



Background Briefing on the Importance of the ECHR for the UK

The European Convention on Human Rights (ECHR)

The ECHR is celebrating its 75th Anniversary this year, after coming into force on 4th November 1950. Devised and negotiated in the ruins of Europe after World War Two, it committed signatory states to protect a specific list of basic human rights that the horrors of the previous years had shown were indispensable to people's ability to live in peace, dignity and mutual respect.

The UK was heavily involved in the drafting of the Convention and was one of the first countries to sign it. Under Article 1 of the Convention, the Convention applies to *everyone* who is within the jurisdiction of the signatory states. This is in acknowledgment of the idea that human rights are universal and belong to everyone by virtue of their inherent dignity and worth as human beings.

The Convention created a European Court of Human Rights, based in Strasbourg, that has the mandate to be the final arbiter of the meaning and application of the Convention rights. Signatory-states undertake to abide by the final judgments of the Court in cases to which they are a party. A judge is chosen from each signatory state, meaning that there is a UK judge on the Court. Member states can take cases against each other to the Court, known as 'Inter-State Cases', however the large majority of cases are brought by individuals against a state alleging that the state has violated their human rights. While there are other international Courts settling disputes between states, this 'right of individual petition' is why the ECHR has become so important as a means for people to protect themselves against rights violations by their own governments.

Important aspects of ECHR Membership

The ECHR and the Council of Europe

Membership of the ECHR is integral to membership of the Council of Europe, the organisation formed in 1949 to promote human rights, democracy and the rule of law in post-Second World War Europe. All 46 member-states of the Council are signatories to the ECHR, and ratification of the Convention is required for membership of the Council. The Council of Europe was devised and developed by major European political figures of the period, including Winston Churchill, Ernest Bevin, Konrad Adenauer and

Robert Schuman. It still forms a major part of British foreign policy and the UK's engagement with its European neighbours, particularly post-Brexit. The Council of Europe is currently leading European efforts to support democracy and the rule of law in Ukraine, including justice for war crimes perpetrated during Russia's invasion. The Council of Europe is also home to European-wide efforts to combat human trafficking, corruption and to prevent torture. Russia was expelled from the Council of Europe in 2022, following the invasion of Ukraine, and renounced its membership of the ECHR and the Court. In 1969, the fascist Greek junta withdrew from the Council of Europe, the Convention and the Court. Greece rejoined after the fall of the military dictatorship. Belarus was never a full member of the Council of Europe but had a number of association agreements with it which were suspended in response to Belarussian participation in the Russian invasion of Ukraine.

The relationship of the ECHR to the Good Friday Agreement and the Windsor Framework

Under the Belfast/Good Friday Agreement, the UK government committed to the incorporation of the ECHR into Northern Irish law, with direct access to the Courts, remedies for breach of the Convention and power for the Courts to overrule Assembly legislation that was inconsistent with Convention rights. It also committed to the development of a Northern Ireland Bill of Rights that would be supplementary to, and specifically not instead of, the European Convention rights. Moreover, following the UK's withdrawal from the EU and the negotiation of the Windsor Framework, the UK has committed to 'non-diminution of rights' as set out in the B/GFA.

Devolution and the ECHR

The European Convention is integral to the devolution settlements in Scotland, Wales and Northern Ireland. The legislation creating the Parliaments and Assemblies in those nations contain a central premise that legislation passed by those bodies must be compatible with Convention rights in order to have legal effect. Devolved public authorities, including the national governments, must likewise conduct themselves in accordance with Convention rights in order to be lawful. Support for these arrangements, and for the UK's continued membership of the Convention, are particularly strong in the devolved nations. Withdrawing from the Convention would necessitate a Westminster government either ending or radically revising the devolution settlements in the face of significant political opposition in the devolved nations. As discussed above, in the case of Northern Ireland this would also involve breaching an international treaty, the B/GFA.

The ECHR and the EU Trade and Cooperation Agreement

The ECHR and the Court are separate entities from the EU and its legal system. However, in negotiating its exit from the EU the UK agreed to terms that are premised on the UK's continued membership of the ECHR. Under Article 763 of the TCA, the UK and the EU 'reaffirm their respect for the Universal Declaration of Human Rights *and the international human rights treaties to which they are parties.*' Meanwhile, Part 3 of the Agreement, which deals with security cooperation, explicitly states that such cooperation requires continued membership of the ECHR and its implementation domestically. Without such membership Part 3 will be suspended in a fast-track process and there is a risk of other parts of the agreement being suspended or terminated, on the grounds of a breach of an 'essential element' of the Agreement, under Article 772.

