

Year of Call: 1992



Main Areas of Practice

Competition law	European Union law
Commercial law	Human Rights law
Environmental law	Public law

Jessica has a wide ranging public law practice. She is a noted specialist in EC law and human rights. She has strong commercial judicial review experience, including within an EU context, competition/regulatory, state aid, consumer protection, agriculture and environment, customs/excise and VAT. She advises both private and Government clients and acts in domestic and international courts and tribunals. She was a founding member of Matrix Chambers in 2000.

Qualifications

MA (Oxon)
CPE (City University)
Dip EU Law (King's College, London)
Harmsworth Law Scholar, Inns of Court Scholar

General public law

Recently acted for claimants in challenge to the decision of the BBC not to show the DEC appeal.

R (Wheeler) v Prime Minister [2008] EWHC 1409 (Admin). Acted for Mr. Wheeler in challenge to the Government's decision not to hold a referendum on the Lisbon Treaty.

R (Leicester Gaming Club) v Gambling Commission [2007] EWHC 531 (Admin). Acted for Claimant in judicial review of the decision of Gambling Commission not to extend a certificate of consent for a licence application after it was no longer possible to apply for new casino licences, arguing that it had an implied power to extend time.

R (F) v General Medical Council [2006] EWHC 1269 (Admin). Represented claimants in successful challenge to decision of GMC regarding doctors' conduct.

R (Cooke) v Bristol North NHS Primary Care Trust [2006] EWHC 2706 (Admin). Represented claimant in case concerning refusal of herceptin treatment.

EU, Competition/regulatory including VAT, excise duties and licensing

Competition/regulatory including extensive advisory work on state aid matters, privatisation and other regulatory issues. Particular expertise in the transport sector (including track access, concessionary bus reimbursement), utilities (water, sewerage, gas, wind energy/off-shore wind-farms). Other EU expertise includes product labelling, consumer protection legislation, public procurement, excise duties, VAT, and licensing law. She frequently acts for the OFT on competition matters, as well as in consumer protection actions.

R (Stagecoach and others) v Secretary of State for Transport and others (judgment pending) Acting for the Secretary of State in challenge to basis on which bus operators are reimbursed for providing concessionary travel. The case raises matters of EU state aid law within the Transport Sector and Council Regulation 1191/69.

Notable Cases

[R \(First Essex Ltd\) v Secretary of State for Transport \(judgment pending\)](#) Acting for the Secretary for State in challenge to his determination of an application to him under the relevant statutory procedure in relation to compensation for providing concessionary travel.

[TC Projects v Newcastle Magistrates and the Gambling Commission and Clermont Leisure](#) [2008] EWCA Civ 428. Judicial review challenge to the meaning of paragraph 18(2) of Schedule 2 to the 1968 Gaming Act, which is the relevant provision applicable to a decision by the licensing authority whether or not to grant a casino licence.

[R \(Centro\) and others v Department for Transport](#) [2007] EWHC 2729 (Admin); [2008] ACD 19. Jessica represented the DFT in a challenge to the Secretary of State's decision as to the amount of money private bus companies should be paid for providing concessionary bus travel. She is currently acting in a large number of pending cases relating to the basis for reimbursement of bus operators.

[R \(Actis\) v Department for Communities and Local Government](#) [2007] EWHC 2417 (Admin). Counsel for the Department in challenge to non-notification under notification Directive of testing requirements for thermal insulation.

[St. Helens School v Commissioners of Customs and Excise](#) [2007] STC 633. Acted for HMRC in appeal before against a finding by VAT tribunal as to the meaning of 'use' under the 6th VAT Directive, in particular whether it was 'economic' or 'physical' use.

[R \(GNER\) v the Office of the Rail Regulator](#) [2006] EWHC 1942 (Admin); [2007] ACD 13. Counsel for GNER in judicial review challenging the decision of the Rail Regulator to allow two other train operators to run on the Great North Eastern railway, where those operators would pay less for access to the track than GNER. The challenge was based on EC law grounds, including EC legislation, unfair competition and state aid.

[General Electric \(GE\) and Honeywell v Commission](#) (T - 210/01) [2005] ECR II 5575. Represented GE in its challenge to the Commission's refusal to agree its merger with Honeywell.

