



Jessica Simor KC

MAIN AREAS OF PRACTICE:

Arbitration
Commercial and corporate law
Competition and regulation
Crime and regulatory law
Discrimination and equality
Environmental law
EU law
Human rights law
Inquests and Inquiries
International law
Local government law
Media and information law
Mediation
Public law
Tax law

Called to the Bar 1992

Appointed to Silk 2013

Jessica's advisory and litigation practice is focused on administrative and regulatory law, with a particular expertise in energy and environmental law, albeit she advises across several regulated sectors, including water, transport and payment services and is frequently brought into cases because of her profound knowledge of human rights law. Her reported cases can be found below. A succinct overview of her practice can be found on our website at matrixlaw.co.uk.

COMMERCIAL, EU, REGULATORY, LICENSING and COMPETITION LAW

R (on the application of E.ON Next Energy Limited) v The Gas and Electricity Markets Authority [2023] EWHC 2891 (Admin) successfully acted for Ofgem in challenge to its decision to refuse 'shaping/imbalance costs' in last resort supply payment.

Re Baglan Operations Ltd [2022] EWHC 647 (Ch), [2022] BCC 884: successfully acted for the Official Receiver in human rights aspect of challenge brought by Welsh Government and others in respect of the OR's decision to end power generation from a private generating station.

R (on the application of Scottish Power Energy Retail Ltd) v Gas and Electricity Markets Authority [2022] EWHC 37 (Admin). Acted for Ofgem successfully defending challenge by Scottish power in relation to its determination of supplier of last resort payments.

R (of Bloomsbury Institute Ltd) v Office for Students [2020] EWCA Civ 1074, [2020] ELR 653: successfully represented claimant in its challenge to the decision of the Office for Students to refuse to register Bloomsbury.

Npower Direct Ltd and other companies v Gas and Electricity Markets Authority (Competition and Markets Authority intervening) [2018] EWHC 3576 (Admin). Successfully defended Ofgem from judicial review challenge in relation to matters connected with action to enforce a licence duty.

Gas & Electricity Markets Authority v Npower Direct Ltd and Others (2018) [2018] EWHC 2748 (Ch) acted for Ofgem in achieving an injunction to give effect to its enforcement order against Npower.

Moreno de La Hija v Lee [2018] EWHC 1374 (Ch), [2019] 1 WLR 175: Successfully acted for Lee in case concerned whether the High Court could exercise inherent jurisdiction to grant a stay if a European enforcement order made under Regulation was deficient in certifying that the minimum requirements for a fair trial had been met.

Secretary of State for Business, Innovation and Skills v PLT Anti-Marketing Ltd [2015] EWCA Civ 76 [2015] ECC 12: Successfully acted for Secretary of State in case concerning the materiality of information under the Consumer Protection from Unfair Trading Regulations 2008.

R (Whistl UK Ltd (formerly TNT Post UK Ltd)) v Revenue and Customs Commissioners [2014] EWHC 3480 (Admin), [2015] STC 1077:

Successfully represented HMRC in case concerning the Postal Services Directive, the universal service obligation and the concept of competition/fiscal neutrality. Acted for HMRC.

Revenue and Customs Commissioners v BPP Holdings Ltd & Ors [2014]

UKUT 496 (TCC), [2015] STC 415: Case concerning the barring of the HMRC and the application of CPR 3.9 in the Tribunal (Mitchell/Denton). Acted for HMRC.

Barratt Homes Ltd v Dyr Cymru Cyfyngedig (No 2) [2013] EWCA Civ 233, [2013] 1 WLR 3486: Successfully represented Dyr Cymru Cyfyngedig (Welsh Water) on their appeal of a decision of the Queen's Bench Division that they were in breach of their statutory duty under s106 of the Water Industry Act 1991 to permit Barratt Homes to connect to the public sewer.

Purely Creative & Ors v Office of Fair Trading (C-428/11) [2013] 1 CMLR 35: Represented the United Kingdom in this preliminary reference from the Court of Appeal in a case concerning unfair commercial practices.

Stagecoach Group Companies v Secretary of State for Transport

[2010] EWHC 223 (Admin), [2010] 3 CMLR 8: Acted for the Secretary of State in a challenge to the basis on which bus operators are reimbursed for providing concessionary travel, raising EU state aid law within the Transport Sector and Council Regulation 1191/69.

