



GARDEN COURT CHAMBERS

# Bojana Asanovic

YEAR OF CALL: 2000



Bojana has a wide-ranging practice in immigration, nationality and asylum matters and in related public and private law and human rights claims. She acts at all levels including the Supreme Court, the European Court of Human Rights and the Court of Justice of the EU.

Bojana acts as an expert witness in relation to immigration matters. She acts in Court of Protection matters.

She is instructed regularly in legally very complex cases, as well as those involving vulnerable claimants. She is experienced in dealing with high-value business matters. Bojana has a wide interest and expertise in the European Convention on Human Rights. Bojana's specialist interests include claims involving EU free movement, sexual orientation and gender identity, trafficking/modern slavery and deportation.

Bojana was shortlisted for Immigration Junior of the Year at the Legal 500 Bar Awards 2023, and was Highly Commended for Junior Pro Bono Barrister of the Year at the

## Advocate Bar Pro Bono Awards 2020.

"She is very smart on the law but also on wider public policy and has excellent background knowledge which she marshals to her cause with great effect."

CHAMBERS & PARTNERS, 2019

"Bojana is a highly experienced public law barrister with real intellectual heft. In addition to her well-known expertise in EU law/EU Settlement Scheme matters, she has a strong reputation in asylum and human rights work, such as for LGBT clients."

LEGAL 500, 2023

"One of the best barristers around. Her work makes her an absolute front runner in EU and LGBTQI+ related issues."

CHAMBERS UK, 2023

"Incredibly experienced in terms of EU law and deportation. She's very thorough and meticulous."

CHAMBERS UK, 2023

If you would like to get in touch with Bojana please contact the clerking team:

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## GENERAL IMMIGRATION AND INTERNATIONAL PROTECTION

Bojana has many years of experience acting for Claimants in appeals and judicial review challenges to Home Office decisions in the full span of immigration and asylum cases at all levels of courts and tribunals, be they challenges to visitor visas or long residence refusals.

Bojana advises on and acts in challenges to refusals of leave to business applicants which include innovators/investors, overseas representatives, Turkish ECAA business people as well as students and international graduates.

Bojana advises and acts in judicial reviews and appeals involving Article 8 ECHR family and private life within and outside the immigration rules, including, for example, parents, partners, children, long residence, dependent relatives or medical cases. She has extensive experience dealing with immigration-related challenges associated with adoptions.

Bojana acts in sensitive and complex international protection and human rights claims where discretion is paramount.

Bojana is known for adeptly handling multi-layered international protection and statelessness claims in judicial review contexts as well as in appeals. She deals with mandate refugee resettlement and family reunification. Legal 500 described her as “a formidable practitioner” noting her expertise in asylum matters.

Bojana has a wealth of experience acting in international protection cases involving criminality, including revocation as well as cessation of refugee status.

Bojana offers expert advice on immigration matters in family and extradition proceedings.

Described as “absolutely one of the principal barristers for LGBT and immigration cases” by Legal 500, she acts in immigration and asylum cases involving sexual orientation and gender identity.

Described as having “a very strong reputation in particularly complex cases relating to vulnerable groups” by Chambers UK, Bojana has particular expertise working with vulnerable claimants including children, those with mental ill-health as well as those who lack capacity or require intermediaries.

Bojana acts and advises on strategic litigation and was described as “very smart on the law but also on wider public policy and has excellent background knowledge which she marshals to her cause with great effect” by Chambers UK.

She regularly trains on a variety of topics including Article 8 ECHR and international protection for the Immigration Law Practitioners Association (ILPA) and speaks at conferences.

## **EU LAW, EU SETTLEMENT SCHEME, EEA REGULATIONS**

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Bojana is described as “a real specialist in EU law” by Chambers UK. She has acted for claimants and interveners in some of the leading cases in these areas, at all levels, including the Supreme Court and in the Court of Justice of the European Union.

Bojana acts in challenges and advises on the EU Settlement Scheme and EU law, primarily as it relates to free movement of persons, both through the lens of the Withdrawal Agreement and its domestic application, as well as historic entitlements and EEA Regulations.

She has extensive expertise in residence rights, documentation, detention and deportation of EU nationals and their family members.

She advises and acts in a variety of contexts including advice on strategic litigation.

She regularly trains on EUSS, EU law, Retained EU law including for the Immigration Law Practitioners Association (ILPA) and delivers on the subject at conferences.

