



Klentiana Mahmutaj

Call: 2005

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Klentiana practises in criminal law, human rights and international arbitration, with a focus on investment arbitration.

She also has substantial public inquiry experience, having been involved in Inquiries in Trinidad and Tobago (the Clico Inquiry) and the United Kingdom (the Undercover Policing Inquiry).

In March 2020, Klentiana was appointed by the UN Human Rights Council as an independent expert on the Expert Mechanism on the Right to Development. She holds the Eastern European seat.

In November 2020 Klentiana was admitted as Counsel on the Defence List of Specialist Counsel before the Kosovo Specialist Chambers in the Hague.

Klentiana is also licensed to practise at the Albanian Bar.

Human Rights

United Nations Human Rights Council

- The Right to Development (2020- ongoing) - *Independent Expert in the Expert Mechanism on the Right to Development*: Providing UNHRC with expertise on the right to development in searching for, identifying and sharing best practice with Member States and to promote the implementation of the right to development worldwide. Lead on International Investment Law and the Right to Development.
- Asset Recovery, Bribery and Corruption (2020-ongoing) - *Independent expert on the United Nations Human Rights Council Draft Principles on Stolen Assets, Corruption by Public Officials and Human Rights*. In the capacity of a UN mandate holder and UK counsel, advised on amendments by reference to the UK example in prosecutions of public officials for bribery and corruption.
- Business and Human Rights - *Treaty negotiator* (2018): Advised and negotiated on behalf of the Albanian government the Zero Draft Treaty of the *Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises*.

This involved a critical analysis of the instrument as well as proposed draft amendments.

Legal Reform and Professional Standards

- Foreign and Commonwealth Office and the Slynn Foundation (2011-2015): Worked with Lord Justice of Appeal, the late Sir Henry Brooke CMG and Lord Justice Dingemans on legal reform on Albania. Drafted amendments to primary and secondary legislation to the Albanian Law Governing the Legal Profession and regulations of the Albanian Supreme Court. The amended laws were one of the pre-conditions for Albania's status as a candidate member of the European Union.

Expropriation and Human Rights

- *AB v Ukraine* (2014) advised a major international bank on fundamental principles and steps in bringing a claim against the government of Ukraine for breaches of the ECHR, under Article 1 Protocol 1, Article 6 and Article 13.
- *A and B v the Government of X* (2011) Instructed by a foreign NGO to advise on an ECHR application against the Government of a Member State on unlawful expropriation under Article 1, Protocol 1, the right to life under Article 2 and the right not to be subjected to inhuman and degrading treatment and/or torture under Article 3.

Extradition and Human Rights

- *D.G. v Belgium* (2016-2017) Led by Peter Carter QC, represented the Appellant in the High Court extradition appeal concerning breaches of Articles 3, 5 ECHR and prison conditions in Lithuania.
- *P.C. v France* (2016- 2017) Instructed by the Requested Person in an extradition involving breaches of Articles 5 and 8 ECHR, technical interpretation of the amended EA 2003 and an abuse of process argument against the Requesting Authority.
- *A.B v Lithuania* (2014) Led by Peter Carter QC, represented the Appellant in the High Court extradition appeal concerning breaches of Articles 3 and 5 ECHR and conditions in prisons and police detention in Lithuania.
- *Vreibe v Romania*(2012) [2012] EWHC 678 (Admin) Application to stay pending the outcome of Romanian proceedings challenging the legality of a decision by its Supreme Court, and for interim measures before the European Court of Human Rights.

International Arbitration

- Counsel acting on behalf of a State in ongoing BIT arbitration (UNCITRAL Rules) brought by foreign investors relating to land concessions (2018-to-date).
- Advised energy producers in relation to potential claims against a State under various bilateral investment treaties and the Energy Charter Treaty (2016).

- Advised the seller on English law in an international commercial arbitration under Swiss Chambers' Arbitration Institution (SCAI) Rules, Swiss seat, seeking payment of debts due under a SPA (2016).

Crime

Fraud and Proceeds of Crime(POCA)

Klentiana acts for appellants and respondents in confiscation and civil recovery matters in the magistrates' courts, the Crown Court, the High Court and the Court of Appeal.

- National Crime Agency v X (2019) Ongoing criminal investigation into cross-border offences involving public officials of a State. Advised an interested party on whether the continuation of a 'Without Notice' Restraint Order over a number of high-value assets in the specific circumstances of that case was in breach of the interested parties' human rights.
- Operation C (2017) Instructed alone by HMRC as independent LPP counsel in an ongoing investigation involving tax fraud
- **R (on the application of Bavi) v Snaresbrook Crown Court** [2013] EWHC 4015: Successful claim for judicial review of Court's decision to forfeit the Claimant's cash on fresh evidence and 'retrospective' application of new case-law.
- **Bavi v Snaresbrook Crown Court** [2012] EWCA Civ 1830: Asset recovery under POCA concerning successful reopening of an appeal some 6 years out of time, introduction of fresh evidence and successful permission to seek judicial review.

Regulatory & Professional Discipline

Klentiana prosecutes and defends a wide range of regulatory offences. They include, predominantly, Health and Safety offences, offences under the Insolvency Act 1986 and Companies Act 2006. She also has particular expertise in relation to The Regulatory Reform (Fire Safety) Order 2005.