R (First Essex Buses Ltd) v Secretary of State for Transport [2009]

EWHC 3024 (Admin): Acted for the Secretary of State in successfully defending a challenge to his determination regarding the level of payments to be made to First Essex for its provision of concessionary travel.

Seaside v Department for Infrastructure and the Isle of Man Steam

Packet Company Ltd: Successfully represented the Steam Packet Company in a challenge to its entitlement to exclusive use of the Linkspan in Douglas Harbour and the pricing controls in the relevant agreement (claim withdrawn following detailed defence).

Dwr Cymru Cyfyngedig (Welsh Water) v Barratt Homes (No. 1) [2009] UKSC 9, [2010] 1 AC 464: Supreme Court case concerning the meaning and effect of s106 of the Water Industry Act 1991.

R (TC Projects) v Newcastle Magistrates & Ors [2008] EWCA Civ 428, [2008] LLR 555: Judicial review challenge to the meaning of paragraph 18(2) of Schedule 2 to the Gaming Act 1968.

R (Leicester Gaming Club) v Gambling Commission [2007] EWHC 531 (Admin): Acted for the claimant in a judicial review leading to the quashing of a decision by the 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 (Centro) v Secretary of State for Transport & Anor [2007] EWHC 2729 (Admin), [2008] ACD 19: Acted for the Secretary of State in a challenge regarding reimbursement levels.

R (Actis SA) v Secretary of State for Communities and Local

Government [2007] EWHC 2417 (Admin): Acted for the Department in a challenge to the non-notification of testing requirements for thermal insulation under the Technical Standards Directive.

Great North Eastern Railway Ltd v Office of the Rail Regulator & Ors

[2006] EWHC 1942 (Admin), [2007] ACD 13: Acted for GNER in a 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 Co v Commission of the European Communities (T-210/01) [2005] ECR II-5575: Acted for GE in its challenge to the Commission's refusal to agree its merger with Honeywell.

Jersey Potato Marketing Organisation Ltd v States of Jersey & Anor

(C-293/02) (Grand Chamber) [2005] ECR I-9543, [2006] 1 CMLR 29: Acted for JPMO in a successful challenge to legislation that provided for executive control of the entire Jersey new potato market and establishing that the consequent restriction on trade, albeit internal to the United Kingdom, contravened Article 29 of the EC Treaty.

Department for Environment, Food and Rural Affairs v Maltco 3 Ltd & Ors [2004] EWCA Civ 82: Acted for Greencore in its claim against DEFRA,

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concerning the limitation provisions in the Regulation on Fraud Prevention EC 2988/95 and their application to export refunds, which DEFRA claimed had been unduly paid to the defendants.

Commissioners of Customs and Excise v R (Hoverspeed Ltd & Ors) [2002] EWCA Civ 1804, [2003] QB 1041 (CA): Acted for Hoverspeed and the other claimants in a challenge to the Excise Duties (Personal Reliefs) Order 1992, SI 1992/3155 on the basis that it was incompatible with Council Directive 92/12/EEC and Article 28 of the EC Treaty (relating to the free movement of goods).

Blue Circle Plc v Commission of the European Communities (Case T-88/95) [1992] ECR II – 2667: Acted for Blue Circle in its appeal against a fine levied by the Commission for its cartel activities.

MEDIA AND INFORMATION LAW

Secretary of State for the Home Department v Watson [2018] EWCA Civ 70, [2018] QB 12: Case concerned the whether Data Retention and Investigatory Powers Act 2014 s. 1 was inconsistent with EU law in the context of prevention, investigation, detection and prosecution of criminal offences

Tele2 Sverige AB v Post-och telestyrelsen; SSHD v Tom Watson & Ors [2017] QB 771:] (C- 203/15 & C-698/15): Acting for Privacy International and Open Rights Group in its intervention in a challenge to the emergency legislation adopted to require telecom companies to retain data showing the identity, time, location and duration of electronic communications.

R (Ingenious Media Holdings plc) & Anor v Commissioners for Her Majesty's Revenue and Customs [2016] UKSC 54 Common law duty of confidentiality was owed by HMRC to taxpayers.

Secretary of State for the Home Department v Davis MP & Ors [2015] EWCA Civ 1185: Acting for Open Rights Group and Privacy International (interveners) in an appeal against the order of the Divisional Court, which declared the Data Retention and Investigatory Powers Act (DRIPA) 2014, s 1, to be inconsistent with EU law.

