept him as a national and refused entry. The UK Government revoked the deportation order made under the EEA system and made a new deportation order under the non-EEA statutory regime intending deportation to Jamaica. The High Court held that there was no power to make a second deportation order and the Respondent was entitled to a substantial sum in damages for unlawful immigration detention. Julie acted for the Secretary of State whose appeal was upheld by the Court of Appeal finding that there was power to make a second deportation order and remitting the damages claim for re-determination.
- *R (W) v Department of Health and SSHD* [2016] 1 WLR 698: Court of Appeal; privacy law, medical confidentiality, data protection. In this appeal, the Master of the Rolls considered the highly topical issues of the right to privacy, duty of confidentiality of medical information and statutory powers concerning data sharing. The context was the provision of limited information by the NHS that there was an unpaid debt (where a foreign national had elected to take up chargeable NHS services but failed to pay for them). Once transferred the information that there was an unpaid NHS debt may be taken into account in determining any subsequent applications by the foreign nationals for leave to remain in the UK (under provisions that were challenged initially but that aspect of the claim was successfully resisted at first instance). Julie acted for the Secretary of State for the Home Department. The Court dismissed the appeal finding that it was lawful for the NHS to share the debt information with the Home Office.
- *R(TN (Vietnam) v SSHD and Ministry of Justice* [2017] 1 W.L.R. 2595; [2017] 4 All E.R. 399: Court of Appeal. The key issue in this case was the extent to which a finding in retrospect that procedural rules were unlawful long after they ceased to exist, could affect the lawfulness of the decisions made by a judicial body acting under the procedural rules whilst they were in force. The relevant procedural rules applied for some 10 years during which some 10,000 appeal decisions were made. The Court accepted the arguments made on behalf of the UK Government that the retrospective finding that the procedural rules were unlawful did not automatically render unlawful all appeal decisions made whilst they were in force. Julie acted for the Ministry of Justice which was successful alongside the Secretary of State for the Home Department before the High Court. An appeal is pending before the Court of Appeal in which Ms Anderson represents the Ministry of Justice.
- *R (Gureckis) v SSHD* [2018] 4 WLR 9 HC: Administrative Court; EU principle of abuse of law, UK removal of EEA roughsleepers. This was unique lead litigation on the lawfulness of the UK's policy of removal of EEA nationals persistently rough sleeping on the basis that this was an abuse of the EU right of free movement. The context was a 90% increase in the number of EEA nationals roughsleeping in London, including a significant number entering the UK intending to sleep rough. The UK Government addressed this issue through 2 operations that identified EEA nationals persistently rough sleeping to ascertain if they were exercising rights of free movement and, if they were, determining if they were abusing those rights. The High Court held that rough sleeping was not an abuse of the right of free movement and that the operations under the policy were unlawful for systematically verifying whether EEA nationals were exercising their Treaty rights.

Human rights, civil liberties, equality and discrimination law

European Court of Human Rights cases

- *VM v United Kingdom* [2017] 64 EHRR 7: Article 5 ECHR, UK common law. The Applicant challenged the UK detention system as inherently contrary to the right to liberty protected by Article 5 ECHR because there was no statutory time limit on the period of immigration detention, no automatic judicial review of immigration detention and no means of knowing whether detention was lawful (given that this depended on a judicial assessment whose outcome was unpredictable). Julie acted for the UK Government in successfully defending the applicant's judicial review and damages claim before the UK courts. She continued to act for the UK Government in the application before the European Court of Human Rights. The Strasbourg Court held that the UK's common law system of applying the so-called '*Hardial Singh principles*' used the same approach as Article 5 ECHR itself so was not unlawful as inherently arbitrary.
- *Draga v UK* (Appn 33341/13): Article 5 ECHR, UK common law. The Applicant (a Kosovan Gorani) had been granted refugee status and indefinite leave to remain, but was later convicted of numerous criminal offences so became subject to deportation. The statutory order applied in making the deportation decision was subsequently declared to be unlawful but the UK court held that did not automatically mean that detention pending deportation retrospectively became unlawful where the detention decision had been made in good faith on the basis of an appeal decision finding deportation lawful. However, once it was known that the deportation decision was unlawful, then the decision to continue detention on a contrived basis was unlawful. The Applicant argued before the European Court of Human Rights that the UK immigration detention system was unlawful and that the whole of his period of detention was unlawful. Julie was instructed by the Foreign and Commonwealth Office to act on behalf of the UK Government. The UK successfully argued

that the application should be dismissed as inadmissible (decision dated 25 April 2017).