- Regina (BIES) v Peter Druzyc (2019) Court of Appeal, Criminal Division Division [2019] EWCA Crim 1076. Represented the Prosecution at trial and in an appeal against conviction, where the Appellant was found guilty of two counts of fraudulent trading contrary to s.993 of the Companies Act 2006 and one count of fraudulent removal of property in anticipation of the winding-up of a company contrary to s.206 of the Insolvency Act 1986. Subsequently appeared for the prosecution/Respondent in the Court of Appeal, Criminal Division as sole counsel.
- A. H. v The Solicitor Regulation Authority (2019, SDT) Represented the Appellant whose practising certificate was successfully re-instated after he had been struck off.
- KFRS v M.M. (2019), Croydon Crown Court Represented Kent Fire and Rescue Service in a prosecution involving six counts of failing to comply with a prohibition notice, contrary to Article 32(2)(h) of the Regulatory Reform (Fire Safety) Order 2005
- **BIES v K.K and R.J (2017)** Prosecuted two company directors for failing to keep adequate

accounting records, pursuant to s 387 Companies' Act 2006, re a college providing courses for overseas students who arrived in the UK on student visas.

- **R (BIS) v Weal (2015)** Prosecuted an individual for dishonest non-disclosure of his assets following a bankruptcy order. The main hidden asset was a painting attributed to was Joseph Mallord William Turner, which is valued by insurers at 20 million pounds. Read press story: [Telegraph](#).

Inquiries & Appellate Work

Klentiana has considerable public inquiry experience, including the handling of politically sensitive material.

- **Undercover Policing Inquiry (2016-ongoing):** Counsel and Co-lead of 'Tranche 2'. Instructed by the Commissioner of the Metropolitan Police Service, leading the preparation of evidence and submissions on all undercover deployments between 1983 and 1992 and the preparation of restriction order applications. The Undercover Policing Inquiry was set up to examine the contribution that undercover policing has made to tackling crime, how it was and is supervised and regulated, and its effects on the individuals involved.
- **Inquest into the death of a care-home resident, PA (2016)** instructed by the CQC as an interested party.
- **Clico Inquiry (2013-2015):** Assisted Peter Carter QC, leading Counsel to a public inquiry in Trinidad and Tobago into the collapse of two major insurance and financial services businesses, which caused the government to intervene and inject several million dollars. The Inquiry explored, amongst others, due diligence, good governance and the role of the national regulator in the running of major financial institutions.

Publications, Lectures and Training

Publications

Books:

Arlidge, Eady & Smith on Contempt (5th ed.) Sweet & Maxwell 2017, Contributor on the chapter on civil contempt

Humanitarian Intervention in Kosovo: Legal Right or Legal Wrong? (Qendra e Studimeve Europiane, Tirana, May 2007) with a preface by Professor C. Greenwood CMG QC (now the UK judge at the International Court of Justice); a recommended text in Kosovar and Albanian universities

Articles:

Bribery, Corruption and International Arbitration meet again: The case of *Alexander Brothers Limited (Hong Kong SAR) v (1) Alstom Transport SA; (2) Alstom Network UK Limited [2020]*

EWHC 1585 (Comm)'(London, May 2020) [[Read here](#)]

'Observations on the Zero Draft - A Detailed Proposal for a System of Arbitration', Business and Human Rights Centre, (London/New York, November 2018) Read here: [[Business Human Rights](#)]

Bribery and Corruption and the case of National Iranian Oil Company v Crescent Petroleum Company International Limited and Crescent Gas Corporation Ltd [2016] EWHC 510, Alternative Dispute Resolution Center, American Chamber of Commerce, Kosovo (June 2016)

The Defence of Corruption in International Arbitration: An Emerging Trend or False Alarm, Jeta Juridike (Tirana, March 2016)

Legal Professional Privilege in Criminal Law: Privilege and Inter-jurisdictional Issues, Practical Law, Thomson Reuters 2015 (co-authored with Peter Carter QC)

The Protection of Human Rights in the Face of Terror Threats: A Bare Necessity or Unreasonable Hindrance to the Work of Intelligence Agencies Construction Law International, Vol 10 No 1, March 2015 and the IBA Human Rights Working Group Newsletter (London, 2015)

UN and EU Sanctions, Terrorism and International Law: A Brief Overview Albanian Law Review (Tirana, November 2014)

The Cham population and legal remedies under the ECHR: A study of legal obstacles and potential remedies concerning the expulsion of the Cham population from Greece at the end of WWII, Institute of Cham Studies (Tirana, Albania, 2011)

Cash Forfeiture Following Acquittal: An "Affront to Public Perception" or a Breach of A Fundamental Human Right? [2009] Crim LR 783 (London, October 2009)

The Death Penalty and the Jurisprudence of the European Court of Human Rights, AMICUS Journal, (London, 2008)

The English Legal System, Some Aspects, Jeta Juridike, Journal of Magistrates School (Tirana, April 2007)

Confessions: A few considerations in the case of Michael Stone, Criminal Bar Association Newsletter (London, Sweet & Maxwell, June 2005)

Various contributions to the AIRE Centre and European Human Rights Law Review, (March 2003)

Education

LLM Public International Law

LLB (Hons)

Memberships

Called to the Albanian Bar (2016)

Associate Member of the Chartered Institute of Arbitrators

International Law Association (British Branch)

British Institute of International and Comparative Law

London Court of International Arbitration, European Users' Council

International Bar Association

Bar Human Rights Committee

Human Rights Lawyers Association

Criminal Bar Association

Association of Regulatory and Disciplinary Lawyers

Extradition Lawyers' Association

Elected Membership

Member of the Hall Committee, Middle Temple

International Committee, Middle Temple