



## Émilie Pottle

Year of Call: 2008

### Practice Areas

- Extradition
- Inquiries
- Public International Law
- Public Law

### Attorney General Panel

Appointed to C panel

### Email:

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### Experience

Émilie is an extradition, public and international law specialist. She is recommended in the directories across multiple practice areas and has appeared before the Supreme Court, Court of Appeal and Divisional Court. She represents UK and foreign government departments, individuals and NGOs.

Emilie was junior counsel for the Crown in the landmark case of *R v TRA* [2019] SC 52 concerning the interpretation of the UN Torture Convention. The case arose out of a domestic prosecution for torture carried out during the civil war in Liberia.

In extradition Émilie has acted in the leading cases concerning prison conditions in France (*Shumba & Ors v France* [2018] EWHC 1762) and Romania (*Varga v Romania* [2019] EWHC 890), EAW validity (*King v France* [2015] EWHC 3670), and specialty protection (*Kortas v Poland* [2017] EWHC 1356). She has appeared alone against Queen's Counsel, and is also led in complex cases. Émilie is instructed in cases which involve an international law dimension, such as extradition requests for international crimes.

In international criminal work Émilie was part of the team defending Saif Gaddafi before the International Criminal Court. She has acted in cases before the ICTY and ICTR and advises NGOs and governments on matters of international criminal law and conducts training on the prosecution of international

crimes for lawyers and judges internationally.

Émilie has experience in a broad range of public law matters, and acts both for and against the government in judicial review proceedings, claims against public bodies and other proceedings with a public law element. She has particular experience in unlawful detention claims, human rights, immigration and asylum, and human trafficking.

Emilie has security clearance and is instructed in matters involving counter-terrorism and issues of national security.

### **Appointments**

Crown Prosecution Service Extradition Panel Grade 3

### **Education**

- Mst International Human Rights Law, Oxford University
- LLB Durham University

### **Memberships**

- Defence Extradition Lawyer's Forum
- International Bar Association: War Crime Committee

### **Languages**

French, English

## **Cases**

### **R v RTA**

**[2019] UKSC 55**

13 November 2019

Barristers involved: Émilie Pottle Kathryn Howarth

Supreme Court decision concerning the interpretation of article 1 of the UN Convention Against Torture. The appeal arose out of a domestic prosecution, under universal jurisdiction provisions, for offences of torture carried out during the Liberian civil war.

In this internationally significant appeal the Court found that article 1 of the Convention (as transposed into UK law) applies to those acting on behalf of non-state armed groups where those groups exercise functions normally exercised by governments over their civilian populations.

Emilie Pottle and Kathryn Howard were led by David Perry QC, and instructed by the CPS.

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### **Varga v Romania**

**[2019] EWHC 890**

10 April 2019

Barristers involved: Émilie Pottle

Leading Divisional Court decision concerning the compatibility of prison conditions in Romania with Article 3 of the ECHR. Émilie was instructed for the Requested Person and led by Edward Fitzgerald QC.

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## **Shumba & Ors v France**

**[2018] EWHC 1762**

12 July 2018

Barristers involved: Émilie Pottle

Leading Divisional Court decision concerning the compatibility of prison conditions in France with Article 3 of the European Convention on Human Rights (ECHR). Émilie was instructed for the Requested Person and led by Alison Macdonald QC.

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## **King v France**

**[2015] EWHC 1762**

17 December 2015

Barristers involved: Émilie Pottle

Leading Divisional Court decision concerning the technical requirements of European Arrest Warrants. Émilie appeared alone against Clare Montgomery QC.

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## **The Prosecutor v Saif Gaddafi**

**ICC 01/11-01/11**

15 May 2013

Barristers involved: Émilie Pottle

Émilie was instructed for the Defendant in the Libyan Government's appeal against the decision to declare the case inadmissible before the International Criminal Court. Émilie was led by John R W Jones QC.

