

Can Yeginsu

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He has the gravitas of a natural leader and possesses a giant intellect.

- Chambers & Partners, 2019

Can Yeginsu is a leading barrister practising in commercial litigation and international arbitration, civil fraud, professional liability, public law and human rights, and both private and public international law.

Can is consistently ranked by Chambers Global, Chambers UK Bar, and Legal 500 as an outstanding junior in five practice areas: (i) commercial litigation; (ii) international arbitration; (iii) administrative and public law; (iv) civil liberties and human rights; and (v) public international law.

In 2019, Can was shortlisted for the '*International Arbitration Junior of the Year*' by Legal 500 and appointed to the independent High-Level Panel of Legal Experts on Media Freedom, convened by the former President of the UK Supreme Court, Lord Neuberger, and the UK's Special Envoy on Media Freedom, Amal Clooney, at the request of the UK and Canadian Governments.

Frequently appearing in the Commercial Court, Administrative Court, and the Chancery Division, Can has also acted in over 30 cases in the Court of Appeal, UK Supreme Court and the European Court of Human Rights. In addition, he has experience acting as co-counsel in proceedings before the ECOWAS Community Court of Justice, the Inter-American Court of Human Rights, the Federal Court of Malaysia, the Turkish Constitutional Court, and the Supreme Court of The Gambia. Can is admitted to the Bar of the DIFC Courts.

In his arbitral practice, Can is regularly instructed to act in commercial disputes under the LCIA, ICC, LMAA, and CIArb Rules, as well as in ad-hoc arbitrations under the UNCITRAL Rules. Can also has particular expertise in investor-state arbitration, including claims brought under the ICSID Rules and the ICSID Additional Facility Rules. He has received, and continues to accept, appointments as sole and co-arbitrator.

Can is **Adjunct Professor of Law** at Georgetown Law (Washington D.C.) and Koç University Law School (Istanbul) where he teaches investor-state arbitration. Can is also **Lecturer-in-Law** at Columbia Law School (New York) where he teaches international human rights law. He is the co-author of *The Protections for Religious Rights: Law and Practice* a leading practitioners' text, published by Oxford University Press, and **Partner Fellow** at the Lauterpacht Centre for International Law, University of Cambridge.

In 2013, Can was recognised as one of ten "Stars" practising at the Commercial Bar by Legal Week Magazine where he was identified as possibly one of "*the Bar's true polymaths...able to advocate in a wide variety of legal areas, with seemingly effortless fluency*".

Privacy Policy



Click here for a [Privacy Policy](#) for Can Yeginsu.

Transparency Statement

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Areas of Expertise

Commercial Litigation

“You know when you give him a piece of work, be it a pleading, evidence or skeleton, that it will come back in a state of perfection and that any issues he identifies will be matched by clever solutions – a dream junior barrister.” *Legal 500, Commercial Litigation, 2021*

“A polymath who can turn his hand to any area of litigation, he has the judgement of a far more senior counsel.” “He has the gravitas of a natural leader and possesses a giant intellect.” *Chambers & Partners, Commercial Dispute Resolution, 2019*

“An outstanding advocate with impeccable judgement and formidable brainpower.” *Legal 500, Commercial Litigation, 2019*

“Very user-friendly and meticulous” “As an advocate, he’s very confident due to his awareness of his own intellectual abilities” *Chambers & Partners, Commercial Dispute Resolution, 2018*

“Insightful and sharp with excellent strategic and legal drafting skills” *Legal 500, Commercial Litigation, 2018*

“A first-class international advocate...in a class of his own” *Chambers Global, Dispute Resolution, 2017*

“His serious legal brainpower is accompanied by a deft touch with clients” *Legal 500, Commercial Litigation, 2017*

“Our clients want him, listen to and trust him” *Legal Week, Stars of the Bar, 2013*

Can has a thriving practice across a broad range of commercial litigation, including significant trial experience in the Commercial Court and the Chancery Division. He is now regarded as one of the top juniors at the Commercial Bar, nominated in 2019 as **Junior of the Year** for International Arbitration by *Legal 500*, and recognised in 2013 as one of Legal Week’s ten “Stars of the Bar”. Interviewees commented *“he has an excellent mind with a real talent for picking out the key issues” “very persuasive...inspiring confidence”* and that he *“regularly acts on million-pound litigation cases as sole counsel”*.

A considerable amount of Can’s work includes an international or cross-border dimension and he has particular expertise in conflict of laws issues (including jurisdiction challenges under Part 11 of the CPR). Can’s experience ranges across:

- Applications for pre-action disclosure and urgent injunctive relief (including freezing and proprietary injunctions).
- Bringing and resisting applications for security for costs.
- Enforcement proceedings (including the enforcement of arbitral awards).
- Claims giving rise to issues of choice of law and/or jurisdictional disputes.
- Civil fraud, with particular experience in conspiracy and economic tort claims, and frauds arising in the investment context, shareholder disputes, and agency contracts, as well as advanced fee frauds.
- Technology and IT disputes.
- Disputes between franchisors and franchisees.

- Wrotham Park, or Licence Fee, Damages.
- Bringing substantial claims for damages under s. 8 of the Human Rights Act 1998, alternatively commercial just satisfaction claims in the European Court of Human Rights, for violation of property rights under Article 1 of the First Protocol to the European Convention.
- The Sale of Goods Act 1979 and Supply of Goods and Services Act 1982.
- Matters concerning the enforcement of loans and guarantees.

Can has also given evidence in various jurisdictions as an expert in English commercial law.

Can is a member of the Commercial Bar Association (COMBAR) and the IBA Litigation Committee.

Cases

• Bazhanov v Fosman (Commercial Ct)

High profile successful jurisdiction challenge, led by Stuart Ritchie Q.C. of Fountain Court Chambers: permission to serve proceedings on Russian defendants was set aside as there was no good arguable case that binding agreements had been made for the provision of services to refinance a Russian company, or that English law and jurisdiction was to apply.

