

## Lord Anderson of Ipswich KBE QC

YEAR OF CALL: 1985 YEAR OF SILK: 1999

*"The top barrister for EU law."*

The Legal 500 2018-19

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## Practice Overview

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David's practice is built on his knowledge of European Union, human rights and public law, developed with the help of skills learned working in Brussels and Washington DC and teaching at King's College London. He has written and lectured widely on these subjects and appears regularly in Luxembourg (EU courts), Strasbourg (European Court of Human Rights) and in the full range of English courts.

As Independent Reviewer of Terrorism Legislation (2011-2017), his reports on counter-terrorism, counter-extremism and surveillance law were widely cited in the courts and in Parliament. Two of them were described as blueprints for the Investigatory Powers Act 2016. He has also served as a Council of Europe human rights monitor and a Recorder of the Crown Court, and continues to sit as a Judge of the Courts of Appeal of Jersey and Guernsey.

Long recognised in the professional directories, David has also been named by The Times as one of the UK's 100 most influential lawyers, and by the Evening Standard as one of London's 1000 most influential people. In 2015 he was shortlisted for "Internet Hero of the Year" by the Internet Services Providers Association, and named "Legal Personality of the Year" by the judges of the Halsbury Legal Awards. In the Queen's Birthday Honours in 2018 he was awarded KBE for services to national security and civil liberties.

In July 2018 David was introduced to the House of Lords as a cross-bench peer, but continues to practise in his fields of expertise.

## EU/Competition

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David Anderson is consistently star-rated by Chambers & Partners Directory as the outstanding QC in the field of EU Law, and was recently named as EU/Competition Silk of the Year. Some 150 appearances in the Court of Justice of the EU place him among the most respected and experienced of all practitioners in that forum. His ECJ practice extends into areas as diverse as agriculture (*BSE*), aviation (*Open Skies*), citizenship (*Morgan*), competition (*Coats*), consumer protection (*easyCar*), crime (*Ship Source Pollution*), conflict of Laws (*Apostolides*), free movement (*Sunday Trading*), immigration (*Yiadom*), intellectual property (*Levi v Tesco*), liability for judicial decisions (*Köbler*), pensions (*Robins*), pharmaceuticals (*Generics*), sport (*UEFA*), state aid (*Gibraltar*), taxation (*Cadbury Schweppes*) and telecommunications (*Roaming*).

He appeared in the leading cases on the relationship between EU and Human Rights (*Opinion 2/94*, *Matthews*, *Spain v UK*) and successfully represented the applicant, accused of funding terrorism, in the leading case on the

relationship between EU and Public International Law (*Kadi*).

David has long experience of EU law in United Kingdom courts as various as the Patents Court and the Court of Criminal Appeal. He has argued successfully for a number of “firsts” including the suspension of an Act of Parliament (*Factortame*), the judicial review of the intention to implement a directive (*Imperial Tobacco*) and the suspension of the operation of a directive in the UK (*ABNA*). Many of his cases involve references to the Court of Justice of the EU, on which David wrote the leading practitioners’ text.

Recent and current cases include Littlewoods’ claim for £1 billion compound interest on overpaid VAT; AbbVie’s challenge in the General Court to the decision of the European Medicines Agency to disclose its clinical study reports; challenges to EU and UK tobacco control measures; and Jon Gaunt’s freedom of expression case, currently in Strasbourg.

David has written extensively on EU law and has a long-standing association with the Centre of European Law at King’s College London.

## Public Law

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David’s public law practice initially grew out of EU Law: for 12 years he represented the Spanish Fishermen in their successful attempt to suspend an Act of Parliament and then claim damages (*Factortame*). He is still frequently instructed in judicial review cases with a European element, both in the UK and on reference to the Court of Justice of the EU: these include leading pharmaceutical cases such as *Generics* and *Novartis*.

His public law practice now extends to purely domestic cases, often with a commercial element. Recent examples are his successful defence of Betfair in *R v Levy Board ex p William Hill* and frequent judicial reviews and appeals in the aviation, pharmaceutical and telecommunications sectors.

David has appeared before the European Court of Human Rights some 30 times: his leading cases there include *Stubbings* (discrimination), *Hatton* (night flights), *McGonnell* (separation of powers), *Z* (access to court), *Al-Adsani* (state immunity), *Building Societies* (retrospective legislation), *Demopoulos* (property) and *Bancoult* (exile). He has appeared in cases against a variety of contracting States including the Czech Republic, Finland and Turkey.

This expertise also feeds into his public law practice, much of which concerns human rights (*ProLife Alliance*, *Conjoined Twins*, *Shambo*) or Public International Law (*Jersey Fishermen’s Association*, *Kibris THY*, *Eurotunnel*).