- *Ahmed v UK* (Appn 59727/13): Article 5 ECHR, UK common law. Julie successfully defended the judicial review and damages claim in the UK Court of Appeal, which related to a long period of immigration detention pending deportation. The Applicant, who had been convicted of a large number of serious offences during his time in the UK, took his case to the European Court of Human Rights. In addition to challenging the UK system of immigration detention as inherently unlawful, he claimed that his detention was unlawful almost from the outset since there was an interim order from the European Court of Human Rights that prevented his removal to Somalia. That interim order had been granted whilst the Strasbourg Court determined if it would be a breach of Article 3 ECHR to return Somali nationals to Somalia where there was said to be a real risk of harm arising from the break down of law and order during the civil war. Julie continued to act for the UK Government in the ECHR which accepted that the UK system was lawful (Decision dated 02.03.2017).
- *JMO v UK* (Appn 54318/14): Article 5 ECHR. The Applicant had been granted settlement in the UK but became liable to deportation after being convicted of sexual offences. He was detained under immigration statutory powers pending deportation. He made a claim in the UK of unlawful imprisonment seeking damages but that claim was unsuccessful and he did not pursue an appeal to the Court of Appeal. The applicant challenged the UK immigration system before the European Court of Human Rights as in breach of Article 5 ECHR. Julie acted for the UK Government which demonstrated successfully that the application was inadmissible as JMO had failed to exhaust his domestic remedies. (Decision dated 21.02.2017).
- *JN v UK* [2016] EHRR (Appn 37289/12): Article 5 ECHR, UK common law. The Applicant was a national of Iran who had been convicted of sexual offences involving minors. A lawful deportation order required him to leave the UK but he failed to comply and his deportation could not be enforced because he did not provide a valid passport and it was the policy of the Iranian Government at that time not to issue temporary travel documents unless their national consented to returning to Iran. The UK Courts held that a period of JN's immigration detention was unlawful and awarded a sum in damages reduced on the ground that JN could have ended his detention by leaving the UK. JN applied to the European Court of Human Rights challenging the UK system and claiming that the whole of his immigration detention was unlawful. Julie acted for the UK Government, which showed successfully that the first period of detention could not be challenged as JN had failed to exhaust his domestic remedies and that he had already received such remedy as was due in relation to the second period of detention. (Decision dated 19.05.2016).

Human Rights cases in the UK Courts

- *VC v SSHD* [2018] EWCA Civ 57: Court of Appeal; civil liberties, equality & discrimination, public policy. VC was a foreign criminal who suffered from a serious mental illness and who was detained pending deportation after reoffending (he had been warned formally that further offending would lead to deportation action). He sought damages for unlawful detention after his transfer from an Immigration Removal Centre to a psychiatric hospital on the basis that the transfer should have taken place earlier, that the detention system was unlawful and discriminatory by reference to his mental illness and that no adjustments had been made to the system to take account of his lack of mental capacity to act to challenge detention and deportation. Julie led the counsel team on behalf of the Secretary of State for the Home Department. The Court of Appeal overturned the High Court decision finding that the Judge had misapplied the so-called *Lumba* principles when dismissing the damages claim and held that the UK system did breach the Equality Act 2010.
- *R (Derrin Bros.) v HMRC* [2016] 1 WLR 2423: Court of Appeal; Article 8 ECHR, Article 1, 1st Protocol. This case raised a novel challenge based on Article 8 (right to private and family life), Article 6 (right to a fair hearing) and Article 1 of the 1st protocol (right to property) of the ECHR, to the UK statutory scheme concerning tax information powers. The Australian Tax Office sought mutual assistance under a treaty with the UK to obtain information held in the UK relevant to a tax investigation into suspected large-scale corporate tax avoidance in Australia. The UK statutory tribunal approved the issue of notices requiring third parties holding the information to provide it. The UK statutory scheme provided powers for issue of a notice to obtain information 'reasonably required' to check a taxpayer's tax position without the consent of the taxpayer after scrutiny by the independent tax tribunal. The Appellants argued that the notices were a breach of the right to privacy under Article 8 ECHR and a breach of Article 6 ECHR insofar as there was no right for them to make oral submissions to the tax tribunal under the monitoring system. Julie successfully defended the claims on behalf of HMRC before the Administrative Court and Court of Appeal.
- *Caroopen & Myrie* [2017] 1 WLR 2339: Court of Appeal; judicial review procedure, judicial approach to ECHR claims in public law proceedings. These appeals raised the issue of the extent to which a judge could take account of reconsideration letters that supplemented a decision that had been challenged by judicial review when determining if the decision was lawful. Also, the Court considered the circumstances in which so-called 'rolling judicial reviews' would be permitted. Importantly, guidance was given on the current legal position on the key question in public law as to whether the Courts continue to exercise a supervisory jurisdiction in claims that arise in a human rights context. Julie successfully defended the appeal on behalf of the Secretary of State for the Home Department.
- *Said* [2016] EWCA Civ 442: Court of Appeal; Article 3 ECHR, deportation, mental illness. The Appellant had been given settlement in the UK but became liable to deportation after his conviction for serious offences. This appeal raised the difficult issue as to scope of Article 3 ECHR obligations where an individual claims he will be at risk of serious harm due to extreme poverty on return to his country of nationality and mental illness would force him to live in a camp for internally displaced persons where he would be at risk through violence. Julie successfully argued that the Upper Tribunal had erred