Kommersant v Russia: 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 ECHR.

R (Ingenious Media Holdings plc & Anor) v Revenue and Customs Commissioners [2015] EWCA Civ 173: Case concerning 'off the record' briefings to journalists and HMRC confidentiality obligations to taxpayers.

Axel Springer AG v Germany (No.2) (App No. 48311/10): Case concerning the legality of a restriction on publication by Bild of a story regarding the former Chancellor Schroder. Acted for Media Legal Defence Initiative (MDLI).

Delfi v Estonia (App No. 64569/09): Case concerning the liability of comments on a news website, intermediary liability under the e-commerce directive and its relationship with Article 10 ECHR. Acted for the industry interveners (European Digital Media Association, CCIA and EuroISPA) before Grand Chamber of the European Court of Human Rights.

Dareskibz Ltd v Armenia (App No. 61737/08): Case concerning the compatibility of false news laws with Article 10. Acted for MDLI in its intervention.

Marmont v DCMS & Ors [2003] EWHC 2300 (QB): Acted for the BBC in relation to a challenge to the licence fee.

Bavarian Lager Company Ltd v Commission of the European Communities (Case T-309/97) [1999] ECR II – 3217: Case concerning public access to information contained in European Commission documents, regarding the scope of the exception relating to the protection of the public interest.

Svenska Journalistförbundet v Council of the European Union (Case T-174/95) [1998] ECR II 2289: Case concerning access to information and Council Decision 93/731/EC, regarding the refusal of an application for access to European Council documents.

WWF UK v Commission of the European Communities (Case T-105/95) [1997] ECR II 313: Access to European Commission documents and the extent of their obligations to give reasons for refusing access.

Acted for major ISP in relation to a case brought against it in France.
Acted for major ISP in relation to ban on its services in Turkey.

TAX

Jersey Choice Ltd v HM Treasury [2024] UKSC 5, [2024] 3 All ER 719:

The UK's withdrawal of low value consignment VAT relief on imports from the Channel Islands to the UK did not arguably breach EU law on free movement of goods.

Revenue and Customs Commissioners v Perfect [2022] EWCA Civ 330, [2022] 1 WLR 3180: Concerned a driver who had driven a consignment of alcohol from Germany to the UK was liable for unpaid excise duty on the drink, even though they had no legal interest in it and was unaware that it was subject to excise duty which had not been paid.

The Commissioners for Her Majesty's Revenue and Customs v WR Case C-279/19 ECLI:EU:C:2021:473

General arrangements for excise duty – Directive 2008/118/EC; Article 33(3). Goods 'released for consumption' in one Member State and held for commercial purposes in another Member State – Person liable to pay the excise duty that has become chargeable in respect of those goods.

Logfret (UK) Ltd v Revenue and Customs Commissioners: [2020]

EWCA Civ 569, [2020] 1 WLR 3809: The Court interpreted several provisions in Directive 2008/118 concerning the liability of a guarantor for excise duty in respect of goods which were moved under arrangements which suspended the payment of duty.

R. (on the application of Rowe) v Revenue and Customs Commissioners [2017] EWCA Civ 2105, [2018] 1 WLR 3039: Case concerned a partner payment notice under the Finance Act 2014 in respect of a tax avoidance scheme.

McKeown and others v Revenue and Customs Commissioners [2017] STC 294. "holding" under EU law and application of Article 6 of the Convention in the context of excise charges.

Scandico Ltd v Revenue and Customs Commissioners [2017] UKUT 467 (TCC), [2018] STC 153: Case concerns a challenge in relation to a claim for recovery of input tax.

BPP Holdings Ltd v Revenue and Customs Commissioners [2017] UKSC 55, [2017] 1 WLR 2945: Concerns an HMRC appeal against the restoration of a debarring order which prevented it from defending a taxpayer's appeal against a VAT assessment.

R (Ingenious Media Holdings Plc) v Revenue and Customs Commissioners [2016] UKSC 54, [2016] 1 WLR 4164: Concerned Supreme Court ruling that a senior tax official was not permitted to disclose confidential taxpayer information in an "off the record" interview.

R. (on the application of Vital Nut Co Ltd) v Revenue and Customs Commissioners [2016] EWHC 1797 (Admin), [2016] 4 WLR 144: Concerned a judicial review of HMRC's decision to issue accelerated payment notices (APNs) requiring them to make payments equal to their disputed corporation tax liabilities.