European Court Rulings and the UK

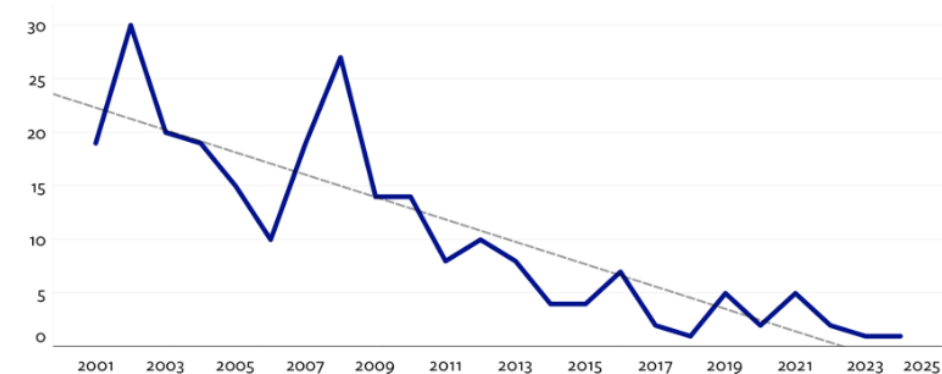
Breaches identified by the UK reduced following the HRA

The Human Rights Act (HRA) is UK legislation that brings the rights contained in the European Convention on Human Rights (ECHR) into UK domestic law. Since the HRA came into force, the number of cases in which the UK has been found by the European Court to be in breach of the Convention has dramatically fallen. In the period when the HRA first came in there were an average of 17 rulings a year against the UK, but this has now dropped to less than 4. In 2024 there was only one ruling against the UK, in a case where the owners of the Daily Mail and the Mail on Sunday successfully argued that their rights to freedom of expression had been violated.

Judgments against the UK have declined since the Human Rights Act

European Court of Human Rights judgments against the UK finding at least one violation of a right, 2001-2024

UK IN A
CHANGING
EUROPE



Source: Council of Europe, European Court of Human Rights, Annual Statistics 2024

A positive record: the UK and the European Court

In addition to the downward trend in findings of violation against the UK, as ‘UK in a Changing Europe’ has set out¹:

- Only 1.5% of the Court’s total judgments have been against the UK since 1959
- In 2024 the UK was the 8th joint-lowest state in terms of findings of violation, alongside Iceland, Norway, and Monaco.
- The UK has the lowest rate of applications made against it, per capita, of all member states
- The UK ranks 6th best in the Council of Europe at implementing judgments made against it. At the end of 2024 only 0.2% of unresolved cases involved the UK.
- 98% of all judgments and decisions (including friendly settlements) issued by the Court against the UK since the first in 1975 have been fully implemented
- Between 2022-2024, only six ‘interim measures’ were issued to the UK: five in 2022, one in 2023 and none in 2024.

Realising Human Rights in the UK

European Court

There have been several landmark cases from the ECtHR which have served to better protect the rights of people here in the UK. This includes cases which:

1. **Protect LGBTI people.** In *Smith and Grady v United Kingdom* (1999),¹ the ECtHR unanimously found that the discharge of military personnel from the Royal Navy on the basis that they were gay was a breach of their right to a private life. Shockingly, the UK High Court and Court of Appeal had previously found that the military had not acted unlawfully. It wasn’t until the ECtHR’s ruling that the armed forces finally backed down and withdrew their long-standing ban on gay people serving in the military. In 2007 the Ministry of Defence formally apologised for this policy.
2. **Support freedom of the press.** During settlement negotiations about the Thalidomide disaster – in which a drug was marketed as a mild sleeping pill safe for pregnant women but caused thousands of babies worldwide to be born with malformed limbs – the High Court stopped the *Sunday Times* from publishing articles critical of the settlements and further supporting the victims, saying they

¹ [https://hudoc.echr.coe.int/eng#\(%22itemid%22:\[%22001-58408%22\]\)](https://hudoc.echr.coe.int/eng#(%22itemid%22:[%22001-58408%22]))

were in contempt of court. In the 1979 case of *Sunday Times v UK*,² the European Court said that the authorities had violated the newspaper's right to freedom of expression. The injunction was lifted and the article published four days later.