in finding a breach of Article 3 ECHR on its misinterpretation of the lead jurisprudence and that there was no breach of Article 3 by deportation in the circumstances properly considered.

- *Officer L* [2007] 1 W.L.R. 2135: House of Lords; Article 2 ECHR, witness protection, public inquiries. This is a lead case on the requirements of Articles 2 and 3 ECHR where witnesses claim anonymity to protect them from any risk associated by their identities being revealed in a public inquiry. Julie acted in the NI High Court and the Court of Appeal of Northern Ireland and in the House of Lords on behalf of the public inquiry.
- *Re Hamill's application for judicial Review* [2008] NIQB 73 [2009] NI 103: NI Court of Appeal. This claim concerned the terms of reference for a public inquiry. Julie acted on behalf of the public inquiry successfully defending the claim.

EU and competition law

- *Hrabkova v Department for Work and Pensions* [2018] 1 CMLR 5: Court of Appeal; free movement of persons, CJEU references, discrimination between employed and self-employed EEA nationals. This appeal raised the interesting issue as to whether a second reference for a preliminary ruling should be made, where the Appellant contended the Court of Justice of the European Union had failed to rule on the questions referred to it by a reference on the same issue made by the UK statutory tribunal. The issues included the extent to which a Member State was obliged to give effect to an asserted right under the EU Treaties on the basis of the EU principle of equal treatment where EU regulations had provided an extended right of residence in certain circumstances to former EEA workers but not to formerly self-employed EEA nationals residing in another Member State. Julie acted for the Department of Work and Pensions before the Court of Appeal successfully resisting the appeal. The Court held that the previous reference to the CJEU in the case of *Secretary of State for Work and Pensions v Czop (C-147/11) EU:C:2012:538, [2013] P.T.S.R. 334* had determined the issue in the instant case so a further reference was not warranted. An application for permission to appeal is pending before the Supreme Court.
- *HK (Iraq)* [2017] EWCA Civ 1871: Court of Appeal; EU regulation, free movement of persons. Julie acted for the Secretary of State for the Home Department in this appeal successfully defending the decision to remove appellants from the UK to Bulgaria under the Dublin III Regulation arrangements (Regulation 604/2013) where Bulgaria was the Member State responsible for considering their asylum claims. The Appellants contended that removal was unlawful as they faced a real risk of harm in Bulgaria in violation of Article 3 of the European Convention on Human Rights ("ECHR") and the corresponding provision in Article 4 of the EU Charter of Fundamental Rights. Also, the Appellants contended that the High Court had erred in attaching less weight to an expert report produced by Amnesty International because it had been submitted late and did not comply with the Court procedures concerning expert evidence (Part 35 CPR). Julie led the counsel team successfully defending the lead litigation advising across a range of related claims.
- *R (Gureckis) v SSHD* [2018] 4 WLR 9: Administrative Court; EU principle of abuse of rights, removal of EEA rough sleepers. See 'Public & Regulatory Law'.
- *R (Ibrahimi & Abasi) v SSHD* [2016] 3 CMLR 31: EU regulation/Asylum/ECHR. Julie led the counsel team on behalf of the Secretary of State for the Home Department in this lead litigation. The claims raised the interaction of EU law and ECHR obligations in the context of UK return of asylum seekers to Hungary as the Member State responsible for considering their asylum claims. Faced with a huge influx of migrants transiting Hungary to travel to other EU Member States, Hungary had enacted new legislation governing asylum claims and allowing the return of asylum seekers to Serbia (whose accession to the EU was still in progress) as a 'safe' third country. The High Court accepted the novel claim that there could be unlawful 'chain refoulement' if Serbia then returned the asylum seekers to the country from which they entered Serbia, and that country returned them so that they ended up in Greece or Turkey (where the failure to provide assistance would drive them back in their country of nationality). Parallel proceedings were being brought by the EU Commission against Hungary in relation to non-compliance with EU obligations under the EU common asylum system that were considered in the course of the claim by the High Court.
- *Deutsche Lufthansa AG v European Commission (T-46/11)* [2016] 4 CMLR 11: Julie acted for EU Commission in the application for an annulment of the EU Commission decision finding an infringement of competition law in the air freight cargo cartel litigation.
- *Isle of Wight Council v HMRC* [2006] BVC 2524: Upper Tribunal; competition law definition of markets, VAT. This lead litigation concerns the VAT treatment of revenues from car parking received by local authorities, which turned primarily on whether the market definition of car parking for competition purposes was local or EU-wide.