R (Telefonica) v HMRC: Case concerning a challenge to extent of the 'use and enjoyment' exemption.

BPP University College of Professional Studies Ltd & Ors v Revenue and Customs Commissioners [2014] UKUT496 (TCC), [2015] STC 415: An appeal against the barring of the HMRC and the relevance of CPR 3.9 to the Tribunal procedure. Acted for HMRC .

Compass Contract Services UK Ltd v Revenue and Customs Commissioners [2014] UKFTT 403 (TC): Case concerning the jurisdiction of the tribunal when tax is not paid, barring and CPR 3.9.

Southern Cross Employment Agency Ltd v Revenue and Customs Commissioners [2014] UKFTT 088 (TC); [2015] UKUT 122 (TCC): Case concerning whether a 'compromise agreement' entered into in circumstances of the case precludes recovering under section 80(4A) of the VATA.

Larsen Oil & Gas Drilling Limited & Ors v Comptroller of Taxes [2014] JRC 143: A judicial review regarding the Norwegian/Jersey information tax agreement. Assisting Advocate Kelleher (Carey Olsen) for Comptroller.

Volaw Trust & Corporate Services Limited & Ors v Comptroller of Taxes [2013] JCA 239; [2013] JRC 095: Case concerning mutual

assistance, the process to be followed on receipt of request under Norway/Jersey tax information exchange agreement, and the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008. Assisting Advocate Kelleher (Carey Olsen) for Comptroller of Taxes.

APEF Management Company 5 Limited v The Comptroller of Taxes

[2013] JRC 262: Case concerning the agreement between France and Jersey for the Exchange of Information relating to Tax Matters ("the TIEA") and mutual assistance. Assisting Advocate Kelleher (Carey Olsen) for Respondent.

R (Ingenious Media Holdings Plc & Anor) v Revenue and Customs Commissioners

[2013] EWHC 3258, [2014] STC 673: Acting for the claimants in relation to the conduct of the HMRC in relation to its decisions concerning tax relief claimed under the claimants' film partnerships.

R (Minister for Economic Development of the States of Jersey) v Revenue and Customs Commissioners; R (States of Guernsey) v HM Treasury & Anor

[2012] EWHC 718 (Admin), [2012] STC 1113: Acted for the Treasury/HMRC in relation to a challenge brought by Guernsey and Jersey in respect of the stated intention of the UK to remove from low value consignment relief in respect of goods entering the UK from the Channel Islands, as set out in a clause to be included in the Finance Bill 2012.

Sally Moher (t/a premier dental agency) v Revenue and Customs Commissioners

[2012] UKUT 260 (TCC), [2012] STC 1356: Acted for the Revenue in relation to a claim concerning whether certain medical supplies were exempt within the Value Added Tax Act 1994 Sch 9 Pt II Group 7.

Commissioners for HM Revenue and Customs v CGI group (Europe) Ltd

An application for permission to appeal concerning the jurisdiction of the Tribunal to determine claims for legitimate expectation.

St. Helens School v Revenue and Customs Commissioners

[2006] EWHC 3306 (Ch), [2007] STC 633: Acted for the HMRC in an appeal against a finding by the VAT tribunal as to the meaning of 'use' under the 6th VAT Directive, in particular whether it was 'economic' or physical' use.

Customs & Excise Commissioners v Ian Newbury

[2003] EWHC 702 (Admin), [2003] 1 WLR 2131: Acted for the claimants before the Divisional Court in a challenge to the seizure of excise goods and a vehicle by the Customs and Excise. The court held that it was entitled to reach its own judgment on the issue of whether forfeiture of property imported into the United Kingdom would be so disproportionate as to be in breach of the particular claimant's rights under Article 1 of Protocol 1 of the European Convention on Human Rights.

Barry Gascoyne v Customs & Excise Commissioners & Anor

[2003] EWHC 257 (Ch), [2003] Ch 292: Acted for the claimants in a case concerning the Commissioners' policy of almost always retaining vehicles seized under s 141 Customs and Excise Management Act 1979.

R (Hoverspeed Ltd & Ors) v Customs & Excise Commissioners

[2002] EWCA Civ 1804, [2003] QB 1041: Acted for Hoverspeed in a challenge to the Excise Duties (Personal Reliefs) Order 1992 SI 1992/3155 on the basis that it was incompatible with Council Directive 92/12/EEC and Article 28 EC Treaty.