[Gascoyne v HM Commissioners of Customs and Excise](#) (2003) 2 WLR 1311. Vehicle seizure policy in connection with imports of excise goods and its compatibility with EC and ECHR law.

[Customs & Excise Commissioners v Ian Newbury](#) [2003] 1 WLR 2131. Acted for Appellant in establishing that the Crown and Magistrates Court were required to determine the proportionality of a seizure of property in each individual case, resulting in the Appellant's property being restored.

[Commissioners of Customs and Excise v R \(Hoverspeed Limited and others\)](#) [2003] QB 1041. Challenge to legality of statutory instrument as wrongly implementing the relevant EC Directive.

[Bardsley \(Dominic Andrew\) \(2\) Bardsley \(Steven Gerrard\) v \(1\) Office of Fair Trading \(2\) Secretary of State for Trade & Industry](#) [2004] EWHC 3003 (Admin). Acted for OFT in appeal against Consumer Credit Act licence removal.

[Blue Circle Plc v Commission of the European Communities](#) (T 88/95) [1992] ECR II - 2667. Acted for Blue Circle in appeal against a fine imposed by Commission Decision 94/3077 for allegedly taking a central role in European-wide cement cartel.

Environment and agriculture

[Welsh Water v Barratt Homes](#) Welsh Water pursued an appeal to the Supreme Court, seeking to establish that the Water Industry Act 1991, s 106 gave a sewerage undertaker the right to refuse to permit connection to the public sewer at an unsuitable point. By a majority, the Supreme Court dismissed the appeal. The right to discharge into a public sewer pursuant to s 106 was an absolute right that could not be prevented on the ground that the additional discharge would create a nuisance.

[Jersey Potato Marketing Organisation v State of Jersey](#) (2005) (C-293/02) (Grand Chamber) [2005] ECR I-9543. Acted for JPMO in a successful challenge to legislation that provided for executive control of the entire Jersey new potato market in Jersey and establishing that the consequent restriction on trade, albeit internal to the United Kingdom contravened, Article 29 EC Treaty.

Notable Cases

WWF v Council (T-91/07) ([pending before ECJ in Luxembourg](#)). Currently acting for WWF in a challenge to the adoption by EU Council of the 2007 cod quotas. Concerns the fundamental question of standing for environmental NGOs before the ECJ and the relevance of the Aarhus Convention.

R (Mayer Parry Recycling Limited) v Environment Agency and the Secretary of State for the Environment (C-444/00) [2003] ECR I-6163. Counsel for Corus Steel in case concerning EC waste regulations and the meaning of 'recycling'.

Department of Food and Rural Affairs v Pauls Malt [2003] CMLR 164 [2004] EWCA Civ 82. Case concerning EC export refund regulations. Acted for Pauls Malt Ltd.

R v MAFF ex parte Geiden, QUAFF and Hamilton [2000] 1 CMLR 289. Counsel for Government in challenge to United Kingdom quarantine regulations under EC freedom of movement laws.

Huntingdon Life Sciences Ltd and others v John Curtin and others (1998) Env LR. An appeal against a refusal to grant an ex parte injunction to prevent harassment of the plaintiff company, which conducted research on animals, by the defendants who were protesting against such experimentation.

Freedom of information

Bavarian Lager v Commission (T-309/97) [1999] ECR II - 3217. Concerning the legitimacy of refusals by the Commission and Council to grant access to documents under the Code of Conduct on access to information.

Tidningen Journalisten v Council (T-174/95) [1998] ECR II - 2289. Application for the annulment of the Council's decision of 6 July 1995 refusing the applicant access to certain documents concerning the European Police Office (Europol), requested under Council Decision 93/731/EC of 20 December 1993 on public access to Council documents.

WWF v Commission (T-105/95) [1997] ECR II - 313. Access to information - Commission Decision 94/90/ECSC, EC. Exceptions relating to the public interest and to the institution's interest in the confidentiality of its proceedings - Extent of the obligation to give reasons.

Due process/crime

Jessica has significant experience in questions concerning process, both within the criminal and civil context. She has advised numerous Ombudsmen and the OFT on the procedural requirements of regulatory schemes.

Notable cases:

R v Bieber [2008] EWCA Crim 1601. Acted for the Crown in an appeal against the first mandatory life without parole sentence under the Criminal Justice Act 2003.