It is also worth noting that the Court operates what it refers to as a 'living instrument' doctrine. This has enabled the rights in the Convention to remain relevant and applicable to the vast social, technological, political and economic changes that have occurred over the last 75 years. It has led to the interpretation of rights in ways that are now entirely uncontroversial, such as that children born outside of wedlock should not be discriminated against,³ or that same sex relationships can constitute family life.⁴

Domestic Courts

The incorporation of the ECHR into domestic law through the HRA has been transformative in supporting people to get justice when their rights are violated and in helping to protect human rights in the future. For instance, the HRA has been used to:

- **Secure an inquiry into the Hillsborough football disaster.** The first inquest into the Hillsborough disaster, which ultimately killed 97 people, blamed what happened on the behaviour of the fans. However, the families of those who were killed refused to accept this version of events. 27 years of striving for justice, a second inquest was announced in 2012 and the victims' families were able to use the Human Rights Act – notably, the right to life (Article 2) – to ensure the inquest had the power and scope to uncover the truth. The jury concluded that those who lost their lives were unlawfully killed, and that mistakes made by the police, ambulance services and those who designed and managed the stadium had contributed to their deaths. Crucially, it also found that the fans were not to blame for the disaster.
- **Establish a requirement for proper equipment for soldiers serving in the army.** Snatch Land Rovers were developed to transport troops in Northern Ireland but were later used in the Afghanistan and Iraq conflicts. They were so unsuited and unsafe for this role that they were nicknamed "mobile coffins". Families of some of the 37 military personnel who died in Snatch Land Rovers used the Human Rights Act to challenge the Government. In 2013, the Supreme Court ruled that soldiers don't lose their rights when fighting overseas, prompting an apology from the Ministry of Defence and a commitment to no longer use them.
- **Helping parents care for their children.** When five-year old Cameron Mathieson was in hospital with a life-threatening condition, his parents needed to

² [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57584%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57584%22]})

³ See eg *Inze v Austria*, October 1987

⁴ See eg *Schalk and Kopf v Austria*, June 2010

temporarily give up work to care for him. The Department for Work and Pensions, however, refused to provide Disability Living Allowance for any more than 84 days. His parents challenged this in the Supreme Court, using the Human Rights Act to successfully argue that the policy was unjustifiably discriminatory. Following the Supreme Court judgment, the 84 day policy was changed, which means that other families who would otherwise be unable to afford to visit and support their children, are now able to do so.

Further Examples

ECHR

1. VCL & AN v UK – State must take operational and legal measures to protect victims of trafficking
2. Catt v UK – Retention of innocent people's data on police databases
3. Gillan & Quinton – Stop and search powers without reasonable suspicion lacked sufficient safeguards
4. C. Goodwin v UK – Trans people entitled to legal recognition and right to marry
5. Khan v UK, Big Brother Watch v UK – State surveillance powers require legal basis and must be a proportionate interference with privacy rights. Journalistic material must be particularly protected. Bulk interception of communications data may breach privacy rights.
6. Condron v UK – Protection of right to silence in police interview
7. Crossland v UK – 'Widows Allowance' payments should also be available to widowers
8. Moore & Gordon v UK and Smith & Ford v UK – Procedures for military court martials contrary to fair trial rights
9. Osman v UK – Police have legal obligations to take steps to protect people from known threats to life.
10. Goodwin v UK – Protection of Journalists' sources
11. Campbell & Cousins – Corporal punishment in state schools brought to an end
12. Dudgeon v UK – Decriminalisation of homosexuality in Northern Ireland
13. Soering v UK and Chahal v UK – Absolute prohibition on torture, inhuman and degrading treatment applies to extradition and deportation cases

Human Rights Act

A range of fundamentally important outcomes have come from the Human Rights Act, more detail can be found in [this briefing](#).⁵

⁵ For more detail on these HRA examples, see Amnesty International UK Briefing <https://www.amnesty.org.uk/files/2022-10/Amnesty%20International%20UK%20Briefing%20-%20examples%20of%20people%20who%20have%20used%20the%20Human%20Rights%20Act.pdf?VersionId=eplFpAgREf2u5ZTkhYj7owsckpKl5hfO>