DUE PROCESS/DISCIPLINARY PROCEEDINGS

R (Bonnard) v Sharpling [2012] EWHC 3384 (Admin): An application for interim relief, pursuant to a claim for judicial review in respect of police misconduct proceedings against a senior officer.

R v Bieber [2008] EWCA Crim 1601, [2009] 1 WLR 223: Acted for the Crown in an appeal against the first mandatory life without parole sentence under the Criminal Justice Act 2003.

R (WAF) v General Medical Council

[2006] EWHC 1269 (Admin): Represented claimants in a successful challenge to the decision of the GMC regarding the doctors' conduct.

R (McCann & Ors) v Manchester Crown Court & Anor

[2001] EWCA Civ 281, [2001] 1 WLR 1084: Acted for Liberty in its intervention before the Court of Appeal concerning the legality of anti-social behaviour orders under s 1 of the Crime and Disorder Act 1998.

ENVIRONMENT LAW

Friends of the Earth and others v Secretary of State for Energy Security and Net Zero [2024] EWHC 995 (Admin), [2024] All ER (D) 42
Acted for Client Earth in its successful challenge to the Government's Carbon Budget Delivery Plan, which failed to meet the requirements of the Climate Change Act 2008.

Verein KlimaSeniorinnen Schweiz and Others v Switzerland (App. No. 53600/20) [2024] ECHR 53600/20. Acted for Swiss women in first case in the world holding that failure of states to comply with their obligations under the Paris Agreement to take steps to reduce emissions, gives rise to a breach of Article 8 of the Convention.

R. (on the application of Friends of the Earth Ltd) v Secretary of State for International Trade, [2023] EWCA Civ 14, [2023] 1 WLR 2011: Acted for Friends of the Earth in its challenge to the decision to provide \$1.15bn UK finance to Total's LNG in Mozambique on the grounds that despite prospective emissions not having been measured, the S/S had proceeded on the basis of legal advice that the finance met the requirements of the Paris Agreement.

R (on the application of Friends of the Earth Ltd and others) v Secretary of State for Business Energy and Industrial Strategy, [2022] EWHC 1841 (Admin), [2023] 1 WLR 225. Acted for Client Earth in its successful challenge to the Government Net Zero strategy.

Welsh Water v Barratt Homes [2013] EWCA Civ 233, [2013] 1 WLR 3486: Acted for Welsh Water in its appeal to the Supreme Court concerning the meaning and effect of s 106 of the Water Industry Act.

Inuit Tapiritt Kanatami & Ors v European Parliament & Ors (Case T-18/10), [2012] All ER (EC) 183: Advised in relation to actions for the annulment of Regulation (EC) No 1007/2009, concerning a ban on trade in seal products.

WWF UK v Council (T-91/07), [2008] II-81 and on appeal (C-355/08P), [2009] ECR I-73: Acted for WWF in a challenge to the adoption by EU Council of the 2007 cod quotas. The case concerned 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 & Anor (Case C- 444/00), [2004] 1 WLR 538: Case concerning the meaning of 'waste'.

Jessica also acted in the interim relief measures (*R (Mayer Parry Recycling Limited) v Environment Agency & Anor* [2001] Env LR 35) in relation to the question of the interpretation of European directives relating to waste, which was referred to the European Court of Justice.

GENERAL PUBLIC LAW

R (Roehrig) v Secretary of State for the Home Department [2023] EWHC 31 (Admin), [2023] 1 WLR 2032: Judicial review of a decision of the secretary of state that the applicant had not automatically acquired British citizenship at birth under the British Nationality Act 1981.

R (Good Law Project) v Electoral Commission [2019] EWCA Civ 1567, [2020] 1 WLR 1157: Case concerned the Electoral Commission appeal against an order of the Divisional Court allowing an application by an interest group for judicial review of its decision not to investigate campaign spending by Vote Leave.

R (Wilson) v Prime Minister [2019] EWCA Civ 304, [2019] 1 WLR 4174: Case concerned the lawfulness of the Prime Minister's decision to notify the European Union of the UK's intention to withdraw from the EU on the basis that the referendum in 2016 was itself unlawful as a result of some leave campaigners exceeding campaign spending limits.

