

Joe Middleton KC



Call: 1997

Silk: 2023

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Profile

Joe works on immigration, asylum and nationality cases and led Doughty Street's Immigration Team for seven years. His other main areas of practice include death penalty litigation and other complex constitutional and human rights cases, together with sanctions, extradition work, and challenges to INTERPOL red notices. In his civil practice, Joe is often instructed with a view to achieving his clients' objectives by avoiding litigation rather than pursuing it.

Joe has worked with a wide range of clients, from death row prisoners in Africa and the Caribbean to schools and colleges in the UK, Russian oil executives, multinational companies and banks, heads of government, and an adult entertainer associated with President Trump. In many cases he has advised the victims of politically motivated criminal proceedings on international protection options. He also provides immigration and extradition advice to government and state authorities.

Joe has appeared in the UK's domestic courts at all levels, as well as taking cases in the Privy Council, the European Court of Human Rights, the African Court of People's and Human Rights, and the UN Human Rights Committee. In collaboration with local counsel, he has also worked on cases in some of the highest national courts in Africa and the Caribbean,

including litigation in the Caribbean Court of Justice. At the request of the UK's Foreign and Commonwealth Office, Joe has acted as pro bono counsel for British citizens sentenced to death in Ghana, Kenya and the Democratic Republic of Congo. He has also appeared on behalf of the Death Penalty Project in constitutional litigation in the Supreme Court of Kenya.

Joe speaks Russian and has acted for numerous Russian and Ukrainian clients in immigration, extradition, human rights and INTERPOL red notice challenges.

Joe was called to the Bar of Belize in 2014.

In 2015, Joe was awarded the Sydney Elland Goldsmith Bar Pro Bono Award for his human rights work around the world. He was particularly recognised for his contribution to the abolition of the mandatory death penalty in common law jurisdictions in Africa and his work on human rights in Belize Central Prison.

Joe is Chair of the Human Rights Law Association and a Director of the Death Penalty Project. He is also the lead author of *Sentencing in Capital Cases* (2018).

Education

BSc

LLM

Languages

French

Russian

Related practice areas

Immigration

Extradition

International Law

International Human Rights Law

International Media Law

Sanctions

Foreign Jurisdiction Work

What the Directories say

Joe is ranked as a tier 1 leading junior for immigration by Legal 500, "most highly regarded" by *Who's Who Legal*, and band 1 for immigration by *Chambers & Partners*. Feedback includes:

- *"A go-to for immigration matters. He is easy to work with, very good with clients, manages expectations and also provides advice in simple terms which are easy for clients to understand."* (Chambers and Partners 2023);
- *"He understands the way the Home Office operate and what arguments will be persuasive. He is calm and great to work with. His advocacy is brilliant, and his client care and team skills are excellent."* (Legal 500 2023);
- *"A brilliant advocate and a go-to immigration counsel. His legal submissions are razor-sharp and focused, and he understands the need for succinct and clear grounds when dealing with the Home Office."* (Chambers and Partners 2023);
- *"an immigration specialist who is highly sought after for his expertise in politically sensitive matters"* (Who's Who Legal 2022);
- *"He has a phenomenal grasp of the law and is clear-sighted and practical in his advice", "Amazing; he is very thorough and experienced"* (Chambers & Partners 2022);
- *"Joe has huge intellectual firepower but also he presents things in an easily understandable format"* (Legal 500 2022);
- *"a delight to work with – not only does he have a wealth of experience and a tremendous intellect but also an excellent manner with lay clients"* (Legal 500 2021);
- *"provides swift and commercially astute advice in relation to high-stakes issues and high-profile corporate clients"* (Chambers & Partners 2021);
- *"practical, client-friendly, imaginative and available"* (Chambers & Partners 2020).

Immigration Asylum and Personal

Joe is Head of the Immigration Team and works in all areas of asylum, personal immigration, EU migration and nationality law. He is particularly sought after for complex cases involving refusal and cancellation decisions under the general refusal grounds. He has acted for a wide range of asylum seekers, high net worth individuals and politically exposed persons. He has advised many clients on crossover issues involving immigration, extradition and INTERPOL red notices.

