



## Asylum and Immigration, Human Rights, EU Free Movement, Nationality Law, Administrative and public law

*Also popular is David Jones, who is praised for his "fantastic advocacy skills and charming manner." Sources commend his "ability to tackle challenging and complex legal arguments" and his energy when it comes to "wrestling with guidance that is constantly changing.*

### Chambers UK 2010

*David Jones' profile in the sector is one of increasing prominence, with a range of sources bestowing "an incredibly high rating" on his abilities. He remains most visible when utilising his expertise in unlawful detention cases, although his practice encompasses a far broader range of immigration asylum and human rights issues.*

### Chambers UK 2009

## Background

Over the course of his 16 years of practice David has developed considerable expertise in Public and Administrative Law concentrated in the practice areas of unlawful detention, immigration, human rights, EU Free Movement, and nationality law. David has been at the vanguard of proceedings seeking to attain equality of treatment for Foreign National prisoners, particularly with regard to access to early release programs.

He is also regularly involved in civil litigation in relation to false imprisonment and unlawful detention cases.

David is a founder and Director of HJT Training ([www.hjt-training.co.uk](http://www.hjt-training.co.uk)) a professional training company delivering courses to the legal sector, and HJT Research which provides on-line country information on human rights conditions in over 80 countries to the Electronic Immigration Network. He has in the past worked and volunteered for the Immigration Advisory Service, the Joint Council for the Welfare of Immigrants and the Immigration Law Practitioners Association, and is currently a member of the Haldane Society and ILPA.

## Publications

Contributor to Macdonald's Immigration Law and Practice 5th-8th Editions (Butterworths Lexis Nexis); Contributor to the Immigration Manual (now in 9th Edition) (HJT, 2004-2010); Contributor to Your Rights (Liberty); Atkins Court Forms Immigration Volume (Butterworths).

## Training

Over the past 18 months David has prepared and presents training on courses the following: Basic principles of Judicial Review; Unlawful Detention: law and procedures; Free movement and the European Union; Nationality Law; Rule 39 applications to the European Court of Human Rights; Policies and concessions of the UKBA.

## Current and recent cases

### Year of Call

1994

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### Education

LLB, LLM (International Economic Law)

### Practice Areas:

David Jones is a member of the following Practice Areas:

- Immigration - Asylum and Human Rights
- Immigration - Business and Private
- Public & Administrative Law

### Garden Court Chambers

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Court of Appeal

*AL (Jamaica v The Secretary of State for the Home Department*

The case concerned the lawfulness of the continued exclusion of a father from his UK settled family following his deportation for serious criminal offences. The appeal was concerned essentially with where the balance lay in terms of the States obligation to recognise as a primary consideration the best interests of a child, where there was evidence that a child had suffered actual harm as a result of her separation from the Appellant, and its duty to protect the public from foreign nationals committing serious criminal offences.

*MD (Jamaica) & JE (Jamaica) v Secretary of State for the Home Department*  
[2010] EWCA Civ 213.

Case concerning the operation of a long residence concession, and in particular the proper construction of rules and policy, and the role of past and subsequent policy in defining the interpretation of statutory instruments, and whether a waiver implied by actions of a decision maker could be relied upon to inform the application of a concession. The Court of Appeal adopted a strict approach to construction finding that grants of leave to remain pursuant to an application made after the expiry of a previous grant of leave to remain did not operate to legalise the applicant's residence during the period between the expiry of the earlier leave to remain and the subsequent grant of leave to remain. It was held also that the lawfulness of a person's residence at any given time had to be judged by reference to the law in force at that time.

*RD (Lithuania) v The Secretary of State for the Home Department*

Case concerning the proper approach of the Courts to the determination of the lawfulness of deportation of EU nationals under the provisions of Directive 2004/38/EC of the European Parliament of the Council of 29 April 2004 ('The Citizens Directive) and the Immigration (EEA) Regulations 2006. Settled by the Secretary of State.

High Court

*O v The Secretary of State for the Home Department.*

Concerned a challenge to the lawfulness and reasonableness of the Secretary of State's delay in processing the Claimant's protection despite being placed on notice that the delay was causing harm, and her decision to interview the minor Claimant in respect of the same only after he has attained the age of 17 ½ in the knowledge that her conduct in so doing will deprive the Claimant of an entitlement to Discretionary Leave to Remain normally granted to unaccompanied minors.