R (Miller & Anor) v Secretary of State for Exiting the European Union & Ors, [2018] AC 61: Case representing the claimant parties in their challenge to the procedure for triggering the UK's withdrawal from the EU under Article 50 of the Treaty on European Union. Jessica represented the second claimant, Deir Tozetti Dos Santos. The case is a historic decision that will impact the most significant political change in the UK for decades.

Mohammed v Secretary of State for Defence [2017] UKSC 2, [2017] AC
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821: Case where the Supreme Court ruled that the Ministry of Defence could be held liable for the mistreatment of detainees by British soldiers in Iraq and Afghanistan.

R (XX) v Secretary Of State for the Home Department & Ors [2014] EWHC 4106 (Admin): A challenge brought by a sex offender to the retention and potential disclosure of his conviction and related data by the police under a common law scheme promulgated by the Home Office, which enables members of the public to obtain disclosure provided that the police consider that a necessary and sufficient reason exists.

R (O) v Secretary Of State for International Development [2014] EWHC 2371 (Admin): A challenge to the process by which compliance with the conditionality policy for aid was assessed.

R (Wheeler) v Prime Minister [2008] EWHC 1409 (Admin) and [2008] EWHC 936 (Admin), [2008] 2 CMLR 57: Acted for Mr. Wheeler in a challenge to the Government's decision not to hold a referendum on the Lisbon Treaty.

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

Carl Gough and others v Chief Constable of Derbyshire [2002] QB 459: Represented the claimants in a challenge to the legality of international banning orders as in breach of the EU free movement of person's provisions and the ECHR.

R v Minister for Agriculture, Fisheries & Food, ex parte Matt Geiden & Ors [2000] 1 CMLR 289: Acted for the Minister for Agriculture in relation to challenge to the quarantine system.

HUMAN RIGHTS & CIVIL LIBERTIES

R (Smith) v Oxfordshire Assistant Deputy Coroner [2010] UKSC 29, [2011] 1 AC 1: Jessica acted for the family of a soldier who died from heat illness in Iraq at the inquest into his death, and then in the High Court, Court of Appeal and Supreme Court. The Supreme Court overturned the findings of the courts below that British soldiers serving overseas were subject to the jurisdiction of the United Kingdom under Article 1 of the Convention, such that the Human Rights Act applied to them. The issue was reconsidered by the Supreme Court in *Smith & Anor v Ministry of Defence* and other cases [2013] UKSC 41, [2014] AC 52 and in *Pritchard v United Kingdom* (see below under 'Strasbourg Cases'). Jessica was Counsel for the families in both of those cases.

R (Barclay & Ors) v The Secretary of State for Justice and the Lord & Ors [2013] EWHC 1183 (Admin), [2014] 1 WLR 415: Successfully represented the Barclay brothers before the Divisional Court in an Article 6 ECHR challenge to the granting of a Royal Sanction in respect of new constitutional provisions in Sark, on the basis that they failed to provide for an independent and impartial court on the Island.

R (Gallastegui) v Westminster City Council & Ors [2013] EWCA Civ 28, [2013] 1 WLR 2377: Acted for the claimant before the High Court and Court of Appeal in challenge to the compatibility of the Police Reform and Social Responsibility Act 2011 (ss 143 and 145) with the right to freedom of expression and assembly under the Convention.

In re McCaughey & Anor [2011] UKSC 20, [2012] 1 AC 725: Jessica successfully acted for the family in overturning prior Supreme Court authority (*R (McKerr)*), in which it had been held that the investigatory obligation under Article 2 of the Convention did not apply to deaths that took place before the coming into force of the Human Rights Act.

R (Catherine Smith) v Oxfordshire Assistant Deputy Coroner (Equality and Human Rights Commission intervening) [2010] UKSC 29, [2011] 1 AC 1: Supreme Court case on the jurisdiction of the Human Rights Act to soldiers serving overseas.

HJ (Iran) v Secretary of State for the Home Department and another case [2010] UKSC 31, [2011] 1 AC 596: Jessica acted for the EHRC, which intervened in this landmark case to argue (successfully) that it was not permissible to refuse a claim for asylum on the basis that someone with a particular sexual orientation could be expected to 'be discrete', that is, act so as to hide it, and that the use of the concept of 'expected discretion', as a basis for ordering deportation was itself degrading.