Background: The second claimant, Morrins, owned a group of companies for the ultimate benefit of the first claimant Alexey Bazhanov, a former Russian Minister of State, who had fled to England following criminal charges of fraud against him in Russia. The group was placed into an insolvency process. Mr Bazhanov arranged to meet the first defendant Russian businessman in London in June 2014 to discuss a plan to refinance the group. It was agreed that the first defendant would liaise with the Russian authorities and work on funding, and the first claimant would effect introductions and provide important documentation. They met a further two times in England, and in Russia in May 2015 when a document was signed. The claimants began proceedings in England claiming that there had been an agreement that the first defendant would buy-out the first claimant's interest in the group, the agreement would be governed by English law and jurisdiction and the third defendant had since come to own the group at a very favourable price. The claim alleged breach of contract, alternatively unjust enrichment. The claimants were granted permission to serve the proceedings on the defendants in Russia.

Held: Application granted.

Was there a good arguable case that each contract claim fell within a jurisdictional gateway in CPR PD 6B? No. The claimants were unable to satisfy the absolute standard to be met under CPR PD 6B of having "some substance" to their contract arguments, let alone satisfying the "relative plausibility test" discussed in *Brownlie v Four Seasons Holdings Inc [2015] EWCA Civ 665, [2016] 1 W.L.R. 1814, [2015] 7 WLUK 125*, *Brownlie* considered. That was so even if the gloss originating from *Canada Trust Co v Stolzenberg (No.2) [1998] 1 W.L.R. 547, [1997] 10 WLUK 543* did not apply, namely that the good arguable case test reflected that one side had a "much better argument on the material available", *Canada Trust* considered. The content of the discussions and the document had not been sufficiently certain to amount to binding contracts. The claimants had also failed to establish a good arguable case that it had been expressly agreed that the June 2014 agreement was to have been governed by English law. In the absence of an express agreement they had to rely on Regulation 593/2008 art.4 to confer jurisdiction but, as the agreement contemplated that services would be provided by both individuals, under art.4 it would have been governed by the law of the country with which it was most closely connected, which was Russia (see paras 51- 55, 60, 64 of judgment).

Was there a serious issue to be tried in relation to unjust enrichment? No. No such claim was available under Russian law, and it was not arguable that English law applied as a choice of law under Regulation 864/2007 art.14 . Even if there was a good arguable case for an express agreement that English law should apply, there was no suggestion that that agreement applied to non-contractual obligations and no circumstances were relied on to support an implied choice. Further, as the unjust enrichment claim was advanced as an alternative to a contract claim art.10 could not apply; if there was no contract there was no governing law that could be derived from it for the purposes of art.10 (paras 73, 75, 77).

Was there a good arguable case that the unjust enrichment claim fell within a jurisdictional gateway in CPR PD 6B? Yes. If there was a serious issue to be tried, the claimants had demonstrated a good arguable case that a substantial part of the acts in question were committed within the jurisdiction and therefore fell within gateway para.3.1(16). Although the assistance said to have been provided by the first claimant was translated into concrete actions in Russia, that only took place because he, whilst based in England, had given his consent or instructions. Although the defendants' acts were committed in Russia, more weight

should be given to the first claimant's acts in view of the nature of the unjust enrichment claim, *Sharab v Prince Al-Waleed Bin Talal Bin Abdul-Aziz Al-Saud* [2012] EWHC 1798 (Ch), [2012] 2 C.L.C. 612, [2012] 6 WLUK 737 applied (para.85).

Was England the proper place for resolution of the dispute? No. The case was overwhelmingly connected with Russia and there was no grave risk of an unfair trial in Russia. The court would not have exercised its discretion to grant permission to serve out (paras 94-95, 103).

Conclusion – Permission to serve out of the jurisdiction was set aside and a declaration granted that the English court had no jurisdiction to hear the claim (para.106).

The claimants appealed to **the Court of Appeal** but permission was denied them in late 2018.

- **Marathon Asset Management v Seddon & Ors (Commercial Ct)**
5 week trial between asset management professionals, listed by *The Lawyer* as one of the Top 20 cases of 2016-7. Led by Stuart Ritchie Q.C. of Fountain Court Chambers for lead D. Leggatt J awarded nominal damages.

See also other reported decisions: [2017] EWHC 479; [2017] 2 Costs LR 255 (Costs).
- **Stirling Mortimer (Commercial Ct)**
Commercial Court claim for €59m brought by Guernsey fund, including allegations of fraud. Led by David Turner QC.
- **Breyer Group v Department of Energy and Climate Change (Commercial Ct)**
Led by Patrick Lawrence QC, in a £195 million claim for damages under s. 8 of the Human Rights Act 1998 for violation of the Claimants' rights under Article 1 of the First Protocol (ECHR), following the government's proposed retrospective changes to the feed-in-tariffs scheme for solar photovoltaic installations. Successful in the trial of preliminary issues at first instance ([2014] EWHC 2257) and in the Court of Appeal ([2015] EWCA Civ 408). Trial settled in 2017.
- **Patel v Barrowfen (Companies Ct)**
Acting (unled) for two family members of a leading conglomerate in a substantial dispute involving multiple commercial vehicles and spanning multiple jurisdictions, involving allegations of fraud and interests in excess of US \$120 million.
- **Pivdenny Bank (Commercial Ct)**
Sole counsel, representing a Ukrainian Bank in the Commercial Court in a claim for declaratory relief (and linked enforcement proceedings) relating to rights under a number of ship mortgages, following arrests of the vessels in foreign waters. The case is part of the multiple proceedings relating to the hundreds of millions of pounds of state assets believed to have been owned or used by the ousted Ukrainian President Viktor Yanukovich and his circle.
- **InnovatorOne Plc (Commercial Ct)**
Junior Counsel (led by John Powell QC and Graham Chapman QC) in a 18 week trial in the Commercial Court in a c.£50m complex claim involving multiple tax avoidance schemes and allegations of fraud against individuals and professional advisors. Issues arising included breach of trust, dishonest assistance, conspiracy, insurance and coverage points, and causes of action under the Financial Services and Markets Act 2000. One of *The Lawyer's* Top 20 cases of 2012, 2011, 2010.
- **Ludsin Overseas Ltd v Eco 3 Capital Ltd and Ors**
Junior Counsel (led by Jamie Smith QC) acting for Part 20 Defendants in a claim in the Chancery Division of the High Court featuring complex arguments on agency and fraudulent misrepresentation in the investment context. The Part 20 claims were settled on the morning of the start of the trial. The terms of the settlement were not disclosed but the Court was informed that they did not involve the payment of any money by the Part 20 Defendants to the Defendants in the main action.
- **Araci v Fallon (CA)**
Leading Court of Appeal authority on prohibitory injunctions [2011] EWCA Civ 668; [2011] LLR 440.

