



## Deok Joo Rhee KC

Year of call: 1998 | Silk: 2017

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*"Her approach to advocacy is modern and thoughtful and her written work is conveyed in a manner that is easy to understand yet forceful." "A fantastic advocate." Chambers and Partners 2022*

*"She is persuasive and packs a powerful punch. Her submissions are concise, and she is bright and good on her feet." "Very, very considered in her arguments; she delivers them in an understated way but is very persuasive." Chambers and Partners 2022*

Deok Joo Rhee KC's practice covers all areas of constitutional, administrative, EU and human rights law and related areas of commercial and environmental law. Within these fields the particular focus of her practice is EU economic and social policy, including public procurement, state aid, free movement, immigration and asylum, and related areas of domestic and public international law.

Her expertise is attested to by her entries in the legal directories across all areas of her practice.

Recent instructions include acting in lead 'policy' challenges (*Medical Justice v Secretary of State on the Removal Window Policy*, *BF (Eritrea) v Secretary of State* on the policy approach to initial age assessments; *MA & HT v Secretary of State on the Secretary of State's policy for 'short' age assessments*; *Medway Council v Secretary of State* on the mandation of the National Transfer Scheme for UASCs), leading in multimillion pound procurement challenges for both providers and NHS Trusts, appearing in the lead cases on the rights of Turkish businesspersons under the EC-Turkey Association Agreement, appearing for the Trustees in Bankruptcy in a EU free movement challenge to UK insolvency law, challenging a broadcaster's decision to film and broadcast footage of 'looked after' children, advising on devolution and the EU's Fourth Railway Package, defending the rights of transgender women to be included on All Women Shortlists, acting for a Consortium of local authorities on a judicial discipline judicial review, advising on the recent Violence Against Women and Girls Strategy, advising UK and EU actors in respect of EU sanctions and anti-money laundering legislation, and advising in respect of draft primary legislation including the Procurement Bill and the proposed BDS Ban Bill.

In 2019, she was instructed in the *Miller* litigation challenging the prorogation of Parliament – in the Divisional Court and Supreme Court – as lead counsel for the Shadow Attorney General.

In addition to her domestic practice, Deok Joo also welcomes instructions from clients overseas. In recent

years, she has appeared in the Financial Services Division of the Grand Court of the Cayman Islands defending a series of economic tort claims on behalf of Cayman National Bank and its parent company, in an environmental and constitutional law judicial review in the Grand Court of the Cayman Islands challenging the open release of genetically modified mosquitoes, has advised commercial clients – in Malaysia – on the termination of utilities' licences, in South Korea – on EU law matters and in the Cayman Islands on the lawfulness of species conservation plans as well as on commercial matters (including share purchase agreements).

Deok Joo is a member of KCAB International's Panel of International Arbitrators.

Prior to taking silk, Deok Joo was a member of the Attorney General's 'A' Panel of Government Counsel and has acted for most Government Departments. In this capacity she has appeared as sole, lead and junior counsel – in many lead cases – including before the UK Supreme Court and the Court of Justice of the EU.

She is a former Référéndaire at the Court of Justice of the EU and judicial assistant at the (UK) House of Lords and prior to coming to the Bar was a lecturer in European law at Lady Margaret Hall (Oxford University).

Deok Joo is a member of the Bar European Group, Administrative Law Bar Association (former Committee member and Officer), Liberty (former Council member and member of Liberty's Conference and Appeals Committee), United Kingdom Association of European Lawyers, British Institute of International and Comparative Law and International Association of Korean Lawyers. She is a former member of the Bar Council's Remuneration Committee, European Committee and International Committees. She also served as a member of the Advisory Committee to the Pyeong Chang Winter Olympics (2017-2018).

She is proficient in French (legal and conversational) and Korean (conversational).

## Areas of expertise

EU Law

Public Law and Human Rights

### EU Law

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Deok Joo is recognised as a leading silk in the field of EU law. She has particular expertise and experience across a broad spectrum of issues arising at the intersection of domestic, EU and international law. She has acted in numerous cases – before the domestic courts and before the Court of Justice of the European Union involving free movement and citizenship rights, the accession of A8 nationals, the compatibility of domestic law with EU law across the fields of environmental protection, transport regulation, pensions protection, insolvency, the interpretation of EU-Association Agreements, EU immigration and asylum law and the European Charter of Fundamental Rights. Her expertise extends to EU external relations law – including trade and investment law.

