



## MARK SUMMERS QC

### **EXTRADITION, MUTUAL LEGAL ASSISTANCE AND EU CV**

#### **MAIN AREAS OF PRACTICE:**

Crime and regulatory  
Extradition and mutual assistance  
Fraud, financial and business  
crime  
Human rights law  
International law  
Public law

**Called to the Bar 1996**  
**Appointed to Silk 2014**

#### **CONTACT:**

marksummers@matrixlaw.co.uk  
+44 (0)20 7404 3447  
Paul Venables, Senior Practice  
Manager  
paulvenables@matrixlaw.co.uk

Mark is a specialist in all areas of extradition and mutual assistance, international criminal law and criminal EU law.

Mark is regularly instructed to advise and appear on behalf of individuals and foreign governments in proceedings in the United Kingdom and abroad. He was previously Chair of the Extradition Lawyers' Association.

His cases have included • USA v Naviner Sarao (the 2010 "flash crash") • the collapse of Enron (the "NatWest 3") • USA v Kareem Serageldin (Credit Suisse executive prosecuted for his part in the 2008 financial crisis) • Spain v Rwandan intelligence chief, General Kareenzi Karake • Sweden v Julian Assange • South Africa v Shrien Dewani • Bucnys v Ministry of Justice • the attempted Regicide of the King of Spain • Edwards & Harkins v United Kingdom • Woolley v United Kingdom • the Madrid train bombings • the 9/11 attacks • the 'fertiliser' bomb plot • the 2001 US anthrax bio-terrorism attacks • the murder of Theo van Gogh • the creation of the 'Trojan Horse' commercial espionage computer virus • hacking into the Pentagon and Pearl Harbour and NASA computer networks • \$31million US 'Ponzi scheme' advance fee fraud • \$55million financial derivatives fraud • \$300million US 'pump and dump' stock fraud • the sale of decommissioned radioactive metals • KGB espionage in the former Soviet bloc • treason • impairing the battle-readiness of the US Atlantic fleet • defendants on the FBI's "10 most wanted" list.

### **PUBLICATIONS**

- Co-author of "The Law of Extradition and Mutual Legal Assistance", Nicholls, Montgomery, Knowles, Doobay & Summers, 3rd. Ed. OUP, 2013
- Co-author of "Human Rights and Criminal Justice", Emmerson, Ashworth, Macdonald, Choo & Summers, 3rd. Ed. Sweet & Maxwell, 2012
- Contributing editor to "Fraud: Criminal Law and Procedure", Montgomery & Ormerod, Looseleaf, OUP

## DIRECTORIES' RECOMMENDATIONS

### HERE'S WHAT THEY SAY

Mark is consistently ranked by both Chambers and Partners and the Legal 500 and as a leading silk in crime and extradition:

"...An exceptional advocate who is an expert in mutual legal assistance, and represents individuals as well as European and other governments in all manner of extradition cases. He has particular experience of handling US extradition matters. Market sources note: He is fantastic and a go-to extradition silk...Out of all of the younger extradition silks, he is widely regarded as one of the best. He has an encyclopaedic knowledge of case law..." (Chambers and Partners 2018)

"...A brilliant extradition specialist who has a down-to-earth manner that inspires confidence...His performance at substantive hearings is very impressive..." (Legal 500 2018)

"...An extremely knowledgeable and thorough silk who is an expert in mutual legal assistance...He has particular experience of handling US extradition matters...His technical knowledge is phenomenal, and he knows cases not just from this jurisdiction but from all around the world. He has an incredible grasp of detail and enjoys the confidence of all the judges.." (Chambers and Partners, 2017)

"At the top of the tree: bright, phenomenally hardworking and abundantly talented...A top lawyer, who takes every possible point for his clients and is first-rate in his examination of witnesses" (Legal 500, 2017)

## NOTABLE CASES INCLUDE

### **Varga v Romania [2019] ACD 63, Divisional Court**

Extradition – prison conditions – scope of required inquiry – approach to assurances – approach to fresh evidence on appeal

### **Shmatko v Russian Federation [2019] ACD 31, Divisional Court**

Extradition - Russian assurances - whether reliable - non-disclosure

### **Konecny v District Court in Brno-Venkov, Czech Republic [2019] 1 WLR 1586, Supreme Court**

Extradition - convicted in absence but having unqualified right to retrial if extradited - whether extradition to be sought as accused or convicted person – whether 'passage of time' bar to be determined by reference to passage of time since commission of offences or conviction