In a case where a jockey had entered into an agreement with a racehorse owner that placed him under a positive obligation to ride that owner's horse when asked, and a negative obligation not to ride a rival horse, the court granted an interim injunction

preventing him from breaching his obligations by riding a rival owner's horse in the Epsom Derby.

International Arbitration

"Falls into the exceptional category for us. Although he is not yet in silk, he clearly operates at that level, instilling trust and confidence in all professional settings." *Legal 500, International Arbitration, 2021*

"Excellent with clients" *Chambers & Partners, International Arbitration, 2019*

"Handles himself superbly in demanding cases" *Legal 500, International Arbitration, 2019*

"Very thorough and decisive as arbitrator" *Who's Who Legal, 2018*

"A brilliant arbitration senior junior, equally at home dealing with commercial or investment claims. He is excellent when it comes to strategic advice. He is also highly regarded within the international arbitration community" *Chambers & Partners, International Arbitration, 2018*

"Very user-friendly and meticulous" "As an advocate, he's very confident due to his awareness of his own intellectual abilities" *Chambers & Partners, Commercial Dispute Resolution, 2018*

"He is fiercely clever but also a true team player; he knows arbitration inside out and is a very elegant and effective advocate" *Chambers & Partners, International Arbitration, 2017*

"A first-class international advocate...in a class of his own" *Chambers Global, Dispute Resolution, 2017*

Nominated for the "International Arbitration Junior of the Year" award by Legal 500, Can has been recognised by the leading directories as one of the leading international arbitration juniors at the English Bar for several years.

Can regularly appears as counsel in international commercial and investment arbitrations, both in London and abroad, and under a wide variety of laws and institutional rules, including LCIA, ICC, ICSID, LMAA, CiARB, and UNCITRAL.

Can has also developed a strong reputation as an arbitrator in international commercial disputes, with over half a dozen appointments in the period 2017-2019.

Outside of his work as counsel and arbitrator, Can teaches international arbitration as Adjunct Professor of Law at **Georgetown Law** (Washington D.C.) and **Koç University Law School** (Istanbul).

Can is a member of the LCIA, ICC, ICCA, the Swiss Arbitration Association, and the **Investment Treaty Forum** (ITF) at the British Institute of International and Comparative Law.

Cases

- **LCIA Arbitration (Co-Arbitrator, Singapore Law)**
Singapore law, London seat, LCIA arbitration of a dispute relating to a licence agreement (co-arbitrator on a panel of three).
- **SECE ?n?aat ve Ticaret A.?. v. Turkmenistan (Counsel)**
Lead counsel in US \$55+ ICSID claim brought against Turkmenistan (ICSID Case No. ARB/18/34). Instructed by Quinn Emanuel Urquhart & Sullivan (London), leading Anthony Jones.
- **LCIA Arbitration (Co-Arbitrator)**
English law, London seat, LCIA arbitration of a substantial dispute relating to a contract for the supply of submarines (co-

arbitrator on a panel of three).

- **ICC Arbitration (Energy)(Counsel)**
Lead counsel in a Swiss seated US \$23 million ICC arbitration in relation to one of Nigeria's largest electricity distributors in the context of a joint venture dispute.
- **LCIA Arbitration (Co-Arbitrator)**
English law, London seat, LCIA arbitration of a substantial dispute relating to a contract for the supply of submarines (co-arbitrator on a panel of three).
- **Arbitration (UNCITRAL Rules)(Sole Arbitrator)**
Sole Arbitrator (UNCITRAL Rules, LCIA Administered) in commodities dispute, seated in London.
- **ICSID Arbitration (Counsel)**
Lead counsel in US \$100+ potential ICSID claim against Central Asian State relating to substantial investments in the construction sector. Instructed by Jenner & Block (Washington, D.C.).
- **LCIA Arbitration (Co-Arbitrator)**
English law, London seat, LCIA arbitration of substantial dispute relating to defence contract (co-arbitrator on panel of three).
- **ICC Arbitration (Counsel)**
Lead counsel in an ICC Arbitration seated in London, involving a dispute concerning the alleged sale and purchase of cement clinker between two foreign companies. Leading Peter Morcos, instructed by Withers LLP (London).
- **ICSID Arbitration (Counsel)**
Acting for a foreign investor in a \$100m+ claim relating to investments in textile sector against a Central Asian State. Instructed by Quinn Emanuel Urquhart & Sullivan (London).
- **Confidential ICC Arbitration (Telecoms)(Counsel)**
Lead counsel for a national telecommunications operator in USD \$85 million ICC arbitration (foreign law).
- **Ad Hoc Arbitration (Counsel)**
Acting as sole counsel for a European commodity distributor in an ad hoc arbitration seated in England against a European steel supplier.
- **Confidential LCIA arbitration**
Acting for an investment company in a US \$80 million LCIA arbitration under the terms of a shareholders' agreement in a dispute relating to the operation of an oil terminal connected to the CPC pipeline. Instructed by Covington & Burling (London).
- **Investor State Arbitration (Counsel)**
Acting for and advising an investor in arbitration proceedings against a Eurasian State (with Roger Stewart QC). Instructed by Penningtons Manches (London).
- **Confidential ICC Arbitration**
Acting as counsel in an ICC arbitration relating to the alleged breach of a US \$60 million project finance agreement for a cement plant in Asia.
- **LCIA Arbitration (Jet Engines)(Counsel)**
Acting and advising in a substantial LCIA arbitration relating to contracts for the purchase of aircraft jet engines.
- **Confidential LCIA arbitration**
Advising in relation to a dispute to be referred to an LCIA arbitration for damages of some £40 million, in connection with foreign construction projects in Central Asia. Instructed by Skadden, Arps, Slate, Meagher & Flom (London).



NEW SQUARE

- **Confidential ICC arbitration**
Advising on enforcement issues relating to a US \$60 million ICC Award against a State. Instructed by Skadden, Arps, Slate, Meagher & Flom (London).
- **LMAA Arbitration (Counsel)**
Advising in relation to an LMAA arbitration in a dispute regarding contracts to build super yachts. Instructed by Peters & Peters (London).
- **Arbitration on Aggregation Issues**
Acting with Roger Stewart Q.C. in a major insurance coverage arbitration concerning cross-border property transactions.