In addition to her work at the bar, she was appointed to work as a R  f  rendaire at the Court of Justice of the European Union in Luxembourg in the British Cabinet (2002-2004) – for Sir David Edward and Sir Konrad Schiemann. In that capacity she dealt with the full range of substantive and procedural law matters before the Court. Prior to coming to the bar, Deok Joo taught European law – at Lady Margaret Hall, Oxford University.

### EU Constitutional and International Law

EU legislative competence – including competence to require the imposition of criminal sanctions for environmental breaches (Case C-440/05 **Commission v Council** (Court of Justice of the European Union) [2007] ECR I-9097, [2008] 1 CMLR 22. [2008] All ER (EC) 489, [2008] Env LR 12 – 'Ship source pollution' case); distinction between single market transport and trans-European network legal bases (Case C-121/14 **United Kingdom v Parliament**, Council (Court of Justice of the European Union) (sole counsel).

Compatibility of EU asset freezing order with EU free movement law (*Rahim v HM Treasury*).

Issues arising under the Dublin II Regulation including the determination of Member State obligations (in particular in relation to asylum reception conditions in Greece and Italy); the interface between rights under the EU Charter of Fundamental Rights and ECHR (*NS v Secretary of State for the Home Department* [2010] EWCA Civ 990, [2010] EQLR 18, referred to Court of Justice of the European Union); leading domestic case on the interpretation of 'internal armed conflict' for the purposes of subsidiary protection under the *EU Qualification Directive (QD (Iraq) v Secretary of State for the Home Department* [2009] EWCA Civ 807, [2011] 1 WLR 689, [2012] 2 All ER 971, [2010] Imm. AR 132).

European Patent Convention and the domestic law reviewability of decisions by the European Patent Office to grant a European Patent – by reference to the *Patent Act 1977 and the Arbitration Act 1997 (Virgin Atlantic Airways Ltd v Jet Airways Ltd & Ors* [2012] EWHC 2153 (Pat), [2013] RPC 10).

## EU Regulatory Law

All areas including agriculture, fisheries, pharmaceuticals and regional development funding grants including:

Agricultural subsidies ('FEOGA' grants).

Allocation of EU fishing quotas and A1P1 ECHR, discrimination as between English and Scottish fish producer organisations and legitimate expectations (*United Kingdom Association of Fish Producer Organisations v Secretary of State for Environment, Fisheries and Agriculture* [2013] EWHC 1959 (Admin)).

Litigation and extensive advisory experience in relation to the clawback of European Regional Development Fund grants (for infrastructure projects for alleged breaches of EU procurement requirements) (*Mansfield DC v Secretary of State for Communities and Local Government* [2014] EWHC 2167 (Admin) – lead case in this area – sole counsel).

Pharmaceutical and Medicines Regulation including – licensing of generics and compatibility with EU law (*Association of the British Pharmaceutical Industry v Medicines Health and Regulatory Agency*), registration of herbal medicinal products (Alliance for Natural Health), medical devices disclosure obligations under the EU In-Vitro Medical Devices Directive (*JBoI Ltd v Medicines and Healthcare Products Regulatory Agency* (Upper Tribunal, 2014, lead counsel).

Rights and obligations of public sector guarantors of occupational pension schemes under the Institutions for Occupational Retirement Provision Directive (in particular in relation to the ability to influence investment strategy).

Environmental (Member State obligations under the Energy Efficiency Directive).

Intellectual property and the protection of rights under the Artists' Resale Rights Directive.

Procurement and state aid law – see below.

## EU Employment Law

Paid annual leave and the *Aviation Directive (Case C-155/10 Williams v British Airways (Court of Justice of the European Union)* [2011] ECR I-8409, [2012] 1 CMLR 23, [2012] ICR 847, [2011] IRLR 948).

Interpretation of 'dynamic' contract terms in collective agreements and TUPE (Case C-426/11 Alemo-Herron (Court of Justice of the European Union) [2014] 1 CMLR 21, [2013] ICR 1116).

Protection of employees in the event of insolvency of employers and the determination of the responsible Member State (Cases C-477/09 D'Álmeida (Court of Justice of the European Union) [2011] ECR I-1421, [2011] 2 CMLR 44 and C-310/07 *Sweden v Holmqvist (Court of Justice of the European Union)* [2008] ECR I-7891, [2009] ICR 675, [2008] IRLR 970). (Sole counsel in both.)