R (Coombes) v Secretary of State for Communities and Local

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Government & Anor [2010] EWHC 666 (Admin), [2010] 2 All ER 940:

Acted for the Secretary of State in respect of a challenge to the compatibility of section 3 of the Protection from Eviction Act 1977 with the European Convention on Human Rights.

R (Hassan) v Secretary of State for Defence [2009] EWHC 309 (Admin):

A 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.

R (AM & Ors) v Secretary of State for Home Department & Anor [2009]

EWCA Civ 219; [2009] UKHRR 973: Successfully represented the appellants in their appeal against the High Court decision that the Secretary of State had not breached Article 3 of the Convention in failing to initiate an independent investigation into harm suffered by them during a major disturbance at Harmondsworth Immigration Removal Centre. The Court of appeal refused relief, however, and appealed to Strasbourg.

Van Colle & Anor v Chief Constable of the Hertfordshire Police [2008]

UKHL 50, [2009] 1 AC 225: Acted for the EHRC in its intervention before the House of Lords in a case concerning positive obligations under arts. 2 and 3 and the duty of the police to protect witnesses.

E v Chief Constable of the Royal Ulster Constabulary & Anor [2008]

UKHL 66, [2009] 1 AC 536: Acted for the Appellant before the House of Lords in a challenge to the policing techniques used to contain loyalist violence directed at parents and children walking to and from a school in the Ardoyne Road in Belfast in 2001.

YL v Birmingham City Council & Ors [2007] UKHL 27, [2008] 1 AC 95:

Case concerning 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. Represented Liberty, Justice and the British Institute of Human Rights in their intervention before the House of Lords.

R (Johnson & Ors) v Havering London Borough Council and another case [2007] EWCA Civ 26, [2008] QB 1:

Acted for the claimant before the High Court and Court of Appeal in a case concerning the meaning of 'public authority' under the Human Rights Act.

R (Wright & Anor) v Secretary of State for the Home Department [2001]

EWHC Admin 520, [2002] HRLR 1: Acted for the claimants in the first case in which the Secretary of State was ordered pursuant to the investigatory obligation under the Convention, to initiate an independent investigation into the death of a detainee. The subsequent public inquiry led to the NHS being put in charge of prison health instead of the Prison service, as had formerly been the case.

STRASBOURG CASES

Amnesty International v Hungary – case concerning Hungary's laws controlling NGOs seeking to assist asylum seekers. (pending)

Verein KlimaSeniorinnen Schweiz and Others v Switzerland (App. No. 53600/20) [2024] ECHR 53600/20. Acted for Swiss women in first case in the world holding that failure of states to comply with their obligations under the Paris Agreement to take steps to reduce emissions, gives rise to a breach of Article 8 of the Convention

Carne Forcadell v Spain acted for the Speaker to the Catalan Parliament who was jailed for allowing a vote on whether to hold an independence referendum.

Kommersant v Russia: 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.

Auchi v France: Challenge in relation to the largest fraud trial in French history regarding the conduct of executives of ELF. Representing the applicant who was convicted and fined several million for allegedly accepting kick-backs.

AM v United Kingdom: Case concerning the refusal of the Court of Appeal to grant relief in relation to violation of Article 3 in *R (AM & Ors) v Secretary of State for Home Department & Anor* (for details, see entry above).

Pritchard v United Kingdom (App. No. 1573/11): Case concerning the

scope of Article 1 jurisdiction, and in particular, whether soldiers from Contracting States remain subject to UK jurisdiction when serving abroad.

Axel Springer AG v Germany (App. No. 48311/10): Acted for Media Defence Litigation Initiative (MDLI) in its intervention before the Court in this case concerning the legality of a restriction on publication by Bild of a story regarding the former Chancellor Schroder.

P.F. and E.F v United Kingdom (App. No. 28326/09) decision 23 November 2010: Acted for the applicants in relation to 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 the violence was if it were a lawful protest.

Delfi v Estonia (App No. 64569/09): Case concerning the liability of comments on a news website, intermediary liability under the e-commerce directive and the relationship with Article 10 ECHR. Acted for the industry intervenors (European Digital Media Association, CCIA and EuroISPA) before Grand Chamber of the European Court of Human rights.

Georgia v Russia (II) (App. No. 38263/08): Inter-state case concerning the conflict in Georgia in 2008.

Dareskibz Ltd v Armenia (App No. 61737/08): Acted for MDLI in its intervention in this case concerning the legality of a legislative measure prohibiting on 'false news' under Article 10.