Schmidzu v United Kingdom [2006] Challenge regarding Gibraltar law, which makes it impossible for Defendant to recover costs of defending himself in criminal proceedings, even when acquitted.

Hussain v United Kingdom [2006] 43 EHRR 22. Successful challenge to judicial decision to refuse Defendant costs when he was acquitted. Refusal held to breach Article 6.

Inquests and prison law

Jessica acted for the families in two major inquests into the deaths of British soldiers in Iraq: Private Jason Smith and Corporal Cosby. Those inquests established that Private Smith had died of heat illness, which could have been avoided, and that Corporal Cosby had been shot by another British soldier during a house raid.

She frequently acts for both families and the Prison service in inquests into prison deaths.

Notable Cases

Human Rights

From 1995-1997 Jessica worked in the Commission of Human Rights in Strasbourg and then as legal adviser to the Human Rights Ombudsman in Bosnia. On returning to the UK she took 6 months out of practice to write Human Rights Practice (co-author Ben Emmerson QC), a Sweet and Maxwell looseleaf, which she now edits. She was part of the JSB training for Judges on the Human Rights Act. She acts and advises private clients and different Government clients and writes and speaks extensively in this area.

Notable cases:

[R \(Barclay & Ors\) v Secretary of State for Justice & Ors](#) Sir David Barclay and others sought relief in relation to the Reform (Sark) Law 2008, which provided for new constitutional arrangements in Sark. The Barclay brothers argued that the position of the Seigneur and the Seneschal (only unelected members of the Chief Pleas), under the new arrangements, was incompatible with art 3 of the First Protocol to the ECHR. The Supreme Court dismissed the appeals unanimously: the unelected position of the Seigneur and the Seneschal was not incompatible with Art 3 of the First Protocol to the ECHR, and also the restriction on aliens standing for election was not in breach of the ECHR. There was no invariable rule in Art 3 that all members of a legislature had to be elected irrespective of their powers and irrespective of the circumstances. Furthermore, in light generally of the constitutional history and the political factors relevant to Sark, the position of the Seigneur and the Seneschal was well within the margin of appreciation given to Contracting States to the Convention.

[R \(HJ\) \(Iran\) v Secretary of State for the Home Department \(pending before Supreme Court\)](#). Instructed by the Equality and Human Rights Commission to intervene. Case concerns the test to be applied to 'persecution' under the Refugee Convention in the case of homosexuals seeking refugee status and in particular, whether it is permissible to (1) take into account how an individual might reasonably be expected to behave when faced with the prospect of persecution and (2) questions of 'cultural relativism'.

[R \(Smith\) v Ministry of Defence](#) [2009] EWCA Civ 441. Counsel for the family in landmark case establishing that British soldiers serving overseas are subject to the jurisdiction of the United Kingdom within the meaning of Article 1 of the European Convention on Human Rights 1950, so as to benefit from the rights guaranteed by the Human Rights Act 1998. Further, that the deaths of soldiers, who are under the complete control of the military, had to be investigated in such a way as to satisfy the investigatory obligations of art.2 in the same way as applies to those who die in State custody. Currently pending before Supreme Court.

[R \(AM\) v \(1\) Secretary of State for Home Department and \(2\) Kalyx Ltd & Bail for immigration detainees \(Intervener\)](#) [2009] EWCA Civ 219. Acted for Appellants, whose appeal against a finding that the S/S had not breached Article 3 in failing to initiate an independent investigation into what happened at Harmondsworth Immigration Removal Centre during a major disturbance there in 2006 was upheld. However, the Court of Appeal refused effective relief. An application for leave to appeal that refusal is pending before the House of Lords.

[R \(Barclay Brothers\) v Minister of Justice and the Privy Council](#) [2009] 2 WLR 1205. Appeal regarding legality of decision to recommend Royal Assent be granted in respect of an Order in Council enacting the Reform (Sark) Law 2008, which provided for new constitutional arrangements in Sark. The Appellants succeeded in establishing that the position of the Seneschal as unelected President of the legislature and chief judge on Sark as provided by the Reform Law constituted a breach of Article 6. The case is pending before the House of Lords.