Challenge to National Minimum Wage Regulations (*Cordant v Secretary of State for Business, Innovation and Skills*). (Sole counsel.)

## EU Free Movement Rights, Social Security, 'Right to Reside' and Citizenship

All aspects of EU free movement rights including – youth football transfer fees and free movement (Case C-325/08 *Olympique Lyonnais* (Court of Justice of the European Union) [2010] ECR I-2177, [2010] 3 CMLR 14, [2010] All ER (EC) 615) (Sole Counsel); free movement of professionals including lawyers and the qualified lawyers transfer test and medical professionals.

Extensive litigation and advisory experience in relation to free movement and EU citizenship rights to social security and rights of residence (in both the social security and immigration/deportation contexts), including:

Advising on European Commission infraction proceedings in relation to the Worker Registration Scheme (applicable to 'A8' nationals).

LO (Portugal) [2014] EWCA Civ 199: deportation of EU national, Citizenship Directive, Article 8 ECHR. (Sole counsel.)

***Aleksandrovicuite & Or v Secretary of State for Work and Pensions and Secretary of State for the Home Department*** (Court of Appeal, 2011, on appeal from CIS/3004/2008 & CJSA/3003/2008): challenge to the Worker Registration Scheme for A8 nationals. (Sole counsel.)

***Dias v Secretary of State for Work and Pensions*** [2009] EWCA Civ 807, [2010] 1 CMLR 4: social security, free movement, residence permits (referred to Court of Justice of the European Union). (Sole counsel.)

***Kaczmarek v Secretary of State for Work and Pensions*** [2008] EWCA Civ 1310, [2009] 2 CMLR 3, [2009] EuLR 402: EU rights of residence, Citizenship Directive and Article 12 EC.

***Teixeira v Lambeth LBC*** [2008] EWCA Civ 1088, [2009] EuLR 253, [2009] HLR 9: EU rights of residence of third country national, child in education (referred to the Court of Justice of the European Union).

***Czop & Ors v Secretary of State for Work and Pensions*** CIS/1465/2009 & CIS/2357/2009: EU rights of residence of primary carers of children in education (referred to Court of Justice of the European Union). (Sole counsel.)

## EU Charter of Fundamental Rights

In the interpretation of EU Asylum Directives – including the Dublin II Regulation (*NS v Secretary of State for the Home Department*; *Mehrabani v Secretary of State for the Home Department*), the EU Procedures Directive (*S v First-Tier Tribunal* – sole counsel) and the EU Reception Directive (*Refugee Action v Secretary of State for the Home Department*).

In a challenge to EU asset freezing order (*Rahim v HM Treasury*).

## EU Procurement Law and State Aid Law

Deok Joo is also listed as a leading junior by both Chambers and Partners and Legal 500 in the field of procurement law. In particular, she has been listed as one of the top 3 juniors (Band 1) at the UK bar in this field by Legal 500 (2014). Her particular expertise in this area involves novel and cross-cutting issues for which she relies on her combined EU law and public law expertise. She regularly acts and advises in relation to both substantive and procedural issues which arise at all stages of procurement litigation, and on related regulatory and legislative matters for both public sector and private clients.

## EU Procurement and Regulatory Matters

Extensive experience in relation to all areas of EU procurement law:

- as it intersects with wider EU law and public law matters including in relation to – the procurement (and public) law implications of the Government's legal aid reforms on which she has advised extensively, lawfulness of clawback decisions by the Secretary of State for Communities and Local Government as the managing authority for European Regional Development Fund (ERDF) grants (including *Mansfield DC v Secretary of State for Communities and Local Government* [2014] EWHC

2167 (Admin): lead case on challenge to clawback of ERDF grant for alleged breaches of EU procurement requirements, as well as conduct of related cases and advisory work for grant recipients subject to clawback decisions).

- novel issues of law including novation and contract variation (in the context of GP services), black-listing of providers (lawfulness of exclusion), in-house supply and local authority companies, and overlap between procurement and state aid matters.
- exclusive rights, ICT, waste disposal, defence procurement

## Challenges under EU Procurement Regulations

- Passenger Transport Services (Medical Services Ltd v North West London Hospital Trust).
- Social Care Contracts (London Care Ltd v Hillingdon LBC).
- Confidentiality of bids (Avon and Wiltshire Mental Health Partnership NHS Trust v North Somerset Council)
- Parking enforcement contracts (Apcoa v Westminster City Council).
- Cross-authority 'in-house' supply (Risk Management Partners Ltd v Brent LBC [2009] EWCA Civ 490, [2010] BLGR 99; [2008] EWHC 1094 (Admin), [2008] EuLR 660, [2008] BLGR 429).