Professional Liability

Can has a strong professional liability practice which encompasses claims for and against a range of professionals including: valuers, mortgage brokers, surveyors, accountants, actuaries, construction professionals, lawyers – both barristers and solicitors – and insurance brokers in the county courts as well as in the Queen’s Bench and Chancery Divisions of the High Court.

Can has a particular expertise in claims arising out of the mis-selling of mortgages, having appeared successfully as counsel in the Administrative Court and Court of Appeal in *Emptage v the Financial Services Compensation Scheme* [2013] EWCA Civ 729. Can has a very busy practice in this area advising in claims for compensation to the Financial Ombudsman Service and Financial Services Compensation Scheme and he appears in related applications for judicial review.

Can edits, with Jonathan Hough QC, the chapter on Litigation (encompassing group actions and expert evidence) in *Jackson & Powell on Professional Liability* (Sweet & Maxwell, 8th Edition, 2017).

Cases

- **Stirling Mortimer (Commercial Ct)**
Defending, led by David Turner Q.C., auditors being sued in the Commercial Court by a Guernsey fund in the recovery of €59m.
- **In the Federal Court of Malaysia**
Acting for and advising an international professional services firm (with Graham Chapman QC) in proceedings before Malaysia’s highest court in a landmark appeal concerned with the duty of care owed by auditors to third parties.
- **Stanley Gibbons Holdings (Chancery D)**
Instructed with Ben Hubble QC for a group of actuary defendants in a professional liability claim, listed for a 10 day trial in the Chancery Division, arising out of the requirement to implement equalisation between men and women in an occupational pension scheme.
- **FSCS (Keydata)**
Instructed for a number of IFAs in the £75 million claim brought in the Commercial Court by the Financial Services Compensation Scheme.
- **In the matter of Toprak**
Instructed as lead counsel for the claimant in a professional negligence claim against a bank relating to the conveyance of a £40m property.
- **Emptage v FSCS (CA)**
Acted, led by Mark Cannon QC, for the successful applicant in a landmark judicial review of the FSCS’s decision to award compensation pursuant to the compensation scheme established under part XV of the Financial Services and Markets Act 2000, and administered by FSCS [2013] EWCA Civ 729.
- **Film schemes**
Instructed as lead counsel for the claimants against a leading accountancy firm in a claim relating to failed film schemes.

- **Tiaga & ors v RJP LLP (Chancery D)**
Instructed as sole counsel for an accountancy firm in a claim arising out of tax advice.
- **Brown & Ors v Innovatorone Plc & Ors**
Acted as junior counsel in [2012] EWHC 1321 in an 18 week trial of a c. £50m claim involving complex tax avoidance schemes and allegations of fraud against individuals and professional advisers, led by John Powell QC and Graham Chapman QC. Can was also instructed in the proceedings before the Court of Appeal which were subsequently compromised between the parties.
- **Ludsin Overseas Ltd v Eco 3 Capital Ltd and Ors**
Instructed (with Jamie Smith QC) to represent Part 20 solicitor Defendants in a 10 day trial in the Chancery Division.

Civil Fraud

Can is regularly instructed in a range of civil fraud and asset recovery claims as a part of his strong wider commercial practice, and many of his cases are multi-jurisdictional in nature. He regularly acts in, and advises on, matters concerning:

- Conspiracy
- Breach of fiduciary duty
- Misappropriation of company assets
- Sham investment schemes
- Fraud by agents
- Civil contempt

The strength of Can's civil fraud practice was recognised by Legal Week Magazine which named him as one of ten "Stars at the Bar" working at the Commercial and Chancery Bar.

Can is well-versed in using the coercive powers of the High Court for the securing of evidence and the preservation, tracing and recovery of assets, including drafting and obtaining search, freezing and disclosure orders, travel restraint orders, and orders to obtain information from judgment debtors under CPR Part 71.

Cases

- **£13 million secret commission claim**
Acting as sole counsel in a £13 million secret commission and action for damages for fraud claim. Instructed by Fieldfisher (London).
- **Marathon Asset Management v Seddon & Ors (Commercial Ct)**
Instructed for the lead defendant (led by Stuart Ritchie Q.C.) in a £40 million unlawful means conspiracy claim in the Commercial Court. Listed as one of *The Lawyer's* Top 20 cases of 2016-2017. Instructed by Withers LLP (London).
- **Patel v Barrowfen (Companies Ct)**
Acting (unled) for two family members of a leading conglomerate in a substantial dispute involving multiple commercial vehicles and spanning multiple jurisdictions, involving allegations of fraud and interests in excess of US \$120 million. Instructed by Withers LLP (London LLP).
- **€3.5 million fraud claim (Commercial Ct)**
Acting as lead counsel in a €3.5 million fraud claim before the Commercial Court against a French tycoon based in Paris. Involving issues relating to jurisdiction and enforcement. Instructed by McDermott Will & Emery (London).
- **In the matter of Ananta International**
Acting (with Neil Hext QC) for a foreign conglomerate in a fraud claim (and related injunctive proceedings) arising out of a substantial advance fee fraud.



NEW SQUARE

- **Pivdenny Bank (Commercial Ct)**

Representing a leading Ukrainian Bank in the Commercial Court in a claim for declaratory relief (and linked enforcement proceedings) relating to rights under a number of ship mortgages, following arrests of the vessels in foreign waters. The case is part of the multiple proceedings relating to the hundreds of millions of pounds of state assets believed to have been owned or used by the ousted Ukrainian President Viktor Yanukovich and his circle.

Instructed by Withers LLP (London).

- **Brown & Ors v Innovatorone Plc & Ors**

Junior Counsel (led by John Powell QC and Graham Chapman QC) in a 18 week trial in the Commercial Court in a c.£50m complex claim involving multiple tax avoidance schemes and allegations of fraud against individuals and professional advisors. Issues arising included breach of trust, dishonest assistance, conspiracy, insurance and coverage points, and causes of action under the Financial Services and Markets Act 2000. One of *The Lawyer's* Top 20 cases of 2012, 2011, 2010.

Instructed by Enyo LLP (London).