Revenue and taxes (including VAT)

- *R (Derrin Brothers Properties Ltd) v HMRC* [2016] 1 WLR 2423 [2016] All ER 203: Court of Appeal; tax information powers, Article 8 & Article 1 of 1st protocol ECHR/international treaties. See 'Human Rights cases in the UK courts'.
- *Jimenez v First Tier Tribunal (Tax)* [2017] EWCA Civ (Admin): Administrative Court; information powers, public international law. Julie acted for HMRC defending the decision of the Upper Tribunal to approve an information notice. The Claimant contended that there was no power for the statutory tribunal to approve the information notice requiring him to provide information reasonably required to check his tax position because he was overseas when the notice was issued (albeit a UK citizen). The High Court held that it would be a breach of public international law principles concerning the

sovereignty of other nations to issue a notice when the taxpayer was not in the UK at the point of issue so Parliament could not have intended to confer power to approve the notice under Schedule 36 of the Finance Act 2008. An application for permission to appeal is pending before the Court of Appeal.

- *HMRC v Ariel (as Trustee in Bankruptcy for Simon Halibi)* [2017] 1 WLR 319: High Court, Chancery Division; bankruptcy jurisdiction, tax information powers, exclusive jurisdiction of First-tier Tribunal (Tax).
- *Ariel v HMRC* [2017] UKFTT 87: right to a hearing, Article 6 ECHR, tax information powers. This case raised the novel issue of whether the Registrar in bankruptcy acting under guidance powers in the Chancery Division of the High Court had a parallel jurisdiction with the statutory tax tribunal enabling it to restrict the ability of the tribunal to approve an information notice requiring information from a trustee in bankruptcy and prospectively to order HMRC to pay any costs that the Trustee might incur in relation to a notice. Julie acted successfully for HMRC in the High Court overturning the Registrar's order and before the statutory tribunal in resisting an application for an inter partes hearing of the application for approval of the notice.
- *R (Greater Manchester Police) v HMRC* [2001] EWCA Civ 213: Court of Appeal; judicial review, VAT. Julie acted for the police authority to establish the correct VAT treatment of costs incurred by the authority.
- *R (National Crime Squad) v HMRC* [2000] S.T.C. 638: Judicial review, VAT. Julie acted for the NCS in establishing the correct VAT treatment for internal charges for personnel seconded to the national force.