## **NOTABLE CASES**

## **PUBLIC LAW AND HUMAN RIGHTS**

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Described as “the leading light in European law issues” by Chambers UK, Bojana has a wide experience of acting in a variety of contexts where human rights arise, especially in relation to the European Convention on Human Rights. Her cases have ranged from those related to high-value commercial interests under Article 1, Protocol 1 of ECHR, to discrimination, use of interim relief in removals and involvement in strategic litigation in relation to sexual orientation and gender identity. She is experienced in advising on and acting in ECtHR originating from non-UK jurisdictions.

Bojana acts in a variety of public law challenges to immigration-related decisions, including those involving accommodation, unlawful detention (especially of vulnerable claimants) as well as complex and novel claims against public authorities.

## **DEPORTATION AND FOREIGN NATIONAL OFFENDERS**

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Bojana has a wealth of experience acting in immigration proceedings involving foreign national offenders: in the context of deportation, human rights claims, EU law or international protection claims. Legal 500 described her as “a formidable practitioner” noting her expertise in deportation.

She acts in both judicial reviews and statutory appeals in cases where criminal offending is an issue, be it in the context of revocation of refugee status, human rights claims or EU / EUSS based challenges.

Bojana is known for her 'meticulous preparation' (Chambers UK) and is particularly suited for complex claims including those with extradition overlap. Her previous experience in criminal defence adds to her expertise in this area.

## **NATIONALITY**

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Bojana acts in and advises on a variety of matters in British nationality law: disputes over entitlement to nationality including naturalisation and registration, as well as deprivation of British nationality, and has a particular interest in good character requirements at the qualifying stage.

## **MODERN SLAVERY AND TRAFFICKING**

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Described by Chambers UK as having “a very strong reputation in particularly complex cases relating to vulnerable groups” Bojana has longstanding expertise in modern slavery and trafficking challenges in judicial review and acts in complex international protection claims involving modern slavery in the Tribunals.

## **COURT OF PROTECTION**

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Bojana acts in all areas of Court of Protection work including cases concerning deprivation of liberty, health and personal welfare and best interest decisions, acting for OS, ALRs, individuals and local authorities.

Bojana brings her considerable experience in acting for vulnerable clients in complex cases and utilises her wider public law and human rights knowledge where a holistic approach is required. She is versed in dealing with immigration related Court of Protection matters.

## **NOTABLE CASES**

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***Vasa & Anor v SSHD* [2024] EWCA Civ 777**

Linked appeals to the Court of Appeal concerning the correct interpretation and application of EU law to extended family members, post-Brexit (including the EU Settlement Scheme and the EU-UK Withdrawal Agreement). Acted for the intervenor, the AIRE Centre.

***Hussein v SSHD***, Supreme Court, [2022] Lexis citation 145; [2002] All ER (D) 13 (Sep). Successful appeal to the Supreme Court setting aside Court of Appeal decision ***Hussein v SSHD* [EWCA] Civ 156; [2020] 2 CMLR 34** Supreme Court post permission remitted the matter to the Upper Tribunal by consent on the application of the test of how to assess continuity of residence for 10 years so as to qualify for 'enhanced protection' as required by Article 28 of Directive 2004/38/EC. The Court of Appeal allowed the appeal in part on error relating to serious grounds and remitted that matter to Upper Tribunal. Second junior for the Appellant in Court of Appeal and Supreme Court.

***R (Ali Hafeez) v SSHD* [2020] EWHC 437; [2020] 1 WLR 1877** - Single junior for the Intervenor, the AIRE Centre, in a challenge to the lawfulness of regulation 33 of Immigration (EEA) Regulations 2016 which permits removal of EU nationals pending their appeal against deportation.

***Patel v SSHD; Shah v SSHD* [2019] UKSC 59; [2020] 1 WLR 228, [2020] 2 All ER 557** - Junior counsel for the intervenor, the AIRE Centre, in the case where the Supreme Court addressed the parameters that establish residence rights of Ruiz Zambrano carers of British citizens.

***Gauswami (Retained right of residence, Jobseekers)* [2018] UKUT 275 (IAC)** - Presidential Panel found that in order to retain a right to reside upon divorce, a third-country national spouse of a Union citizen needs to be a worker in the sense of Article 45 TFEU at the time of decree absolute, which includes being a jobseeker.