Avotins v Latvia (App. No 17502/07): Case concerning the Brussels Regulation and Article 6 ECHR.

Shimidzu and Berlaque v United Kingdom (App. No. 648/06) decision 30 March 2010: Acted for the applicants in a challenge regarding Gibraltar law, which makes it impossible for a defendant to recover the costs of defending himself in criminal proceedings, even when acquitted.

Hussain v United Kingdom (2006) 43 EHRR 22: Successful challenge to a judicial decision to refuse a defendant's costs when he was acquitted. Refusal was held to breach Article 6.

B & L v United Kingdom (App No. 36536/02), (2006) 42 EHRR 11: Acted for the UK in respect of its prohibition on marriages between a parent in law and child, which was held to violate the right to marry under Article 12 of the Convention.

DP & JC v UK (App No. 38719/97), (2003) 36 EHRR 14: Acted for the United Kingdom in a case concerning State responsibility for inhuman and degrading treatment of children by parents.

Devlin v United Kingdom (App No. 29545/95), (2002) 34 EHRR 43: Acted for the United Kingdom in a case concerning the application of Article 6 to civil service employment proceedings.

Faulkner v United Kingdom (App No. 37471/97), (2002) 35 EHRR 27: Acted for the United Kingdom in relation to a claim concerning interference with a prisoner's correspondence.

Smith and Grady v United Kingdom (App No. 33985/96), (2001) 31 EHRR 24: Successfully represented servicemen and women in their challenge to prohibition on homosexual people serving in the armed forces, leading to the ban being lifted.

McGonnel v United Kingdom (App No. 28488/95), (2000) 30 EHRR 28: Successfully acted for the applicant in his challenge to the independence and impartiality of the judge, the Bailiff, in Guernsey, who sat in both the legislature and the Court.

Bland v United Kingdom (App No. 52301/99): Acted for the United Kingdom in relation to 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.

McLeod v United Kingdom (App No. 24755/94), (1999) 27 EHRR 493: Successfully represented the applicant in her challenge to the legality of the police entering her home to prevent a breach of the peace.

Assenov v Bulgaria (App No. 24760/94), (1998) 28 EHRR 652: Intervened for Amnesty in this case concerning the torture, inhuman and degrading treatment by State officials.

Matthews v United Kingdom (App No. 40302/98): Acted for the United Kingdom in this case concerning the discriminatory age criteria applied in respect of travel concessions.

Clunis v United Kingdom (App No. 45049/98) decision of 11 September 2001: Represented the United Kingdom in relation to whether they had taken
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sufficient measures to protect Mr. Clunis from his own psychiatric illness.

O'Rourke v United Kingdom (App No. 39022/97) decision 26 June 2001: Acted for the United Kingdom in this case concerning the right to housing.

Asproftas v Turkey (App No. 16079/90) decision 26 September 2002: Acted for the applicants in this case 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.

REFUGEE LAW

Al-Sirri v Secretary of State for the Home Department; DD (Afghanistan) v Secretary of State for the Home Department [2012] UKSC 54, [2013] 1 AC 745: Supreme Court case concerning the meaning of Article 1F(c) of the Refugee Convention.

Aboubacar Diakite v Commissaire général aux réfugiés et aux apatrides (C- 285/12): Acting for the United Kingdom in its intervention in this preliminary reference from Belgium concerning the meaning of 'armed conflict' under the Refugee Convention.

DD (Afghanistan) v SSHD and another case [2012] UKSC 54, [2013] 1 AC 745: Acted for the UNHCR in its intervention in these two cases before the Supreme Court concerning the meaning of Article 1F(c) of the Refugee Convention.

MSS. v Belgium and Greece (App No. 30696/09), (2011) 53 EHRR 2: Assisted the UNHCR with its oral submissions at the hearing of this case concerning the relationship between Articles 2 and 3 of the Convention and the protections in the Refugee Convention.

HJ (Iran) v Secretary of State for the Home Department and another case [2010] UKSC 31, [2011] 1 AC 596: Acted for the EHRC, which intervened in this landmark case to argue (successfully) that it was not permissible to refuse a claim for asylum on the basis that someone with a particular sexual orientation could be expected to 'be discrete', that is, act so as to hide it, and that the use of the concept expected 'discretion', as a basis for ordering deportation was itself degrading.

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