

## Fergus Randolph KC

YEAR OF CALL: 1985 YEAR OF SILK: 2009

*'Fergus is extremely knowledgeable and addresses novel legal issues in a pragmatic manner. An incredibly versatile, accessible silk, his client is always highly satisfied with the depth and clarity'*

The Legal 500 2023

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## Practice Overview

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Fergus Randolph KC has a wide-ranging practice, covering competition, sanctions, post-Brexit trade work, commercial agency, public procurement and all aspects of EU law.

He frequently appears in the Competition Appeal Tribunal, all divisions of the High Court, Court of Appeal, Supreme Court as well as the General Court and Court of Justice in Luxembourg.

He also sits as an arbitrator.

Current cases/work includes:

- Lead counsel in Collective Proceedings before the Competition Appeal Tribunal in the car financing case worth around £1 billion;
- Instructed on behalf of Squibb Group Limited in the appeal against the CMA's Demolition and Related Services Decision;
- Acting for PriceRunner in a substantial follow-on competition damages claim against Google in the Swedish courts;
- Representing Morrisons Supermarket in three appeals against HMRC decisions, seeking to impose multi-million pound duties on the company;
- Appearing in the Commercial Court in major litigation dealing with ownership and control under Regulation 7(4) of the 2019 Sanctions Regulations;
- Appearing in front of the CJEU's Grand Chamber on a case relating to events in the Kosovan conflict re the Court's jurisdiction over the EU's Common Foreign and Security Policy.

Fergus is a full member of the Brussels Bar (Balie) and as such is entitled to advise and represent clients on matters of EU law before the EU Commission and the EU Courts in Luxembourg.

Prior to practising at the London bar, Fergus spent 15 years in Brussels including time at the European Commission and his practice has taken him to international jurisdictions such as Hong Kong, the Falkland Islands and the South Georgia Supreme Court.

Throughout his career, he has appeared in many leading cases including *White v. White* (House of Lords); *Lonsdale* (House of Lords); *Quark* (South Georgia Supreme Court and the House of Lords); *Ingmar* (European Court of Justice); *Arkin v. Borchard Lines* (High Court and Court of Appeal); *Albion Water* (Competition Appeal Tribunal); *Churchill Insurance v. Wilkinson* (High Court, Court of Appeal and European Court of Justice); *Bloomsbury International* (Supreme Court); *Arcadia v. MasterCard* and *Visa* (Commercial Court); *Churchill v. Ede & Ravenscroft* (Competition Appeal Tribunal); *IRISL* (General Court) and *Tomanovic* (General Court and CJEU).

## Competition

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Fergus continues to be instructed in key competition cases in the UK and abroad. He is currently leading the collective action in relation to car financing, he is challenging the CMA decision in the Demolition Market decision and is acting against Google in the Google Shopping follow-on damages claim in Sweden. He started the ground-breaking interchange litigation on behalf of Arcadia and other retailers against MasterCard and Visa and acted in the first competition damages claim brought in the English courts in *Arkin v. Borchard*.

## Sanctions

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Since Russia's invasion of Ukraine, Fergus has been instructed by a large number of individuals and companies on sanctions issues. He was involved in the *Truphone* pre-pack and will be appearing in the Commercial Court on a heavy application dealing with ownership and control under Regulation 7(4) of the 2019 Regulations. He also advises international regulators as to their obligations under their respective sanctions' regimes.

## post-brexit trade

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Much trade work, including in relation to anti-dumping duties, used to be the exclusive preserve of the EU. Post-Brexit, that is no longer the case. Fergus is instructed by a major supermarket in three appeals against HMRC decisions, seeking to impose multi-million pound duties on the company. He recently successfully appeared in the First-Tier Tribunal (Tax Chamber) on an application against HMRC.

## International/EU

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Fergus has rights of audience before the EU General Court and the EU Court of Justice as a fully-qualified member of the Brussels Bar. He recently appeared in front of the CJEU's Grand Chamber on a case relating to events in the Kosovan conflict. The case will determine the Court's jurisdiction over the EU's Common Foreign and Security Policy, and accordingly will be one of substantial constitutional importance.

He is also acting on behalf of a third-country national who has been refused access to the UK. The matter will be determined in the Special Immigration Appeals Tribunal, with open and closed procedures.

## Arbitration

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Fergus sits regularly as an arbitrator. The matters covered include the commercial agents' regulations and sanctions.

## Miscellaneous

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Prior to taking silk in 2009, Fergus was identified as one of the leading juniors in EU and competition law in Chambers & Partners and Legal 500 and is currently recognised in both as a leading silk.

In appropriate cases, he will accept instructions on a direct access basis within his areas of expertise. He is fully accredited under the Bar Council's Public Access Rules.