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## **News**

### **German EAWs: Divisional Court approves local courts as 'judicial authorities'**

11/05/2020

Barristers involved: Émilie Pottle Juliet Wells

The issue arose following the judgment of the CJEU in OG and PI, in which it held that German public prosecutors were not 'judicial authorities' because they may be influenced by instructions issued by the executive. Following that decision, EAWs issued by German public prosecutors were withdrawn and were replaced in most instances with warrants issued by local courts.

Article 6(1) requires issuing judicial authorities to be competent 'by virtue of the law' of the requesting state. The Applicants relied upon expert evidence which showed that according to German law there was no clear basis for local courts to issue EAWs. Accordingly, some local courts had refused applications to issue EAWs.

Further, the Applicants argued that the requirement in Article 6(3) that member states inform the Council of the competent judicial authority was a mandatory requirement. At the time the EAWs were issued, the German authorities had not made the necessary notification. The Applicants sought a preliminary reference to the CJEU on both points.

The Respondents' position was that German law did provide a sufficiently clear basis for the issue of EAWs by local courts and that notification was not a mandatory requirement. A reference on either point was unnecessary.

The Divisional Court held that there was no doubt as to the ability of the German local courts to issue EAWs. Further, notification pursuant to Article 6(3) was not a mandatory requirement. The Court declined to make a reference on either point, holding that the meaning of Articles 6(1) and (3) were acte clair.

Émilie Pottle was instructed by Stephen Fidler & Co for the first Applicant, Juliet Wells was instructed by Armstrong Solicitors for the Second Applicant.

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## What Next?

This is the latest in a slew of cases challenging EAWs on the basis that the authorities who issued them are not judicial authorities within the meaning of the Framework Decision. It seems likely that further challenges will be made in the near future. A reference to the CJEU was made by the Divisional Court in the case of VA, concerning the issue of whether the Bulgarian public prosecutor was capable of being a judicial authority within the meaning of the Framework Decision.

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## The Coronavirus Act 2020: What Extradition Practitioners Need to Know

27/03/2020

Barristers involved: Daniel Sternberg Kathryn Howarth Émilie Pottle Saoirse Townshend Benjamin Seifert  
The Act makes substantial changes to the use of live links at extradition hearings.

A full briefing note has been prepared by Daniel Sternberg. It is available [here](#).

On 12 March 2020 Lord Hodge, Lord Sales and Lord Hamblen granted permission to appeal to the Supreme Court in a case will deal with the viability of assurances which purport to guarantee compliance with Article 3 of the European Convention on Human Rights. [Please see link](#).

On 18 February 2020 the Divisional Court referred the first and perhaps only UK extradition case to the Court of Justice of the European Union. [Please see link](#).

Chambers is very pleased to welcome Kathryn Howarth, Emilie Pottle and Saoirse Townshend to the [extradition team](#).

[Kathryn Howarth](#) specialises in public international law, extradition and public law. She is on the Attorney General's Public International Law Panel of Counsel and the Attorney General's Civil Panel of Counsel. She is instructed by UK and foreign government departments and individuals. Kathryn is described in the Legal 500 as combining "intellectual strength with an imperturbable, yet reassuring, court manner".

[Émilie Pottle](#) is an extradition, public and international law specialist. She is recommended in the directories across multiple practice areas and has appeared before the Supreme Court, Court of Appeal and Divisional Court. She represents UK and foreign government departments, individuals and NGOs.

[Saoirse Townshend](#) is described in Chambers & Partners 2020 as "A brilliant lawyer with a sharp mind and an unwavering determination to protect her clients." Saoirse has a dynamic court and advisory practice specialising in extradition and public law. Saoirse is instructed alone and is led in complex and novel points of law before the Supreme Court and the Divisional Court. Saoirse is ranked in both Legal 500 and Chambers and Partners.

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## TGC Welcomes Émilie Pottle to Chambers

04/03/2020

Barristers involved: Émilie Pottle

We are delighted to announce that [Émilie Pottle](#) has accepted an invitation to join Temple Garden Chambers. Émilie specialises in extradition, public and international law. She is a member of the Attorney General's "C" Panel.

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