Immigration and asylum

- *MS (India)* [2018] 1 WLR 389: see 'Public and regulatory law'.
- *DW (Jamaica)* [2018] EWCA Civ 797: Public interest, deportation, Article 8 ECHR. Julie represented the Secretary of State successfully overturning the decision of the Upper Tribunal that it was unlawful to deport DW on the basis of his serious criminal offending because that would breach of his qualified Article 8 ECHR rights to private and family life applying the relevant statutory and regulatory provisions.
- *S (Iran) v SSHD* [2017] EWCA Civ 1284: Court of Appeal; deportation of foreign criminals. Julie acted for the Secretary of State for the Home Department successfully defending the Upper Tribunal decision dismissing the appeal. S was an Iranian national who had come to the UK whilst a child and was granted settlement but became liable to deportation after convictions for a series of serious offences. S had targeted young people at night in the Barnes area stealing their mobile phones at knife point. He contended that it would be a breach of his Article 8 ECHR right to private and family life to deport him as there would be very significant obstacles to him re-integrating into life in Iran, so the Upper Tribunal was not entitled to overturn the first instance decision and to dismiss his appeal.
- *Kajuga v SSHD* [2017] EWCA Civ 240: Court of Appeal; civil liberties, deportation and damages. Julie represented the Secretary of State successfully defending the appeal against the dismissal of the claim for substantial damages for unlawful imprisonment. The Appellant sought to reinterpret the common law principles (the so-called "*Hardial Singh*" principles) concerning the effect of a failure to cooperate with deportation and provision of false identity information to obstruct deportation on the lawfulness of the period of detention pending deportation.
- *DZ (Eritrea) v SSHD* [2017] EWCA Civ 14: Court of Appeal; Article 5 ECHR/civil liberties. Julie acted on behalf of the Secretary of State for the Home Department successfully resisting the appeal. The Appellant sought damages for unlawful immigration detention in the difficult context of deportation of Ethiopian nationals of Eritrean ethnicity but the High Court decision dismissing his claim was upheld by the Court of Appeal.
- *FR (Albania)* [2016] Imm LR 134: Court of Appeal; certification, Articles 3 & 8 ECHR, asylum. Julie acted for the Secretary of State in this lead litigation on the use of the power to restrict appeal rights on the basis that an asylum or ECHR claim was "clearly unfounded" under section 94(3) of the Nationality, Immigration and Asylum Act 2002 (in the context of claims arising from alleged Albanian blood feuds).
- *R (Moussaoui) v SSHD* [2016] EWCA Civ 50: Court of Appeal; historic injustice, delay and maladministration. Julie acted for the Secretary of State successfully defending the appeal arising from the so-called 'legacy' asylum backlog. The Appellant sought to obtain settlement in the UK on the basis of a letter that he argued indicated that his case had been reviewed under the legacy arrangements when it had not been so reviewed so creating a legitimate expectation that a decision would be made under a more favourable legal regime than that which applied when the decision under challenge was made.

Social security and pensions law

- *Hrabkova v Department for Work and Pensions* [2018] 1 CMLR 5: Court of Appeal; free movement of persons, /CJEU references, /discrimination between employed and self-employed EEA nationals. See 'EU and competition law'.
- *Kola* [2007] UKHL 54: House of Lords; entitlement to benefits for asylum seekers who failed to claim asylum on arrival. Julie acted for the Department of Work and Pensions.
- *Moyna v DWP* [2003] 1 WLR 1929: House of Lords. entitlement to disability benefits. Julie acted for the Department of

Public international law and treaties

- *R (Troitino Arranz) v National Crime Agency and SSHD & anor* [2017] EWHC 931 (Admin): Divisional Court; Extradition, asylum, Articles 5 & 6 ECHR. Julie acted for the Secretary of State for the Home Department successfully resisting the claim for judicial review. The Claimant was a Spanish National convicted in Spain of killing 22 individuals in terrorist attacks on behalf of ETA, who entered the UK clandestinely after release from prison in Spain. He obtained interim relief to block his extradition to Spain on charges associated with membership of a terrorist organisation on the basis that he alleged he had claimed asylum in the UK so he could not be removed whilst that claim was pending (albeit that the same allegations of risk based on Articles 5 and 6 ECHR had been rejected by the Divisional Court in the extradition proceedings). The claim was dismissed as unarguable by the Divisional Court and the injunction lifted, as the Court accepted that an asylum claim had not been made (despite the Upper Tribunal decision in the statutory deportation proceedings referring to an asylum appeal). Julie is acting also in the deportation appeal proceedings where the Upper Tribunal decision is on appeal before the Court of Appeal.
- *R (Derrin Brothers Properties Ltd) v HMRC* [2016]1 WLR 2423 [2016] All ER 203: Court of Appeal; tax, information powers, Article 8 & Article 1 of 1st protocol ECHR/international treaties. See 'Human Rights cases in the UK Courts'.
- *Jimenez v First Tier Tribunal (Tax)* [2017] EWCA Civ (Admin): Administrative Court; information powers/public international law. See 'Revenue and taxes (including VAT)'.
- *Ariel v Halabi (Executor of Madame Nouri) and HMRC intervening*: Decision of the Royal Court of Jersey. Julie acted for HMRC assisting the Jersey advocate to obtain permission to intervene in the proceedings by Mr Ariel (a trustee in bankruptcy) and to provide assistance to the Court in determining the Trustee's application (seeking consent to disclose information to HMRC and/or variation of restrictions in the court orders under which the information was obtained from Jersey under bankruptcy powers). Julie is instructed to assist in the pending appeal before the Jersey Court of Appeal.
- *R (Majeed) v SSHD*: Crossborder jurisdiction between Scotland and Courts of England & Wales.

Recommendations

An effective advocate and an enjoyable barrister to work with. [Chambers UK Bar 2022](#)

She brims with enthusiasm, is full of ideas and has a very good strategic overview of the Home Office's work. [Chambers UK Bar 2021](#)