Public Law & Human Rights

“Profound knowledge of freedom of expression and the quality of his work is superb.” *Legal 500, Civil Liberties & Human Rights, 2021*

“Extremely bright and able...very good at making a compelling and compact legal argument out of complex matter” *Chambers & Partners, Civil Liberties & Human Rights, 2019*

“Insightful, sharp and a pleasure to work with; he always goes above and beyond” *Legal 500, Administrative & Public Law, 2018*

“He is exceptionally bright and has a superb knowledge of the law. He has an extraordinary ability to link and make connections between various issues. He has superb insight into cases, turns around work really quickly and it is always of a superb quality. Also, he is delightful to work with” *Chambers & Partners, Administrative & Public Law, 2018*

“Rightly instructed in a number of the highest profile cases in the field” *Legal 500, Civil Liberties & Human Rights, 2018*

“He has an excellent brain” *Legal 500, Administrative & Public Law, 2017*

“Extraordinarily easy to deal with. He can turn work around instantly and do a brilliant job. He doesn't put a foot wrong” *Chambers & Partners, Administrative & Public Law, 2016*

“Works quickly to produce incisive, articulate and persuasive work” *Legal 500, Administrative and Public Law, 2015*

“He's incredible. He's very nice, easy-going, charming and easy to speak with. He's very knowledgeable, but is also a very modern barrister. He's really good with clients” *Chambers & Partners, Administrative & Public Law, 2015*

Can is one of the leading juniors at the public law and human rights law Bar, with a broad-ranging practice, encompassing:

- judicial review in the commercial, party political funding and regulatory contexts;
- public law challenges to the decisions of coroners;
- claims under the Human Rights Act 1998;
- applications before the European Court of Human Rights and other regional human rights courts; and

- constitutional petitions in European, African and common law jurisdictions.

Can holds a particular expertise in **human rights** challenges involving:

- i. The right to freedom of expression. Can has become a preferred choice of counsel for a number of free speech organisations, publishers and media organisations, and has acted as lead counsel on over 25 free speech cases in the Court of Appeal, Supreme Court, the European Court of Human Rights, as well as other international tribunals. He is Lecturer-in-Law at Columbia Law School (New York) where he co-teaches a seminar on the right to freedom of expression and is one of two barristers appointed as a **Global Freedom of Expression Expert** at Columbia University.
- ii. The right to freedom of thought, conscience and religion. Can was sole counsel in *Rotsztein* and is co-author, with Sir James Dingemans, of the leading practitioner text *The Protections for Religious Rights: Law and Practice*. He has a very busy advisory practice in this area.
- iii. The right to peaceful enjoyment of possessions. Can regularly acts in commercial human rights claims. He was counsel for the successful claimants in *Breyer* (Admin Court and CoA) and is acting for HSH Nordbank in a US \$75 million property rights claim before the ECtHR.

In **judicial review** claims, Can has a particularly strong reputation for: (i) representing coroners in the Administrative Court (he has acted as sole counsel in a number of important reported decisions and is an editor of *Jervis*); (ii) bringing applications against the Legal Ombudsman, Financial Ombudsman Service and Financial Services Compensation Scheme (he was counsel in the Court of Appeal in *Emptage*); and (iii) party political finance cases (he was counsel in the Supreme Court in *UKIP v Electoral Commission*).

Can also conducts **constitutional litigation** abroad, subject to local requirements. He has experience of acting as co-counsel in cases before the Supreme Court of the Gambia, The Federal Court of Malaysia, and the Turkish Constitutional Court.

Can is a member of the Constitutional and Administrative Bar Association (ALBA), as well as Lawyers for Liberty.

Cases

- **Tulio Álvarez v Venezuela (Inter-American Ct)**

Mr. Alvarez is a journalist who was sentenced under Articles 444 and 77 of the Venezuelan Penal Code for the crime of aggravated defamation, in relation to an opinion column he published in the newspaper *Así es la Noticia* in 2003. He was also banned from leaving Venezuela, and from voting in the country's 2006 elections.

Can is instructed by ARTICLE 19 (leading Anthony Jones and Marie Claire O'Kane) to act in the ongoing proceedings before the Inter-American Court of Human Rights.

- **Aynur Ganbarova and Others v Azerbaijan (ECtHR)**

Acting for ARTICLE 19 (leading Anthony Jones and Diarmuid Laffan), in the proceedings brought by four Azerbaijani journalists, including Khadija Ismayilova, recipient of the UNESCO/Guillermo Cano World Press Freedom Prize, against Azerbaijan in the European Court of Human Rights.

- **Mandlí and ors v Hungary (ECtHR)**

Acting for Media Legal Defence Initiative, the Helsinki Foundation for Human Rights, Mass Media Defence Centre, Ossigeno Per L'Informazione, and Media Development Centre in the Art. 10 challenge to Hungarian laws forbidding journalists from entering and reporting from parliamentary premises. The issues raised by this case are of increasing public importance considering the trend of parliaments inside and outside Europe to restricting the media from accessing and reporting from their premises, including recent examples Macedonia and Poland.

- **Navalnyy v Russia (ECtHR)**

Acting for the leading journalists' protection NGO, Media Legal Defence Initiative, in the Article 10 challenge to the extension of defamation liability under Russian law to online blogs which link to third party content. The applicant Aleksey Navalnyy, a prominent Russian opposition politician, alleges that the Russian government is restricting his journalism and activism for political purposes, and the case also raises novel questions of how traditional legal models relating to defamation applies to blogging and web platforms.