David has served on the committee of the Administrative Law Bar Association, has reported for the Council of Europe on the freedom of the media in Russia, Ukraine, Georgia and Turkey and is a regular speaker at public law conferences and events. He is ranked in the top tier of QCs by Chambers & Partners Directory for Public and Administrative law.

## Agriculture, fishing and food

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*Factortame* (Spanish Fishing) litigation 1988-2000; Challenges to BSE ban against the European Commission and France (CJEU); *ABNA* (traceability of foodstuffs, interim relief against directive, High Court and CJEU); challenges to tobacco advertising directive, tobacco products directive and plain packaging 1998-2016.

## Aviation

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Major cases include *EasyJet v BA (Go)*; *Turk Hava Yollari* (flights to Northern Cyprus); *Air Transport Association* (emissions trading scheme); *BA and others* (denied boarding regulations).

## Government and local authority

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Extensive experience of judicial review over 30 years, equally divided between applicant and central government work and generally with a commercial and/or international slant. Particular expertise in cases concerning aviation, gambling, pharmaceuticals, telecoms and all aspects of EU regulation.

## Pharmaceuticals

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Instructed in English, Irish and European courts in challenges to marketing authorisations including *Scotia Pharmaceuticals*, *Generics*, *Novartis* and on data confidentiality issues (*Abbvie*, General Court and CJEU). Acted in IP-related pharmaceutical cases including *Novartis* (SPCs) and parallel import cases. Represented and advised ABPI in PPRS-related litigation and NICE appeals. Recently appeared for Roche in litigation concerning pharmacovigilance obligations (High Court, Court of Appeal).

## Telecoms

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Various CAT cases for BT and OFCOM concerning number portability, mobile call termination rates, Pay TV.

## Terrorism and national security

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As Independent Reviewer of Terrorism Legislation, 2011-2017, authored various reports on national security law and practice including regular reviews of counter-terrorism legislation and *A Question of Trust* and *Bulk Powers Review* (2015-16), blueprints for the Investigatory Powers Act 2016. Since then have assisted with the drafting of terrorism and surveillance laws in Gibraltar, and appeared as an expert witness in the Irish High Court on the operational utility of communications data.

## Publications

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*References to the European Court* (Sweet & Maxwell 1995; 2<sup>nd</sup> edition with Marie Demetriou, 2002)

*A Question of Trust* (HMSO 2015)

Articles and chapters include:

“Shifting the Grundnorm (and other tales)” in *Liber amicorum for Lord Slynn of Hadley*, vol 1, Kluwer 2000

Contributions on Article 6 ECHR and effective protection in *Les principes communs d’une justice des états de l’Union Européenne*

(French Cour de Cassation, 2001)

"References for a preliminary ruling" in *Civil Appeals*, ed. Sir Michael Burton, 2002

"The Law Lords and the European Courts" in *Building the UK's New Supreme Court*, ed. A. Le Sueur, OUP 2004

"European Influences" in *The Judicial House of Lords*, ed. L. Blom Cooper, OUP 2009

Contribution to *Competition Litigation: UK Practice and Procedure*, OUP 2010

"The EU Charter of Fundamental Rights" in *Europe after the Treaty of Lisbon*, ed. A. Biondi, OUP 2011

"Shielding the Compass: how to fight terrorism without defeating the law" [2013] 3 EHRLR 233-246

"The Independent Review of Terrorism Law" [2014] Public Law 403-420

"Barzini's Question: United Europe and the United Kingdom" *Academy of European Law* 2015/02

## Education & Qualifications

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Oxford University, New College (Ancient and Modern History) 1979-82

Cambridge University, Downing College (Law) 1982-84

Covington & Burling, Washington DC (Lawyer from Abroad) 1985-86

European Commission, Brussels (Cabinet of Lord Cockfield) 1987-88

King's College London, Visiting Lecturer (1988-1999), Visiting Professor (1999 - )

Recorder, South Eastern Circuit (2004 - 2013)

Bencher, Middle Temple (2007 -)

Judge of the Courts of Appeal of Jersey and Guernsey (2014 - )

## Directory Quotes

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- "It's impossible to praise him highly enough - he's just the real deal. Clever, urbane, and economical in his approach, he has such clarity of expression." He has "impeccable discernment and judgement" and is "immensely well respected by courts and anyone who appears against him." (Chambers & Partners 2019)
- "He is the leading EU public law silk and has an excellent advocacy style." "He is calm, measured and incredibly effective in court." (Chambers & Partners 2019)
- "A very good advocate." (The Legal 500 2018-19)
- "Hugely experienced and charming." (The Legal 500 2018-19)
- "The top barrister for EU law." (The Legal 500 2018-19)
- "An excellent counsel who is approachable and easy to work with. He provides clear, concise and practical advice. His written work is exemplary." "He is a leading EU public law expert and a spectacular advocate in the EU and domestic courts. He has a style that oozes confidence which makes everything sound reasonable and like the obvious answer. He is spectacular." (Chambers & Partners 2018)
- "The leading EU public law expert. He is a spectacular advocate with a style that oozes confidence." (Chambers & Partners 2018)
- "A charming and hugely experienced advocate." (The Legal 500 2017)
- "An excellent advocate, who provides well-researched and thought-out advice." (The Legal 500 2017)