### **Ejnyere v USA [2019] ACD 5, Divisional Court**

Extradition – Forum – interaction with mental health grounds

### **Balasz v Crown Prosecution Service [2019] ACD 1, Divisional Court**

Extradition – expiry of surrender time limits – whether statutory right to apply to discharge under s36(8) capable of being circumvented by ex parte application for extension of time under s.36(3)(b)

### **Scott v USA [2019] 1 WLR 774, Divisional Court**

Extradition - forum - relevance of likelihood of no UK prosecution in the event of extradition being refused

### **Lis v Poland [2018] ACD 141, Divisional Court**

Extradition – systemic breakdown in the rule of law and judicial independence in the requesting state – effect on extraditions to Poland

### **Fuzesi v Hungary [2018] ACD 99, Divisional Court**

Extradition - prison conditions - onus on state with systemic problems to evidence meaningful change - continued requirement for assurances

### **Imre v Hungary [2018] ACD 36, Divisional Court**

Extradition - convictions in absentia - accusation warrant continued to be valid notwithstanding conviction – pending appellate re-examination of facts.

### **Bobbe v Poland [2018] ACD 11, Divisional Court**

Extradition – obligations owed by transferring states to person unfit to plea.

### **Kortas v Poland [2017] ACD 88, Divisional Court**

Extradition – partial surrender – mechanism in place in Poland to give effect to specialty.

### **Auzins (No.2) v Prosecutor General's office, Republic of Latvia [2017] 1 WLR 2981, Divisional Court**

Extradition – time for surrender – whether domestic charge disposed of – outstanding appeal against conviction.

### **Sulaiman v Tribunal de Grande Instance, Paris [2017] Lloyd's Rep FC 111, Divisional Court**

Extradition – money laundering – extraterritorial jurisdiction.

### **Arranz v Spain (No. 4) [2017] ACD 12, Divisional Court**

Extradition – abuse of process - defendant a refugee fleeing persecution from Spain - Refugee Convention, Article 31 – immunity from prosecution – no foreign application - no defence to extradition.

**Puceviciene v Lithuanian judicial authority [2016] 1 WLR 4937, Divisional Court**

Extradition - guideline authority on s12A bar - decision to charge and try - whether mutual legal assistance relevant - previous case law wrongly decided.

**Goluchowski & Sas v District Court in Elblag, Poland [2016] 1 WLR 2665, Supreme Court**

Extradition - validity – whether details of arrest warrants or judicial decisions issued to secure surrender to custody to enforce sentence required to be included in EAW – meaning of “warrant” – scope of application of s.2(6)(c) - whether extraneous materials available to defence or prosecution to show or cure invalidity - EU principle of conforming interpretation now applicable to extradition proceedings.

**Auzins v Prosecutor General's Office, Republic of Latvia [2016] 4 WLR 75, Divisional Court**

Extradition – previous discharge on same EAW in Scotland - res Judicata – issue estoppel - do not apply to extradition proceedings.

**Agardi v Hungary [2016] 1 WLR 3009, Divisional Court**

EU law - extradition - service of notice of appeal out of time - application to extend time - available only to UK nationals - Pomiechowski - whether rule breaches Article 6 ECHR - extradition does not determine any civil right or criminal charge - whether rule violates Article 14 ECHR - whether rule breaches EU law - Article 18 TFEU - discrimination - appeal rights not derived from EU law - Articles 47 & 51 EU Charter - status in Title VI TEU criminal extradition proceedings - Assange - effects of Lisbon amendments - Protocol 36.

**United States v Sarao [2016] Lloyd's Rep FC 339, Magistrates' Court**

Extradition – the “Flash Crash” - dual criminality - fraud by false representation – market manipulation - misleading impressions - misleading statements.

**Atraskevicius v Lithuania [2016] 1 WLR 2762, Divisional Court**

Extradition - general guidance on application of the bar to extradition under s.19B – forum.

**Florea v Judicial Authority Carei Courthouse, Satu Mare County, Romania [2015] 1 WLR 1953, Divisional Court**

Extradition – Article 3 ECHR - Romanian prison conditions – overcrowding – whether Strasbourg case law mandates inflexible minimum required space - diplomatic assurances.

**Kandola v Germany; Droma v Germany; Ijaz v Italy [2015] 1 WLR 5097, Divisional Court**

Extradition - guidance on application of the bar to extradition under s.12A - absence of “prosecution decision” in requesting state to charge or try - requesting state not demonstrating that sole reason for absence of decision was absence of requested person from that state.