[R \(Hassan\) v Secretary of State for Defence](#) [2009] EWHC 309 (Admin). Challenge to the unlawful arrest and disappearance of an Iraqi civilian by the British Army in Iraq. The deceased was held not to be within the jurisdiction of the UK because he was held at a US run facility, albeit that there was a British military contingent there.

Notable Cases

[Van Colle v Chief Constable of Hertfordshire](#) [2008] 3 WLR 593. Case concerning positive obligations under arts. 2 8 3 and the duty of the police to protect witnesses. Acted for Equality and Human Rights Commission in its intervention before the Lords.

[Re- E \(a child\) v Chief Constable of the Royal Ulster Constabulary and another](#) [2008] 3 WLR 1208. Acted for the Appellant in a challenge to the way that loyalist violence, directed at parents and children walking to and from a school on the Ardoyne Road in Belfast in 2001, had been policed so as to enable 'the right to protest', despite the consequent Article 3 ill treatment suffered by the families.

[YL v Southern Cross and Birmingham City Council](#) [2008] 1 AC 95. Whether a private care home that looked after elderly people on behalf of the State was a 'public authority' under section 6(3) (b) of the Human Rights Act. The case had been joined to the case of [R \(Johnson\) v Havering Borough Council](#) [2008] QB 1 in the Court of Appeal, in which Jessica had represented the Appellant. Jessica represented Liberty, Justice and the British Institute of Human Rights (with Michael Fordham QC and Iain Steele) before the House of Lords.

[R \(Moran\) v Jersey Registrar of births and deaths](#) [2006] Challenge to Jersey legislation which prohibited child being registered with the father's surname, where the parents were not married.

[Marmor v DCMS and BBC and Capita](#) [2003] EWHC 2300 (QB) Acted for the BBC and Capita in respect of challenge to legality of television licence under Article 10 of the Convention.

[Gough and Another v Chief Constable of Derbyshire; Regina \(Miller\) v Leeds Magistrates' Court; Lilley v Director of Public Prosecutions](#) [2002] QB 1213. Challenge to the compatibility of football banning orders, which prevented United Kingdom nationals from leaving the country to attend football matches, with EC and ECHR law.

[Wright and Bennett v Home Office](#) [2002] HRLR 1. Acted for the Claimant in the first case in which the Home Secretary was ordered, pursuant to Articles 2 and 3 of the Convention, to initiate a public inquiry into a death in custody.

[R \(McCann and others\) v Manchester Crown Court](#) [2001] 1 WLR 1084. Acted for Liberty in its intervention regarding the compatibility of Article 6 of the ECHR and Anti-Social Behaviour Orders.

Strasbourg cases

Jessica frequently acts for private clients and different Governments in cases before the European Court of Human Rights. She worked as a lawyer there for 14 months from 1995-1996. Some of her cases are outlined below.

[E v United Kingdom](#) (pending). This case concerns the failure of the police to stop abuse and violence aimed at Catholic primary school children going to school along the Ardoyne Road and the decision to police that violence as if it were a lawful protest.

[Auchi v France](#) (pending). Challenge in relation to the largest fraud trial in French history regarding the conduct of executives of ELF. Representing Applicant who was convicted and fined several million for allegedly accepting kick-backs.

[Kommersant v Russia](#) (pending). Representing a Russian newspaper, which was required to pay damages for defamation to a bank. The damages award is said to be so disproportionate as to interfere with the free press, contrary to Article 10.

[B & L v United Kingdom](#) [2005] Acted for the UK in respect of its prohibition on marriages between parent in law and child, which was held to violate the right to marry under Article 12 of the Convention.

Notable Cases

[DP & JC v UK](#) [2003] 36 EHRR 183. Concerning State responsibility for inhuman and degrading treatment of children by parents.

[Asproftas v Cyprus Judgment 26 September 2002](#). Concerning a complaint under Articles 1, 3, 5, 6, 7, 8, 9, 10, 11, 13 & 14 of the Convention and 1 of Protocol No. 1 of a violation by Turkish authorities of the rights guaranteed by these provisions.

[Bland v United Kingdom ECHR](#) (Application No. 52301/99). Concerning a complaint under Article 14 of the Convention, in conjunction with Article 1 of the Protocol No. 1, about the difference in the age at which men and women become eligible for a State pension.