- "A leading EU public law advocate, who has a way of making his side seem eminently reasonable." (The Legal 500 2017)
- "He is highly respected by the EU judiciary and his fellow barristers. Combines adept client-handling skills with an exceptionally strong strategic instinct - he's a delight to work with." (Chambers & Partners 2017)
- "Hugely assured. Having him as your advocate is like being driven in a Rolls-Royce Silver Shadow." "He is a very clear advocate. Judges will adopt what he says into their judgments." (Chambers & Partners 2017)
- "Excellent and very much in demand." (The Legal 500 2016)
- "Stands out for his ability to win over everyone – clients, other parties and judges." (The Legal 500 2016)
- "He is extremely responsive and has second-to-none knowledge of EU law." (The Legal 500 2016)
- "Highly experienced silk advising clients on the full range of administrative and public law issues. His case experience ranges from commercial judicial reviews and regulatory challenges to human rights and state immunity." (Chambers & Partners 2016)
- "David has an incredible level of analysis and mastery of presentation, he is charismatic and charming." (Chambers & Partners 2016)
- "A terrific, well-judged court advocate who is intelligent and commercial." "The top barrister for EU-related public law. A very good advocate who always makes his submissions appear reasonable." (Chambers & Partners 2015)
- "Praised time and time again for his matchless knowledge of this area. The mention of his name is instantly met with appreciation and approval of his status as a star individual." (Chambers & Partners 2015)
- "David Anderson is amazing! He is one of the best barristers around." "The finest practitioner of European [EU] law in the market." (Chambers & Partners 2015)
- "Widely admired." (The Legal 500 2014)
- David is ranked in the 'Chambers 100 UK Bar', a list of the top barristers practising at the Bar of England and Wales.
- "Universally acknowledged to be the standout name for European law matters. His enviable talents are well catalogued by sources who seek him out for his "eloquence," "analytical approach" and "incredible advocacy." His experience of the EU system and his extensive knowledge across the field make him the top choice for high-profile clients involved in complex and drawn-out legal challenges." (Chambers & Partners 2014)
- "He brings a global view to a problem, and his understanding of EU law is outstanding. He takes an analytical approach and always considers the bigger picture." "The best EU litigator at the Bar - he's a real star." (Chambers & Partners 2014)
- "He is fabulous - a very attractive advocate." "He is an absolutely excellent advocate, who commands the confidence of the court." (Chambers & Partners 2014)
- "Brick Court Chambers' highly respected silks include the 'outstanding' David Anderson QC" (The Legal 500 2013)
- "David Anderson QC is a "first-rate judicial review lawyer" and a "real heavyweight" in public law litigation that has a commercial flavour. Allied to this he is currently the Independent Reviewer of Terrorism Legislation. He works closely with the UK government and the Treasury Solicitor on matters of public and international public law, and also has a renowned EU law and competition practice. Instructing solicitors comment that he is "the complete opposite of pompous - he is very user-friendly and clients like him."" (Chambers & Partners 2013, Administrative & Public Law)
- "Commentators are quick to confirm that "there is no question that David Anderson QC is an absolute star" in the EU law arena, and are happy to detail the qualities that make the man. His "gravitas and wealth of experience" are beyond doubt, as are the "great judgement and analysis" which he applies to a wide range of EU law-related matters. A recent example of his work was a challenge to the way that the pricing of international roaming on mobile telephones is regulated." (Chambers & Partners 2013, Competition/European Law)
- "Brick Court Chambers' standout silks include the 'superb' David Anderson QC, who is 'brilliant with clients'" (Legal 500 2012, Administrative and public law)
- "the renowned David Anderson QC." (Legal 500 2012, Civil Liberties and Human Rights)
- "'One of the most experienced and accomplished English advocates before the European courts', David Anderson QC has 'a compendious knowledge of the law'." (Legal 500 2012, EU and Competition)

- "amazing attention to detail and limitless knowledge" (Chambers UK 2012)
- "excellent advocate" (Legal 500 2011)
- "an exemplary advocate"; "handles clients just beautifully"; "he is a fantastic choice since he is so approachable and has a holistic understanding of the EU legal framework that is almost unparalleled" (Chambers & Partners 2011)
- "really brilliant" (Legal 500 2010)
- "unfussy and incisive, he has a real understanding of the mood of the court"; "a strong advocate, who has a broader public law perspective" (Chambers & Partners 2010)

## Languages

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French