- **Ismayilova v Azerbaijan (ECtHR)**
Acting (leading Miranda Butler) for 16 free expression and media freedom organisations intervening in the Art. 8 and Art. 10 application brought against Azerbaijan by UNESCO World Press Freedom Prize winning journalist, Khadija Ismayilova.
- **Rhodes v OPO (SC)**
Led by Adrienne Page QC in the UK Supreme Court in an appeal relating to the proper scope of the tort in *Wilkinson v Downton* ([1897] QB 57) in the appeal of an injunction prohibiting the publication of a memoir by the concert pianist, author and television film maker, James Rhodes. Submissions were focussed on the right to freedom of expression under Article 10, ECHR.
- **R. (Miranda) v SoS for the Home Department (CA)**
Instructed as lead counsel by Article 19, English PEN and Media Legal Defence Initiative in the High Court and Court of Appeal intervening in the challenge brought to the use of the Terrorism Act 2000 to detain David Miranda when he was carrying material from the Edward Snowden NSA leaks. The Court of Appeal issued a rare declaration of incompatibility, concluding that the Terrorism Act power used were incompatible with Art. 10, ECHR.
- **Breyer Group Plc v DECC (CA)**
Led by Patrick Lawrence QC, in a £195 million claim for damages under s. 8 of the Human Rights Act 1998 for violation of the Claimants' rights under Article 1 of the First Protocol (ECHR), following the government's proposed retrospective changes to the feed-in-tariffs scheme for solar photovoltaic installations. Successful in the trial of preliminary issues at first instance ([2014] EWHC 2257) and in the Court of Appeal ([2015] EWCA Civ 408). Trial settled in 2017.
- **R. (Rotsztein) v HM Senior Coroner (Admin)**
Instructed in judicial review proceedings relating to the approach to be taken by coroners when ordering invasive post mortem examinations in circumstances where the family of the deceased has raised religious objections under Art. 9, ECHR. The case was identified by the court as one of public importance and is now the leading authority in this area.
- **BIJ & Ross v UK (ECtHR)**
Led by Hugh Southey QC in Art. 10 ECHR challenge to the lawfulness of the UK's contribution to worldwide government systems of communications interception.
- **Big Brother Watch v UK (ECtHR)**
Instructed (led by Hugh Southey QC) in an application before the European Court of Human Rights challenging the scope of the secret interception and use of communications by the UK under the Regulation of Investigatory Powers Act 2000.
- **HSH Nordbank v Republic of Turkey (ECtHR)**
Acting for a European Bank (leading Anthony Jones) on a US \$75 million property rights claim before the ECHR challenging a state's handling of enforcement proceedings relating to ship mortgages. The application raises arguments under Art. 6 of the Convention and Art. 1 of the First Protocol, and is the first case before the Strasbourg Court specifically concerned with the Convention compliance of the international ship financing and enforcement regime.
- **Gambian Press Union, Jammeh & Ceesay v The Gambia (SC)**
Acting as lead co-counsel on behalf of leading journalists in The Gambia in a challenge before the Supreme Court of The Gambia to the constitutionality of certain sedition and criminal defamation laws on the basis that they violate fundamental human rights under the Gambian Constitution, the International Covenant on Civil and Political Rights, and the African Charter on Human and Peoples' Rights.

Related proceedings are being brought at the regional level in the Court of Justice of the Economic Community of West African States for which Can is also instructed.

- **Emptage v FSCS (CA)**
Acted (led by Mark Cannon QC) for the successful applicant in a landmark judicial review [2012] EWHC 2708 of the FSCS's decision to award compensation pursuant to the compensation scheme established under part XV of the Financial Services and Markets Act 2000, and administered by FSCS. The case raised important issues of principle about the proper application of the



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Scheme to cases where an applicant has borrowed money pursuant to a regulated mortgage contract.

Can also appeared successfully resisting the FSCS's appeal in the Court of Appeal [2013] EWCA Civ 729.

- **Sik and Sener v Turkey (ECtHR)**

Instructed as sole counsel by PEN International to intervene in two successful applications before the European Court of Human Rights relating to press freedom.

- **R (Aly) v HM Coroner (Admin)**

Acted as sole counsel successfully defending the Coroner in resisting a judicial review application challenging his decision to direct a postmortem examination. The Claimant had sought to argue that the decision constituted, in the circumstances of the case, a disproportionate interference with her right to manifest her religious beliefs under Article 9 and her right to respect for her private and family life under Article 8.

- **UKIP v The Electoral Commission (SC)**

Appeared (led by Patrick Lawrence QC) before a seven-strong UK Supreme Court, acting for UKIP in its successful appeal in respect of the proper interpretation of the domestic law on the funding of political parties in the United Kingdom and its compatibility with the European Convention. This case remains the leading authority on the law of political donations.

- **R (Mack) v HM Coroner (Admin)**

Acted as sole counsel successfully defending the Coroner in judicial review proceedings in which the Claimant raised issues in relation to: (i) the scope of the inquest and Art. 2, ECHR; (ii) the law on circumstances in which a coroner must, alternatively may, decide to sit with a jury; and (iii) the law on "neglect".

Public International Law

"A first-class international lawyer, with a very impressive breadth of expertise in the field. He has an unusual breadth of experience, spanning both commercial law and human rights, which is a great asset in cases that include elements of both." Legal 500, Public International Law, 2021

Can has developed a significant practice in public international law which is evenly split between: (i) investment treaty arbitration work; and (ii) international human rights law.

He acts as counsel for foreign governments, multinational companies, banks, individuals (including foreign investors), and international organisations before a number of international arbitral tribunals, as well as the English (and other domestic) courts, the European Court of Human Rights, and the ECOWAS Community Court of Justice. Can is also regularly instructed in an advisory capacity.

Can is Adjunct Professor of Law at **Georgetown Law** (Washington D.C.) and **Koç University Law School** (Istanbul), where he teaches investor-state arbitration and public international law. He is **Partner Fellow** at the Lauterpacht Centre for International Law, University of Cambridge.

Before coming to the Bar, Can worked at the Permanent Mission for Turkey to the United Nations in New York.

Cases

- **ICSID Arbitration (Counsel)**

Acting for a foreign investor in a \$100m+ claim relating to investments in textile sector against a Central Asian State.

- **Mandl and ors v Hungary (ECtHR)**

Acting for Media Legal Defence Initiative, the Helsinki Foundation for Human Rights, Mass Media Defence Centre, Ossigeno

Per L'Informazione, and Media Development Centre in the Art. 10 challenge to Hungarian laws forbidding journalists from entering and reporting from parliamentary premises. The issues raised by this case are of increasing public importance considering the trend of parliaments inside and outside Europe to restricting the media from accessing and reporting from their premises, including recent examples Macedonia and Poland.

- **Investor claim against Central Asian State (Counsel)**

Instructed (leading Anthony Jones) on behalf of an investor in a pending ICSID claim against a Central Asian state relating to expropriation and unfair treatment, and raising complex issues of treaty interpretation.

- **Federation of African Journalists and ors v The Republic of The Gambia (ECOWAS Court of Justice, 2016-17)**

Acted as lead counsel for a leading African journalism union and leading Gambian journalists in the challenge before the regional ECOWAS Court of Justice against treatment by the former Jammeh regime in The Gambia, allegedly in breach of The Gambia's obligations at customary international law and under various multilateral treaties, including the Revised ECOWAS Treaty, the African Charter, and the ICCPR. Judgment is expected in early 2018.