***IS, R (on the application of) v Secretary of State for the Home Department* [2016] EWHC 1623 (Admin)** - A claim for unlawful detention established liability on the basis that a report by a GP in detention amounted to independent evidence of torture and that SSHD had failed to act with diligence not having considered material evidence.

**C-115/15 NA Pakistan** - CJEU ruled on three distinct issues: retained rights of residence for divorced third country national spouses - victims of domestic violence under Article 13 Dir. 2004/38; rights of residence of children of former workers under Reg. 1612/68 as well as those arising from the application of TFEU Art 20. The reference followed from long domestic litigation: ***The Secretary of State for the Home Department***

~~*v NA (Pakistan) [2015] EWCA Civ 140; NA v Secretary of State for the Home Department [2014] EWCA Civ 995 and Ahmed (Amos; Zambrano; reg 15A(3)(c) 2006 EEA Regs) [2013] UKUT 00089 (IAC) [2013] Imm. A.R. 540; [2013] I.N.L.R. 505.*~~

~~*NK, R (on the application of) v The Secretary of State for the Home Department (IJR) [2015] UKUT 431 (IAC)*~~ - A reported decision of a successful judicial review of a refusal of a fresh claim by a lesbian from Cameroon.

~~*AB, R (on the application of) v Secretary of State for the Home Department [2013] EWHC 3453 (Admin)*~~ - A complex claim seeking to establish a breach of Art 3 by SSHD whose actions were claimed to have caused the claimant to be tortured on return. The claim was ultimately not successful for negative credibility findings but led to a reference to the Director of Public Prosecutions and the Attorney General of G4S for a prima facie case of forgery. Led by Martin Westgate QC.

~~*Babajanov (Continuity of residence - Immigration (EEA) Regulations 2006) [2013] UKUT 00513 (IAC); [2014] Imm. A.R. 196*~~ - Permanent residence under Article 16 of Directive 2004/38/EC can be established while a Union citizen, or a family member of that national, is outside the host country at the time it is acquired.

~~*Chomanga (binding effect of unappealed decisions) Zimbabwe [2011] UKUT 312 (IAC); [2011] Imm. A.R. 813*~~ - Following a successful and unchallenged appeal by an appellant, it is not open to the respondent to make a further adverse decision on the same issue relying on the same evidence, unless there is evidence of fraud or specific exceptions.

~~*Atapattu, R (On the Application of) v The Secretary of State for the Home Department [2011] EWHC 1388 (Admin)*~~ - A claim for damages resulting from unlawful retention of a passport of a student applicant for an entry clearance resulted in SSHD's liability in conversion under the Torts (Interference with Goods) Act 1977.

~~*MK (Lesbians) Albania CG [2009] UKAIT 00036*~~ – Former Country Guidance decision on risk factors to lesbians in Albania. After grant of permission on all grounds on appeal (including treatment of expert evidence), the case was remitted to the Upper Tribunal. MK was granted asylum and the appeal was withdrawn. The decision established that there was a risk to gay men. Conducted with Emma Daykin.

## WHAT CLIENTS SAY

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“There are some cases that just keep you up at night worrying; this was THE case. Bojana was there in the trenches fighting it with us all the way. She was an absolute superstar in the case and the client got an incredible result.” – Solicitor Client, 2023

"To say we are very happy with the outcome is an understatement. Bojana didn't give 100% but a 1000%, and we are so very grateful that she took our case on. She was so dedicated and caring throughout, a real big thanks to her." - Anonymous Client, March 2022

## BACKGROUND

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Bojana had acted as a legal analyst in international election observation missions for OSCE ODIHR. Prior to coming to the English Bar she was a current affairs journalist in former Yugoslavia.

## PUBLICATIONS

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Contributor to *The Law and Practice of Expulsion and Exclusion from the United Kingdom: Deportation, Removal, Exclusion and Deprivation of Citizenship*, editors Eric Fripp with Rowena Moffatt and Ellis Wilford, Hart Publishing, Oxford, 2015.

## PROFESSIONAL MEMBERSHIP

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Immigration Law Practitioners' Association (ILPA)

RLG

Joint Council for the Welfare of Immigrants (JCWI)

Constitutional and Administrative Law Bar Association (ALBA)

CoPPA

## LANGUAGES

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Serbian



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