



Klentiana Mahmutaj

Call: 2005

Phone:0207 520 6000

Email:chambers@18rlc.co.uk

Klentiana is an assertive advocate with sharp intellect. She maintains a criminal and regulatory practice with an increasing number of cases in both public and private international law. She also has considerable public inquiry experience, including the handling of politically sensitive material.

Klentiana defends and prosecutes the full spectrum of criminal offences, including fraud, bribery and corruption, robbery, burglary, grievous bodily harm, possession of drugs with intent to supply, and money laundering. Her regulatory practice extends to both prosecuting and defending individuals and organisations in relation to health and safety offences and offences under the Insolvency Act 1986 and the Company Directors Disqualification Act 1986.

Her career portfolio highlights her interest and experience in crime, politics and commerce. As a result, she is well placed in cases involving bribery and corruption, shareholder duties, investor-state and commercial arbitration, human rights and extradition.

Klentiana is on the list of the Arbitrators of the LCIA (London International Court of Arbitration) and the American Chamber of Commerce, Arbitration Center in Kosovo. She also lectures and publishes regularly on Public International Law, including issues of state immunity, human rights and corruption in international arbitration.

Her experience is wide-ranging and has consequently given her exposure to different legal systems. Klentiana is also licensed to practise at the Albanian Bar.

Human Rights

Before coming to the Bar, Klentiana interned at the Aire Centre and the Directorate of Human Rights at the Council of Europe, where she gained first-hand experience of human rights law, both in case-work and at policy level.

At the Aire Centre Klentiana worked closely with its founder Nuala Mole, preparing submissions in *Saramati v France*, *Norway and Belgium*, an important Grand Chamber decision involving the extraterritorial application of the ECHR in Kosovo.

Klentiana lectures and publishes regularly on the interplay between human rights and public international law. Her main areas of interest include the extraterritorial application of the ECHR, state immunity, sanctions and investment law.

- **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.
- **EP v Government of X (2016)** Advised a private entity on potential breaches of human rights in the context of investment law, mainly on the right to peaceful enjoyment of property Article 1 Protocol 1 and the right to an effective remedy under Article 13.
- **AB v Ukraine (2014)** Before the Crimean conflict, advised a major international bank on fundamental principles and steps in bringing a claim against the government of Ukraine for breaches of the ECHR, including the right to peaceful enjoyment of property under Article 1 Protocol 1, the right to a fair trial in civil proceedings under Article 6 and the right to an effective remedy under Article 13.
- **Bascevicius 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.
- **A and B v the Government of X (2011)** Instructed by a foreign institute to advise on the merits of an application under the ECHR 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.

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.

- **NCA v MB (2016)** Represented NCA in cash detention proceedings under s.298 of POCA.

- **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.

Extradition

Klentiana is an experienced extradition practitioner acting for requested persons, always quick to spot and to capitalise upon the various kinds of technical points which can arise in such proceedings. She is particularly well-versed in formulating arguments based on potential breaches of human rights or abuse of process.

- **D.G. v Belgium (2016-2017)** Led by Peter Carter QC, representing the Appellant in the High Court extradition appeal concerning double jeopardy, breaches of Articles 6 and 8 of the ECHR and abuse of process by the Requesting Authority.
- **P.C. v France (2016- 2017)** Led by Peter Carter QC, representing the Appellant in the High Court in a case involving breaches of Articles 5 and 8 ECHR, technical interpretation of the amended EA 2003, legal professional privilege and an abuse of process argument against the Requesting Authority.
- **Bascevicus v Lithuania** (2014) Led by Peter Carter QC representing the Appellant in a case before the High Court concerning conditions in prisons and police detention in Lithuania.
- **Vreibe v Romania** [2012] EWHC 678 (Admin) Application to stay pending the outcome of domestic proceedings challenging the legality of a decision by the Romanian Supreme Court. Included application for interim measures before the European Court of Human Rights.
- **Beretki v Romania** [2012] EWHC 336 (Admin) The first case that dealt in detail with the application of s 20 of EA 2003 and Article 6 of the ECHR in activation of suspended sentence orders.
- **Glodek v Poland** [2011] EWHC 3226 (Admin) Successful appeal to the High Court against an extradition order on grounds of ss. 2 and 64 EA 2003 and what constituted 'fraud' in English law.

Fraud and Business Crime

Klentiana prosecutes and defends in various cases of fraud and tax offences. Klentiana has prosecuted on behalf of local authorities, the DWP and HMRC.

- **Operation C (2017)** Instructed alone by HMRC as independent LPP counsel in an ongoing investigation involving tax fraud.
- **R v JJ and CW (2012-14)** Instructed alone in multiple benefit fraud exceeding £120k.