- **Ismayilova v Azerbaijan (ECtHR)**

Acting (leading Miranda Butler) for 16 free expression and media freedom organisations intervening in the Art. 8 and Art. 10 application brought against Azerbaijan by UNESCO World Press Freedom Prize winning journalist, Khadija Ismayilova.

- **State Immunity Act 1978**

Advising on the applicability of the State Immunity Act 1978 in the context of an action brought against a state-owned corporation for the enforcement of an ICC arbitral award against the state.

- **Navalnyy v Russia (ECtHR)**

Acting for the leading journalists' protection NGO, Media Legal Defence Initiative, in the Article 10 challenge to the extension of defamation liability under Russian law to online blogs which link to third party content. The applicant Aleksey Navalnyy, a prominent Russian opposition politician, alleges that the Russian government is restricting his journalism and activism for political purposes, and the case also raises novel questions of how traditional legal models relating to defamation applies to blogging and web platforms.

- **Investor State Arbitration (Counsel)**

Acting for and advising an investor in arbitration proceedings against a Eurasian State (with Roger Stewart QC).

- **R. (Miranda) v SoS for the Home Department (CA)**

Instructed as lead counsel by Article 19, English PEN and Media Legal Defence Initiative in in the High Court and Court of Appeal intervening in the challenge brought to the use of the Terrorism Act 2000 to detain David Miranda when he was carrying material from the Edward Snowden NSA leaks.

Instructed to make submissions on public international law. The Court of Appeal issued a rare declaration of incompatibility, concluding that the Terrorism Act power used were incompatible with Art. 10, ECHR.

- **State Surveillance**

Advising an international technology company on the potential effects of international treaty obligations on a state in connection with the legality of new legislation proposed to govern the scope of state surveillance.

- **HSH Nordbank v Republic of Turkey (ECtHR)**

Acting for a European Bank (leading Anthony Jones) on a US \$75 million property rights claim before the ECHR challenging a state's handling of enforcement proceedings relating to ship mortgages. The application raises arguments under Art. 6 of the Convention and Art. 1 of the First Protocol, and is the first case before the Strasbourg Court specifically concerned with the Convention compliance of the international ship financing and enforcement regime.

- **Gambian Press Union, Jammeh & Ceesay v The Gambia (SC)**

Acting as lead co-counsel on behalf of leading journalists in The Gambia in a challenge before the Supreme Court of The Gambia



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to the constitutionality of certain sedition and criminal defamation laws on the basis that they violate fundamental human rights under the Gambian Constitution, the International Covenant on Civil and Political Rights, and the African Charter on Human and Peoples' Rights.

Related proceedings are being brought at the regional level in the Court of Justice of the Economic Community of West African States for which Can is also instructed.

- **Diplomatic Immunities**

Advising a foreign government (through its embassy) on the scope of diplomatic immunities.

Sports Law

Can has a strong reputation in football-related matters where he advises players, agents and clubs in the context of arbitrations under Rule K of the Rules of the Football Association. Can frequently advises on issues (and acts in disputes) arising out of representation contracts between footballers and their agents.

In addition, Can holds expertise in horse-racing matters. He was instructed with Patrick Lawrence QC by the owner of Native Khan, a leading runner in the Epsom Derby, to seek an interim injunction against the 3-times derby-winning jockey, Kieren Fallon, to prevent Mr. Fallon from riding a rival horse, Recital, in the Derby. The injunction was refused by the High Court but granted by the Court of Appeal, following a successful appeal, on the morning of the Derby. The decision of the Court of Appeal (*Araci v Fallon*, [2011] EWCA Civ 668) remains the leading authority on prohibitory injunctions. Can was retained as sole counsel for the subsequent proceedings.

Qualifications & Memberships

Memberships & Committee Positions

- Investment Treaty Forum, British Institute of International and Comparative Law.
- Vice Chairman, British Turkish Lawyers' Association.
- Bar Liaison Committee, International Committee, and Library Committee, Inner Temple.
- Co-Editor-in-Chief, The Turkish Commercial Law Review.
- Memberships: IBA, COMBAR, LCIA, ICC, ICCA, ASA, BICCL, ALBA, ILI, IPBA, and Lawyers for Liberty.

Education, Qualifications & Prizes

- **University College, Oxford:** Double First Class B.A. in English Language and Literature; College Scholar, Master's Scholar, and the Stephen Boyd Memorial Prize recipient for the top First in Finals.
- **Princeton University:** Jane Eliza Procter Fellow.
- **City University, University of London:** First Class LL.B. (1st in year).
- **Harvard Law School:** LL.M. and Cravath International Scholar.
- **Inner Temple:** Treasurer's Prize, Major Scholar, and Princess Royal Scholar.

Languages: Turkish (native speaker), French (working knowledge)

Insights

GCHQ, encrypted chats and IPA 2016

18 July 2019

This article was first published on Lexis@PSL on 8 July 2019. Corporate Crime analysis: An open letter signed by over 50 organisations, including Apple, WhatsApp, Liberty and Privacy International, recently called on the UK Government Communications Headquarters (GCHQ) to abandon a proposal to eavesdrop on encrypted chats. Can Yeginsu and Anthony Jones, barristers at 4 New Square Chambers, explain the background to the proposal and consider some of the related legislation in this area.

Covered Investment in International Investment Law – Chapter in Investment Treaty Arbitration Review (Ed. Barton Legum, 2019)

1 July 2019

Can Yeginsu (4 New Square Chambers) and Ceyda Knoebel (Gibson Dunn) examine the definition of “investment”, often a critical threshold question of jurisdiction in investor state arbitration.

Criminalizing Speech to Protect Religious Peace?

28 November 2018

Can Yeginsu and John Williams analyse the recent decision of the European Court of Human Rights in *E.S. v. Austrian* an article for Just Security.

Covered Investment in International Investment Law – Chapter in Investment Treaty Arbitration Review (Ed. Barton Legum, 2018)

5 October 2018

Can Yeginsu (4 New Square Chambers) and Ceyda Knoebel (Gibson Dunn) examine the definition of “investment”, often a critical threshold question of jurisdiction in investor state arbitration.