*R, on the Application of, Isa Mustafaj v the Secretary of State for the Home Department.*

The case challenged the lawfulness of the Secretary of State's decision to refuse the Claimant's application for protection in the United Kingdom under ECHR and the Refugee Convention and proceed to attempt to remove despite the availability findings in extradition proceedings to the effect that the Claimant's return to Albania would contravene both Articles 2 and 3 of the Convention.

*Hayati Bessuroglu & another v SSHD*

The case concerns the issue of the rights of the Turkish migrants under the EU law and the interpretation of intention of Decision 1/80, particularly with regards to their right of their choice of any paid employment in the UK and the eventual entitlement to Indefinite Leave to Remain.

*Kapato v Secretary of State for the Home Department*



The case raised the issue of the lawfulness and proportionality of the Secretary of State's pursuit of enforcement action by way of deportation in cases where the removal would likely affect Article 3 and 8 ECHR rights of the individual, considered in particular in the context of mental health issues.

Tribunal

*AM and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC)*

Heard in the Asylum and Immigration Tribunal/Immigration Asylum Chamber

The case addressed the Country Guidance issues such as whether trafficked women are capable of constituting a particular social group of the Refugee convention, to what extent the decision makers must take into account the risks of re-trafficking and the issues of stigmatisation and discrimination, the general issues of sufficiency of protection in respect of threats from traffickers (including analysis of the availability and suitability of women's refuge's and protected housing), the safety and reasonableness of the internal relocation alternative (in particular, vulnerability of lone female without familial support; stigmatization of single mother; availability of welfare and child care provision, availability of employment). The case specific issues were whether the proposed removal of the Appellants from the UK was compatible with the UK's obligations under Articles 3 and 8 of the ECHR.

### Other notable past cases

*R v Secretary of State for the Home Department, ex parte Urmaza [1996] Times LR (11th July) (QBD)*

*R v Secretary of State for the Home Department, ex parte Hamid Habibi [1997] Imm AR 391 (QBD)*

*Tarlochan Singh v Secretary for the Home Department [1999] Imm AR 1 (CA)*

*Wilby v Secretary of State for the Home Department [1999] Immigration Law Update (HMSO)*

*Koncek (The Queen on the application of) v Immigration Appeals Tribunal  
R on the application of Beatrice Tientchu v*

*Koncek v SSHD (C/2000/6288) Wednesday 18 October 2000 (CA)*

*Kacaj v Secretary of State for the Home Department [2001] INLR 354 (IAT); [2002] EWCA Civ 314 (CA)*

*Ozdemir v Secretary of State for the Home Department [2003] EWCA Civ 167 (CA)*

*Atkinson v Secretary of State for the Home Department [2004] EWCA Civ 846 (CA)*

*Badur (Fahim) (R on the application of) v (1) Birmingham Crown Court (2) Solihull Magistrates' Court & (1) Director of Public Prosecutions (2) Secretary of State for the Home Department (3) Crown Prosecution Service (Interested Parties) [2006] EWHC 539 (Admin)*

*Christian (R on the application of) v Secretary of State for the Home Department [2007] EWCA Civ 311; [2006]*

*Santur (R on the application of) v Secretary of State for the Home Department [2007] EWHC 741*

*SC (Turkey) v Secretary of State for the Home Department [2007] EWCA Civ 318*

*Bashir (R on the application of) v Secretary of State for the Home Department*



*[2007] EWHC 3017*

*MB (Somalia) v Secretary of State for the Home Department [2008] EWCA Civ 102; [2008] Imm AR 490*

*MT (Afghanistan) v Secretary of State for the Home Department [2008] EWCA Civ 65*

*MY (Turkey) v Secretary of State for the Home Department [2008] EWCA Civ 477; [2008] All ER (D) 101 (public law)*

*MJ (Iran) v Secretary of State for the Home Department [2008] EWCA Civ 564*

### **Societies**

David is a member of the Immigration Law Practitioners' Association, Haldane Society and Amnesty International.