Joe acted for several leading human rights organisations in **A v SSHD** [2005] UKHL 71 (admissibility of evidence obtained by torture in immigration proceedings) and for the appellant in **J v SSHD** [2005] EWCA 629 (suicide risk in expulsion cases). Other cases

include **Young v Young** [2012] 3 WLR 266 (human rights implications of impounding a litigant's passport in family proceedings), **IT (Sierra Leone) v SSHD** [2010] EWCA Civ 787 (scope of directions in successful immigration appeals), **JN (Afghanistan) v SSHD** [2010] EWCA Civ 723 (issues at large in reconsideration appeals), and **Hussein v SSHD** [2010] Imm AR 320 (scope of automatic deportation).

Immigration Business and Commercial

Business and commercial immigration forms a substantial part of Joe's practice. He works with some of the UK's leading companies on all aspects of business and commercial immigration.

Joe is one of the few members of the Immigration Bar with a significant sponsor licence practice, an issue he has been advising on since the Points Based System was launched in 2008. He has acted for dozens of companies at risk of losing their Tier 2 licences and educational establishments facing revocation of their Tier 4 licences. Much of Joe's work in this area is directed at ensuring that his clients achieve their objectives without having to resort to litigation. Joe is also a regular speaker at sponsor licence seminars organised by ILPA and others.

Extradition

Joe acts for defendants in extradition proceedings at all levels. He is also one of the few members of the Bar with a successful track record in challenging INTERPOL red notices.

In his extradition work, Joe has particular experience of dealing with individuals who are dealing simultaneously with asylum claims and extradition proceedings.

In 2020, Joe advised on international law issues arising from the proposed extradition of a Chinese national from Canada to the United States. He also appeared in the Divisional Court and Supreme Court in **Elgizouli v SSHD** [2020] UKSC 10, a case challenging the UK's provision of mutual legal assistance to the United States for a capital trial without a death penalty assurance.

In 2019, Joe advised on constitutional challenges to the proposed Hong Kong Extradition Bill, which was subsequently withdrawn by the Hong Kong Government.

Joe has acted in several successful cases resisting extradition to Russia on grounds of political motivation. He was instructed by Liberty in their interventions in **USA v McKinnon** [2008] 1 WLR 1739 (House of Lords) and **Norris v USA** [2010] 2 AC 487 (Supreme Court), on the scope of article 8 of the European Convention in extradition proceedings.

Other extradition cases include:

- **R (Dolinski) v Secretary of State for Justice** [2016] (effect of Extradition Act on length of sentence to be served in UK);
- **Vasilev v Bulgaria** [2016] EWHC 1401 (Admin) (prison conditions in Bulgaria);
- **Bialek v Poland** [2016] EWHC 712 (Admin) (effect of delay on the proportionality assessment under article 8);
- **Gambrah v Ghana** [2014] 1 WLR 4464 (intervening for the Death Penalty Project on the mandatory imposition of the death penalty for murder in Ghana);
- **Ilia v Greece** [2014] EWHC 2372 (former Greek judge facing allegations and convictions for corruption);
- **R (Aldhouse) v SSHD** [2012] ACD 53 (appellate jurisdiction in extradition cases);
- **Aldhouse v Thailand** [2012] EWHC 3385 (Admin) (prison conditions in Thailand);
- **Suchanek v Czech Republic** [2012] EWHC 2987 (Admin) (successful challenge under article 8);
- **Srama v Poland** [2010] EWHC 3320 (Admin) (EAW vitiated by error);
- **Benko v Hungary** [2009] EWHC 3530 (Admin) (entitlement to retrial);
- **Temerko v Russia; Izmaylov v Russia** (successful challenges to the extradition of a former Yukos executive and a former Novoship executive on the basis of political motivation).

Joe acted for **Simon Mann** (with local counsel) in his attempts to resist extradition from Zimbabwe to Equatorial Guinea. He has also advised on high profile extradition proceedings from the Bahamas to the United States.