## EU State Aid Law

Extensive advisory work on procurement and state aid implications of major infrastructure projects and development agreements in London and in the regions.

Extensive advisory work on state aid implications of grant funding projects in the public sector; 'services of general economic interest', public service obligations (in transport, telecommunications), land disposal.

## Recommendations

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*"She produces very impressive written argument. She is a superb administrative lawyer of good judgement, with a broad knowledge of the principles and the case law."* The Legal 500 2022 (European Law)

*"A very clever lawyer and a very good advocate. We did some bold, far-reaching stuff together and she was the brains behind it."* *"She's very approachable, very available and always gives clear, supportive advice."* Chambers and Partners 2021 (Administrative and Public Law)

*"She has extremely detailed knowledge of our case. She is assiduous, hard-working and absolutely up to speed with every detail."* *"She is open to suggestions for different ways of tackling cases" and is "excellent in her presentation of coherent written submissions."* Chambers and Partners 2021 (European Law)

*"Her written and oral advocacy oozes erudition."* Legal 500 2020 (Administrative and Public Law)

*"Has an understated manner but commands the respect of the judges"* Chambers and Partners 2020 (European Law)

*"Very clever and considered; a careful advocate"* Legal 500 2019 (Administrative and Public Law and EU Law)

*"Very knowledgeable, especially on EU law issues"* The Legal 500 2019 (Civil Liberties & Human Rights)

*"Has an understated manner but commands the respect of the judges"* Chambers and Partners 2019 (European Law)

*"delightful and excellent to work with"* The Legal 500 2018 (EU law)

*"Remarkable; she is quietly passionate, extremely intelligent and great to work with"* The Legal 500 2018 (Administrative and Public Law)

*"Brilliant; her opinion is trustworthy and truly valuable"* The Legal 500 2018 (Civil Liberties)

## Memberships

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Deok Joo is active in a number of professional associations, most notably:

- Constitutional, Administrative and Bar Association (ALBA) (Officer 2004 to 2014, and Committee Member 2004 to 2016)
- Liberty Council (2007 to 2011) and Liberty Conference and Appeals Committee (2012 to present).
- Bar Council International Committee (joined 2016), Bar Council European Committee (2006 to 2007), Bar Council Remuneration Committee (1999 to 2000).

She is also a member of:

- British Institute of International and Comparative Law (BIICL)
- Bar European Group (BEG)
- United Kingdom Association of European Lawyers (UKAEL)
- International Association of Korean Lawyers
- British Korean Lawyers Association (BKLA)

## Qualifications

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- 2013 Appointed to the Attorney General's 'A' Panel of Government Counsel.
- 2002 – 2004 Référendaire ('law clerk'), European Court of Justice (Luxembourg) (British Cabinet – for Sir David Edward and Sir Konrad Schiemann).
- 2000 – 2001 Judicial Assistant ('law clerk') to the Law Lords, House of Lords (Lord Slynn of Hadley).
- 1997 – 1998 College lecturer, European Law – Lady Margaret Hall, Oxford University.
- 1997 Birkenhead Scholar – Gray's Inn, London.
- 1997 – 1998 Bar Vocational Course – Inns of Court School of Law, London.
- 1996 – 1997 Bachelor of Civil Law – Hertford College, Oxford University.
- 1993 – 1994 Diploma in French Law, University of Paris II (Panthéon-Assas).
- 1993 College Scholar, Hertford College, Oxford University.
- 1992 – 1996 Law and French Law (BA Hons) – Hertford College, Oxford University: Law Moderations – 1st Class; Law Finals – 1st Class.
- 1989 – 1991 Westminster School, London – French, Latin, Mathematics, Further Mathematics, Art.

## Additional Information

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### Publications

The Principle of Effective Protection Reaching Those Parts Other [Principles] Cannot Reach' – Judicial Review, Dec2011, Vol. 16 Issue 4, p440. (Delivered at joint ALBA/BEG Summer Conference, July 2011.)

Contributor, Liber Amicorum: Essays in honour of Sir David Edward (Hart Publishing, 2004).

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