[Devlin v United Kingdom](#) [2002] IRLR 155; (2002) 34 EHRR 43. Case concerning the application of Article 6 to civil service employment proceedings.

[O'Rourke v United Kingdom](#) (Application No. 39022/97). Homelessness and the right to a home.

[Matthews v. United Kingdom](#) (Application No. 24833/94). Discrimination in respect of travel concessions.

[Faulkener v United Kingdom](#) (Application No. 30308/96). Failure of prison authorities to send correspondence on behalf of prisoner.

[McGonnell v United Kingdom](#) [2000] 30 EHRR 289. Case concerning the position of the Bailiff in Guernsey and the failure to secure an independent and impartial hearing.

[McLeod v United Kingdom](#) [1999] 27 EHRR 493. Police powers of entry into home to prevent a breach of the peace.

[Smith and Grady v United Kingdom](#) [1999] 29 EHRR 493. Prohibition on gay men and women serving in the armed forces held to breach their rights under Article 8 and 14.

[Assenov v Bulgaria](#) [1998] 28 EHRR 652. Inhuman and degrading treatment by State officials. Intervened for Amnesty.

Articles and Books

Editor of looseleaf: *Human Rights Practice* (Sweet & Maxwell)

Author of chapter on civil cartel enforcement in 'The Law of Criminal Cartels, Practice and Procedure' by Michael O'Kane (Peter and Peters) OUP (to be published in 2009)

Procedural Aspects of Convention Rights, *Judicial Review* 13 [2008] 4

Review of '*Non derogable rights and States of Emergency*' Bruylant, Brussels (1996) in (1998) 6 *European Human Rights Law Review* 360

'*Bosnia and Herzegovina - Complex problems: the Convention is up to it, are its institutions?*' (1997) *European Human Rights Law Review* 644

1993-1996: Correspondent for ECJ, *European Competition Law Review and International Company and Commercial Law Review*

Co-editor, *Undertaking: Part 11 of the Law of the European Communities*, Vaughan (Butterworth)

What the Directories Say

The 2009/2010 Directories place Jessica as a leading junior in the fields of EU, Competition and Public law, describing her as having “a lightness of touch - an ability to present the complex in an approachable way” (Legal 500) and praise her “tenacity and specialist expertise”. She is described as “sharp, efficient and quick to grasp the legal dimensions of a case” (Chambers & Partners).

Described in Chambers & Partners 2009 as “extremely thorough” and ranked as a leading junior in EU & Competition, Jessica Simor ‘entices clients with “her passion for EU law” and is beloved by solicitors for her enthusiasm’. As a leading junior in Civil Liberties, Jessica Simor has “really impressed with her intelligence, vigour and proactivity”.

Legal 500 2008 recommends Jessica Simor as a leading junior in Admin and Public Law, Commercial Litigation, EU and Competition and Human Rights and Civil Liberties “has impressed solicitors who describe her as ‘extremely intelligent - as good on the ECHR as any silk in the field, with meticulous drafting and authoritative advocacy’.”

Legal 500 2007 recommends Jessica Simor as a leading junior in Civil Liberties and Human Rights Law, Commercial Litigation Law “very enthusiastic and shows initiative” and EU and Competition Law.

Chambers and Partners 2007 recommends Jessica as a leading junior in Competition/EU Law “tried and tested performer”. Recommended as a leading junior in Civil Liberties and Human Rights Law and EU and Competition by Legal 500, 2007.

Other professional experience

Accredited Mediator

Junior Counsel to the Crown (A Panel since 2010).

Member of Steering Committee of international climate change litigation project, first meeting held November 2008 at Michigan Law School.

Legal adviser to the Human Rights Ombudsman for Bosnia and Herzegovina 1996-1997

Lawyer in the European Commission of Human Rights, Strasbourg, 1995-1996

Stagiaire to Ludwig Kramer, Head of Legal Matters in the Environment Directorate of the European Commission in Brussels 1993

Seconded to DTI to advise on the privatisation of certain government services 1994.

Member of the Executive Council of 'Justice' and Justice EC/ Human Rights Expert's Panel

Former trustee of British Institute of Human Rights (Chair 2004 - 2005)

Former member of Monckton chambers.

Jessica is married with two young children.