INTERPOL red notices

Joe has a track record of successfully challenging INTERPOL red notices arising from abusive criminal proceedings. His cases have included:

- removal of a red notice issued against a Russian national on the grounds of his refugee status and the fact that the criminal proceedings in Russia were politically motivated;
- removal of the published red notice against a high profile Asian banker on grounds of the rule against double jeopardy;
- advising an Asian/American dual national on challenging a red notice issued in relation to alleged fraud, and on the UK immigration implications of the red notice;
- removal of a red notice against a British citizen convicted in his absence in Qatar on the basis of a competitor's false accusations;
- removal of a red notice against an Indian citizen accused of inciting terrorism;
- removal of a red notice against a Qatari citizen arising from a commercial dispute in Kuwait.

Administrative and Public Law

Much of Joe's work, both domestic and international, has a public law or constitutional dimension. This includes judicial review of immigration decisions with no right of appeal and challenges by sponsors to the revocation of their sponsor licences. In **Elgizouli v SSHD** [2020] 2 WLR 857, he acted in a successful appeal to the Supreme Court challenging the Government's decision to send evidence to the United States for use in prosecuting the so-called "Beatles" ISIS fighters, without obtaining the usual assurance that if convicted, the defendants would not be executed.

Joe is also instructed to advise on public law issues in common law jurisdictions in Africa, Asia and the Caribbean. This work covers a range of constitutional, civil and criminal proceedings, including constitutional challenges to the mandatory death penalty and work to protect the customary land rights of the indigenous Maya communities in Belize.

International Law

International and foreign jurisdiction cases have always featured prominently in Joe's practice. He is often instructed by individual and corporate clients to provide advice on constitutional, criminal and regulatory matters and to assist with litigation in international and foreign courts.

For many years Joe has worked on death penalty cases in Africa and the Caribbean. He has acted on the instructions of the Death Penalty Project and in collaboration with local counsel. Most of this work has focused on the mandatory death penalty and its incompatibility with constitutional principles and international law. As a result of this litigation, the mandatory death penalty for murder has been ruled unconstitutional in Malawi and Uganda.

Joe also worked on a challenge to the mandatory death penalty in Ghana (**Johnson v Republic** [2011] 2 SCGLR 601) and the successful complaint to the UN Human Rights Committee arising from the Supreme Court of Ghana's ruling in that case (**Johnson v Ghana**, Comm. No. 2177/2012).

In 2015 - 2016, Joe addressed the Supreme Court of Kenya in a successful challenge to the mandatory death penalty in Kenya (**Murutetu & Anr v The Republic**, Petitions 15 and 16 of 2015). This resulted in the commutation of thousands of death sentences. Since then, Joe has worked closely with the Resentencing Task Force charged with resentencing the affected death row prisoners.

Joe has advised on international election standards and election legislation in most of Eastern Europe and Central Asia. He was the legal adviser for the OSCE election observation mission for the 2004 US presidential elections. He has also conducted many human rights missions on behalf of Amnesty International, the International Bar Association, the International Commission of Jurists and the Interparliamentary Union.

Joe has acted in numerous applications to the European Court of Human Rights, including:

- a challenge to the disproportionate "preventive seizure" of assets in Italian criminal proceedings;
- an application arising from a violent attack against a journalist in Azerbaijan (**Jafarov v Azerbaijan**, App. No. 54202/08);
- an application brought by the family of the former President of Chechnya, after he was killed by shooting (**Maskhadova v Russia**, App. No. 18071/05);
- a successful complaint of unlawful killing of civilians in Chechnya (**Betayev v Russia**, App. No. 37315/03).

In 2018, Joe was the lead author of *Sentencing in Capital Cases*, which provides capital sentencing guidance for judges, defence lawyers and prosecutors in jurisdictions where the mandatory death penalty has been abolished.

In 2014, Joe wrote a **report** on human rights concerns in Belize Central Prison, with a particular focus on prisoners with mental health issues, juveniles and women prisoners. He was called to the Bar of Belize in the same year. He has also worked with an international team of lawyers to assist the Maya indigenous communities in Belize in litigation to protect their customary land rights.