**Miraszewski v District Court in Torun, Poland [2015] 1 WLR 3929, Divisional Court**

Extradition – general guidance on application of the bar to extradition under s.21A - proportionality.

**Neteczka v Governor of Holloway Prison [2015] 1 WLR 1337, Divisional Court**

Extradition - habeas corpus - defendant not surrendered within 10 day period after extradition ordered - no reasonable cause for delay - defence application for discharge under s.36(8) circumvented by CPS ex parte application to High Court for extension of period under s.36(3)(b) - not permissible - extension not possible after period expired – previous contrary authority wrongly decided - also arguable that Act does not permit repeat applications for extension.

**Badre v Court of Florence, Italy [2014] ACD 93, Divisional Court**

Extradition - dual criminality - breach of Payment Services Directive - Directive transposed differently in UK - dual criminality not made out on mere basis of failure to comply with national implementing legislation - breach of other Directives not charged in the Requesting State legally irrelevant to dual criminality enquiry - Article 3 ECHR - Italian prison conditions - overcrowding systemic - presumption of Convention compliance displaced - quality of diplomatic assurance.

**Bucnys & Sakalis v MoJ, Lithuania; Lavrov v MoJ, Estonia [2014] AC 480, Supreme Court**

European arrest warrants - status of designation under Article 6(3) Framework Decision - status of SOCA certification - section 2(7) - meaning of “arrest warrant” in section 2(7) - state practice - Article 31(3) Vienna Convention - not applicable to secondary EU legislation - meaning of judicial authority - Ministries of Justice.

**Dewani v Government of the Republic of South Africa [2014] 1 WLR 3220, Divisional Court**

Extradition - defendant currently unfit to plead and might remain so - whether defendant accused and whether extradition made for the purpose of being prosecuted - extradition unjust or oppressive where risk of indefinite preventative detention in the requesting state.

**Edwards v Government of the United States of America [2014] 1 WLR 1532, Divisional Court**

Extradition - fitness to plead - conflicting evidence - appropriate forum for resolution - application of principles under 1989 Act to different statutory regime under 2003 Act.

**Arranz v Spain [2013] ACD 324, Divisional Court**

Extradition - Article 7 ECHR - after remission earned, Spanish law changed – applied retroactively to defendant - release date recalculated and extended by 5 years - EAW issued to serve additional 5 years - UK court not required to follow ECtHR decision pending appeal to Grand Chamber - flagrancy test applies to Article 7 in extradition context - no flagrant violation to detain person pending outcome of Grand Chamber proceedings - no different result from EU Charter - CJEU decisions concerning the Framework Decision not binding - 2003 Act concerned with the ECHR not Charter.

**R (HH & PH) v Deputy Prosecutor of the Italian Republic, Genoa [2013] 1 AC 338, Supreme Court**

Extradition of primary carer or both parents of dependent children - conflicting public interests - best interests of children - UNCRC - Charter of Fundamental Rights - modification of Norris principles - correct approach to Article 8 ECHR - appropriate procedure to be adopted in Article 8 cases.

**Stopyra v District Court of Lublin [2013] 1 All ER 187, Divisional Court**

Extradition Act - Part 1 - time limits - right to representation - present legal aid system unworkable and incompatible with UK international obligations - urgent

need for reform - principles to be applied to applications for adjournments in extradition cases - legal aid for medical evidence.

**Woolley v United Kingdom (2013) 56 EHRR 15, ECtHR**

Extradition - violation of the international law rule of specialty capable of breaching Article 5.1 ECHR - default term of imprisonment made pursuant to a confiscation order - not involving the bringing of a new criminal charge.

**Assange v Swedish Prosecution Authority (No. 2) [2012] 3 WLR 1, Supreme Court**

Judgment - whether to be reopened - whether judgment given on basis which counsel had not been given fair opportunity to address.

**Assange v Swedish Prosecution Authority [2012] 2 AC 471, Supreme Court**

European Arrest Warrants - meaning of judicial authority - public prosecutors - Article 5.1(c) ECHR - status of instruments enacted under Title VI TEU in English law - status of Article 34 TEU / Pupino obligation of conforming interpretation in English law - European Communities Act 1972 - European Union (Amendment) Act 2008 - Lisbon treaty - Protocol 36 - status of unincorporated treaties - proportionality.

**Government of the United Arab Emirates v Allen [2012] 1 WLR 3419, Divisional Court**

Extradition - Fraud - undated cheque as security against default on mortgage repayments - whether "representation" capable of including promise of future action - Fraud Act 2006 - fraud by false representation.