- **Operation B (2012)** Instructed by the Guernsey Border Agency as independent LPP counsel in an investigation of cross-border bribery and corruption.
- **Operation Tarantula (2012)** Instructed by the FSA to review disclosure of their largest ever insider dealing case, including disclosure of potentially sensitive documents.
- **SFO v M (2011)** Disclosure counsel for the defendant in a case involving a multi-national company investigated by the SFO for bribery and corruption offences

Professional Disciplinary & Regulatory

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.

Fire Law

- **NFRS v Burlingham and Payne (2017)**. Represented Norfolk Fire and Rescue Service prosecution under Articles 27 and 32 Regulatory Reform (Fire Safety) Order 2005 following the inspectors' findings of serious breaches of fire safety measures on the premises
- **SWFRS v Cuthbert (2016-2017)** Represented South Wales Fire and Rescue Service prosecution of a textile factory owner guilty of ten offences under the Regulatory Reform (Fire Safety) Order 2005.
- **DFRS v G.H. (2015)** Complex prosecution of a large corporation and one of its employees for failing to comply with obligations under Article 27. Legal arguments on statutory interpretation of Article 27, included what constituted "responsible person" and "person with responsibilities". The case ultimately settled with a defence undertaking.
- **HFRS v S.C (2013)** Instructed by Hampshire Fire Service to prosecute a business owner who had breached fire regulations (Articles 31 and 32) but denied being the "Responsible person", claiming responsibility lay with his deceased business partner or alternatively his children who had obtained Power of Attorney before his death.

Insolvency Offences

- **BIES v Kandel and Joshi (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.
- **BIES v MG (2016)** Defended a s216 Insolvency Act 1986 and s 13 CDDA 1986 prosecution.
- **R (BIS) v Weal (2015)** Prosecuted dishonest non-disclosure of assets following a bankruptcy order: the main asset was a £20m painting attributed to JWM Turner. Press Links: [Telegraph](#).

Health & Safety

- **HSE v Durrant Electrical Ltd (2016)** Prosecuted a Norwich-based company for breaches of

working at height regulations.

- **HSE v Ernest Doe & Sons Ltd (2015)** Prosecuted of a multi-million pound company trading in agricultural machinery whose failings led to serious injury.
- **HSE v Secure Measures Ltd (2015)** Prosecuted a company for breaches of health and safety regulations which had resulted in life-threatening injuries of employees. The case included investigation and analysis of a complex corporate ownership structure in the face of the defendant's initial lack of cooperation.
- **HSE v IBC Vehicles (2014)** Prosecuted a subsidiary of General Motors for breaches of health and safety regulations involving serious injury: the defence was represented by QC and junior counsel.

Inquiries & Appellate Work

Klentiana has considerable public inquiry experience, including the handling of politically sensitive material. She is also familiar with law and procedure involving inquests.

- **Undercover Policing Inquiry (2017)** Instructed by the Metropolitan Police in the largest public inquiry into undercover policing.
- **Inquest into the Death of PA (2016)** Instructed by the CQC as an interested party.
- **Clico Enquiry (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 had to be 'bailed-out' by the Government. The inquiry also examined due diligence, good governance and the role of the national regulator in the running of major financial institutions.

International Representation

Klentiana advises foreign private parties and states. Her international work includes clients from countries such as Trinidad and Tobago, Ukraine and Albania. She is fully conversant with claims under the European Convention of Human Rights, constitutional matters and legal reform, including the drafting of new legislation.

- **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.
- **Foreign and Commonwealth Office and the Slynn Foundation (2011 and ongoing)** Project led by Sir Henry Brooke CMG. Drafted amendments to Albanian primary and secondary legislation, namely the current Law Governing the Legal Profession and Regulations of the Supreme Court. Advised on and amended the National Chamber of Advocacy's Charter and Code of Ethics and set up its complaints system.

- **A and B v the Government of X (2011)** Instructed by a foreign institute 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.

International Arbitration

Klentiana accepts instructions in both investor-state arbitration and commercial arbitration. She often publishes and lectures on issues affecting arbitration, such as bribery and corruption and the enforceability of arbitral awards in the UK.

- Advised energy producers in relation to potential claims under various bilateral investment treaties and the Energy Charter Treaty (2016).
- Advised a Ukrainian state entity in English proceedings seeking enforcement under the New York Convention of a multi-million pound award (2016).
- Advised the seller in an international commercial arbitration under Swiss Chambers (SCAI) Rules, Swiss seat, seeking payment of debts due under a SPA (2016).

Publications, Lectures and Training

Publications

Books:

Humanitarian Intervention in Kosovo: Legal Right or Legal Wrong? (Qendra e Studimeve Europiane, Tirana, May 2007)

Articles:

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