## Qualifications & Further Information

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- LLB and Licence en Droit (Aix-en-Provence);
- Called to the Brussels Bar February 2018;
- Appointed to the Competition Commission of Hong Kong's Panel of External Senior Counsel;
- Former Leader of the European Circuit of the Bar Council;
- Chairman of the Bar Council's Law Reform Committee;
- Bar Council representative for the European Commission's initiative on contract law;
- Committee member of the Bar European Group;
- Committee member of the European Maritime Lawyers Organisation;
- Bencher, Middle Temple;

- Member of the Slynn Foundation's Delivery Group with special responsibility for EU law.
- Member of lawforchange panel of experts

## Lectures

- Frequent lectures on all aspects of EC law and UK litigation

## Publications

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- Commercial Agency & Distribution Agreements: Graham & Trotman 1989
- Shipping & EC Competition Law: Butterworths 1991
- Banking Secrecy: Sweet & Maxwell 1993
- Guide to the Commercial Agents Regulations CCH 1994; Davey and Randolph
- Guide to the Commercial Agents Regulations 2nd Edition: Hart Published 2003
- Contributor to Competition Litigation UP Practice and Procedure OUP 2010
- Guide to the Commercial Agents Regulations 3rd Edition - published by Hart in 2010

## Directory Quotes

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- "Fergus Randolph is very strong in competition and regulatory matters." (Chambers & Partners 2024)
- "He is very knowledgeable in antitrust/competition law matters and matters regarding procedural law. He is responsive and can draw from his wide experience when providing advice." (Legal 500 2024)
- "Very responsive and an industry expert, who delivers very astute, pragmatic and strategic advice." (Chambers & Partners 2023)
- "Fergus is extremely knowledgeable and addresses novel legal issues in a pragmatic manner. An incredibly versatile and accessible silk, his client is always highly satisfied with the depth and clarity of his legal opinions." (Legal 500 2023)
- "Fergus is highly experienced, very knowledgeable and a responsive silk who provides advice quickly." (Legal 500 2023)
- "Knows his stuff and appears well in court." "He is incredibly good-natured and is willing to work collaboratively." (Chambers & Partners 2022)
- "He possesses deep competition knowledge and is a fantastic team player who is unflappable under pressure." (Legal 500 2022 and Chambers & Partners 2021)
- "He's a brilliant lawyer and a very easy person to work with." (Chambers & Partners 2021)
- "Pleasant to deal with, he gets the job done." (Legal 500 2021)
- "Efficient, proactive, and clearly well prepared." "If ever I have a point to check I can pick up the phone and ask him. He will always point me in the right direction or give a direct answer." "He was quickly able to grasp our industry and all of the terminology that goes with it; within a matter of days he seemed to know our market and our business inside-out." (Chambers &

Partners UK & Global 2020)

- "Very persuasive, particularly in trial." (The Legal 500 2020)
- "Personable and easy to work with, he has a good rapport with clients." (Chambers & Partners UK & Global 2019)
- "Exceptionally responsive and dedicated to the cause. He applies his mind to the client's problems and then takes it from there, which is a desperately rare quality for a barrister." (The Legal 500 2018-19)
- "He is very calm, user-friendly and has a good ability to distil things down for his clients." (Chambers & Partners 2018)
- "He is really quick to understand what the issues are and understands how the issues impact on us." (Chambers & Partners 2018)
- "He is popular with clients and has a no-nonsense attitude." (Chambers & Partners 2018)
- "A broad pair of shoulders in a challenging field." (The Legal 500 2017)
- "He is extremely good: he's flexible, hard working and has enormous technical knowledge." (Chambers & Partners 2017)
- "He is very experienced and he gives sensible and pragmatic advice because he knows his area so well." (Chambers & Partners 2017)
- "He is approachable, hands-on, makes himself available and is very user-friendly." (Chambers & Partners 2017)
- "Sensible, tough and determined." (The Legal 500 2016)
- "He is an extremely clear and very articulate EU policy expert with very good written and oral advocacy skills." (Chambers & Partners 2016)
- "At the forefront of the development of damages claims for breaches of competition law." (The Legal 500 2015)
- "He is really forging ahead." "A great all-rounder who is very creative. He's good to have on your side when you are in a tight corner." (Chambers & Partners 2015)
- "Astonishingly intelligent, he has a phenomenal ability to get to grips with other areas of the law quickly." "Offers clear advice and never loses sight of the commercial end game." (Chambers & Partners 2014)
- "A strong performer, who is also good on paper and very thorough." (The Legal 500 2014)
- "Astonishingly intelligent, he has a phenomenal ability to get to grips with other areas of the law quickly." "Offers clear advice and never loses sight of the commercial end game." (Chambers & Partners 2014)
- "excellent advocate" (Legal 500 2013)
- "Fergus Randolph KC consistently impresses sources with his hands-on and pragmatic approach, and is someone who "demonstrates extreme commitment, remains consistently focused and is a good team player." His vast experience in competition and non-competition-related EU law matters means he is instructed on a range of complex briefs." (Chambers & Partners 2013)
- "Fergus Randolph KC earns praise for having long-standing expertise in advising on competition and European law-related matters." (Chambers & Partners 2012)
- "'pragmatic, and involved, and brings real momentum to a case'." (Legal 500 2011)

- "Fergus Randolph KC is "not one of those barristers who likes to wrap the client up in reams of legal arguments." Instead, he takes a more practical approach, "preferring direct action to endless prevarication." Those who have seen him in court see him as "a barrister of great style." (Chambers & Partners 2011)

## Languages

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Fluent French, basic Italian and Dutch.