The emerging human rights liability of banks? - B.J.I.B. & F.L. 2016, 31(6), 353-355

1 June 2016

Discusses potential risks and liabilities facing banks regarding their involvement in breaches of human rights. Notes the report “Banks and Human Rights: A Legal Analysis” produced by the UN Environment Programme Finance Initiative and law firm Foley Hoag LLP in December 2015. Considers examples of circumstances in which banks might be subject to criminal prosecutions or civil claims regarding human rights violations.

Book: Jackson & Powell on Professional Liability (Sweet & Maxwell, 6th, 7th, 8th editions)

13 December 2016

The definitive text on professional liability and a comprehensive guide for every practitioner. Can edits the Litigation Chapter (Group Actions and Expert Evidence) with Jonathan Hough QC.

Book: The Protections for Religious Rights: Law and Practice (Oxford University Press)

31 October 2013

The first practitioner work to offer a full and systematic treatment of the law as it pertains to religious rights in the UK and abroad. A practical working aid to a sensitive and important area of increasing litigation and public debate, this text examines the applicable legal instruments, considers the current state of the law, and reviews domestic, comparative, and international case law to provide a comprehensive reference resource that informs on all matters of significance in this area.

Londongrad calling: jurisdiction battles in the English courts - D.R.I. 2014, May, 25-36

10 May 2014

Examines the circumstances when the English courts may accept jurisdiction over a commercial dispute served from outside the jurisdiction against a defendant who is not domiciled in the EU. Outlines the applicable principles. Discusses the Court of Appeal judgment in *Cherney v Deripaska*, and subsequent case law, on whether England could be found to be the appropriate forum for the dispute even when the applicant had conceded that it was not the natural forum.

Cross-border challenges

5 August 2013

Explores the reasons behind the continuing popularity of England as a forum for the resolution of commercial disputes between foreign parties.

The first successful judicial review on Cart principles: R. (Kuteh) v Upper Tribunal - J.R. 2013, 18(1), 134-139

14 January 2013

Discusses the Administrative Court ruling in *R. (on the application of Kuteh) v Upper Tribunal (Administrative Appeals Chamber)* on whether the refusal of permission to appeal the First-tier Tribunal decision upholding the inclusion of a nurse on the Protection of Children and Vulnerable Adults lists was amenable to judicial review as: (1) the First-tier Tribunal had committed a serious procedural irregularity in ignoring evidence supporting the applicant's claim that he had assaulted a patient in self defence; and (2) the threat to his career was a "compelling reason" to allow the challenge.

Inquests and the "detachable" article 2 obligation: In Re McCaughey - J.R. 2011, 16(3), 290-296

12 September 2011

Discusses the Supreme Court judgment in *Re McCaughey's Application for Judicial Review* on whether the House of Lords decision in *Re McKerr's Application for Judicial Review*, ruling that an inquest into deaths occurring before the Human Rights Act 1998 entered into force need not meet the procedural requirements of the European Convention on Human Rights 1950 art.2, should be overruled as a consequence of the European Court of Human Rights ruling in *Silih v Slovenia* (71463/01) that, in certain circumstances, art.2 imposed freestanding procedural obligations.

The business of sport after the Bribery Act 2010 - S.L.A. & P. 2011

1 August 2011

Discusses the implications for sport of the coming into force of the Bribery Act 2010 on July 1, 2011. Outlines the key provisions of the Act and comments on its scope. Provides a comparison between the Act and the US Foreign Corrupt Practices Act 1977. Provides illustrative case examples of the Act's potential significance in terms of awarding the rights to stage events and corporate hospitality and entertainment at sporting events. Advises on steps that can be taken to minimise the risk of incurring liability.

Conditional fee agreements and human rights: MGN Limited v United Kingdom - J.R. 2011, 16(2), 151-155

15 March 2011

Comments on the European Court of Human Rights judgment in *MGN Ltd v United Kingdom* (39401/04) on whether: (1) the award of damages to the model Naomi Campbell for breach of confidence, following a newspaper's publication of details and photographs relating to her treatment for drug addiction, was a disproportionate interference with the applicant's rights under the European Convention on Human Rights 1950 art.10; and (2) the success fees claimed by Ms Campbell's solicitors and counsel on top of their base costs under the terms of a conditional fee agreement breached art.10.

Smith (Oxfordshire Coroner) in the Supreme Court - J.R. 2010, 15(4), 356-365

10 December 2010

Comments on the Supreme Court judgment in *R. (on the application of Smith) v Oxfordshire Assistant Deputy Coroner* on whether British service personnel serving overseas remained within the UK's jurisdiction for the purpose of determining if they retained the rights conferred by the European Convention on Human Rights 1950. Considers whether the death of a soldier should have been made subject to an inquest satisfying the procedural and investigative standards implicitly required by art.2 of the Convention.

Turkey Packs the Court - The New York Review of Books

22 September 2010

Discusses the 12 September 2010 constitutional referendum in Turkey.

Storm in a teacup: domestic and international conservatism from the Corner House case - J.R. 2008, 13(4), 267-272

12 December 2008

Considers the House of Lords decision in *R. (on the application of Corner House Research) v Director of Serious Fraud Office* on whether the respondent's submission to the threat that Saudi Arabia would no longer assist the UK with counter-terrorism intelligence if a corruption investigation was not discontinued had been unlawful on the ground that it had not shown that there had been no alternative. Discusses whether this standard unduly restricted the respondent's discretion. Assesses the court's jurisdiction to consider whether the decision complied with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997 art.5.



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Religious Liberty in British Courts: A Critique and Some Guidance - 49 HARV. INT'L L.J. 28 (2008)

11 April 2008

For centuries, religious liberty in Britain existed as a broad-ranging but principally negative freedom at common law. Individuals were permitted to do as they pleased in matters of faith, unless the law stated otherwise. Religious liberty, thus conceived, was more passive toleration of religion than any active promotion of religious freedom as a fundamental right. All that changed on October 2, 2000...

Deep in the texture: The trials of Orhan Pamuk and of Turkey - The Times Literary Supplement

3 February 2006

Willingly or not, Orhan Pamuk has become as much a political symbol as a man of letters. February 7, next week, was the date set for Turkey to try its foremost novelist for the crime of "publicly denigrating Turkishness"...