**Harkins & Edwards v United Kingdom (2012) 55 EHRR 19, ECtHR**

Extradition - Article 3 ECHR - sentence of life imprisonment without possibility of parole - modification of Soering principles - grossly disproportionate sentences.

**R (Woolley) v Ministry of Justice [2012] Lloyds Rep FC 442, Divisional Court**

Extradition - credit for time served in custody abroad pending extradition - unlawfully at large - Prisons Act 1952 - Criminal Justice Act 2003 - non-EU member States.

**Assange v Swedish Prosecution Authority (2011) 108 LSG 17, Divisional Court**

Extradition - European Arrest Warrants - Framework decision - whether public prosecutor a judicial authority - precharge proceedings - whether defendant accused - mutual legal assistance - EAWs and proportionality - dual criminality - admission of extrinsic evidence to undermine EAW.

**Owens v City of Westminster Magistrates' Court [2010] 1 WLR 17, Divisional Court**

Extradition - post-appeal surrender time limits.

**R (Director of RCPO) v Birmingham Magistrates' Court [2010] Lloyd's Rep FC 286, Divisional Court**

Extradition - specialty - committal for default of payment of confiscation order - whether an offence - abuse of process.

**Gomes & Goodyer v Government of Trinidad & Tobago [2009] 1 WLR 1038, House of Lords**

Extradition - impact of deliberate flight from justice on passage of time.

**Von der Pahlen v Austria [2009] Lloyd's Rep FC 320, Divisional Court**

Extradition - European Arrest warrants - required particulars of conduct.

**Caldarelli v Court of Naples [2008] 1 WLR 1724, House of Lords**

Extradition - contumacious convictions.

**Kinnon v Government of the United States of America [2008] 1 WLR 1739, House of Lords**

Extradition - abuse of process - hacking into the Pentagon, Pearl Harbour and NASA computer networks.

**R (Birmingham) v Director of the SFO [2007] QB 727, Divisional Court**

Extradition – Enron – the “Natwest three” – abuse of process – forum - allocation of jurisdiction - place of trial – Article 8 ECHR - extradition offence

**Boudhiba v Central Examining Court No. 5 of the National Court of Justice, Madrid [2007] 1 WLR 124, Divisional Court**

Extradition - the 9/11 attacks.

**Dabas v High Court of Justice Madrid, Spain [2007] 2 AC 31, House of Lords**

Extradition - Madrid train bombings - European Arrest warrant - validity - Framework Decision - construction - duty of national courts – Article 34 EU

**Welsh & Thrasher v Secretary of State for the Home Department [2007] 1 WLR 1281, Divisional Court**

Extradition - specialty.

**Government of Germany v Kleinschmidt [2006] 1 WLR 1, Divisional Court**

Extradition - requirements for service.

**Hunt v Court of First Instance, Antwerp [2006] 2 All ER 735, Divisional Court**

Extradition - oppression - legitimate sense of security.

**John v Government of the United States of America [2007] ACD 55, Divisional Court**

Extradition - autrefois acquit and double jeopardy - abuse of process.

**R (Okandjeji) v Bow Street Magistrates' Court [2006] 1 WLR 674, Divisional Court**

Extradition - appellate remedies following remittal - availability of judicial review - ouster clauses.

**R (Oliver) v Secretary of State for the Home Department [2006] 3 CMLR 46, Divisional Court**

Extradition - Framework Decision - implementing legislation - reciprocity - judicial review of refusal to de-certify category 1 territory.

**Government of the Republic of Albania v Bleta (Nos. 1 & 2) [2005] 1 WLR 3576, DC & [2005] 1 WLR 3194, Divisional Court**

Extradition - deliberate absence from trial - judicial review of Secretary of State's certificate of validity.

Mark Summers QC:  
marksummers@matrixlaw.co.uk  
+44 (0)20 7404 3447  
Paul Venables, Senior Practice Manager  
paulvenables@matrixlaw.co.uk

**In re: Holmes [2005] 1 WLR 1857, Divisional Court**

Extradition - dual criminality - obtaining money transfers by deception.

**In re: Proulx [2001] 1 All ER 57, Divisional Court**

Extradition - murder - entrapment - admissibility of evidence - application of PACE to extradition proceedings.

Mark is regulated by the Bar Standards Board and accepts instruction under Standard Contractual Terms, details of which can be found on our website under Code of Conduct.