

LIBERTY

BRIEFING ON THE EUROPEAN CONVENTION ON HUMAN RIGHTS

March 2023

The European Convention on Human Rights (ECHR) protects the rights of everyone in the UK and must be safeguarded. Leaving or undermining the Convention would be an unthinkable assault on our rights, while destabilising the rule of law and irreparably damaging the UK's international standing.

KEY FACTS

- The ECHR protects our most basic rights. The Convention is binding for all member states of the Council of Europe¹. It is incorporated in the UK through the Human Rights Act 1998.
- The ECHR is a British legacy, with British lawyers integral to its drafting and Winston Churchill a key advocate. We were among the first ratifiers in 1951.
- The European Court of Human Rights (ECtHR) in Strasbourg enforces the Convention. It provides a vital last resort for people whose rights have been violated.
- Intervention in UK court decisions is extremely rare; the UK represents only 0.17% of cases at the ECtHR in 2021. The UK has the highest compliance rate, with the Court finding just 2 violations in 2022.
- The only country to leave the ECHR is Russia, expelled after its invasion of Ukraine².

EMPOWERING PEOPLE TO ENFORCE THEIR RIGHTS IN THE UK

1. The ECHR empowers people in the UK to take control of our rights and get justice when our rights are violated. The Convention was drafted in the aftermath of the Second World War and the Holocaust to protect marginalised groups and make sure atrocities by the State are never repeated. The ECHR protects fundamental human rights, like our right to life, liberty, and freedom of expression. It also protects us from torture, slavery, and discrimination.
2. The ECHR protects individuals every day by obliging authorities to respect our rights and prevent violations before they occur. It protects those at highest risk of abuse, including elderly people in care homes, disabled people who are hospitalised, and domestic violence victims.
3. In exceptional circumstances, people can use the ECHR to challenge abuses of their rights in UK courts through the Human Rights Act and, if they still cannot get justice, raise it to the European Court of Human Rights (ECtHR) as last resort. The Court applies stringent criteria to determine whether a claim is meritorious before adjudicating.
4. The Court's decisions have led to some of the most important developments in human rights in Europe, including the positive obligation for the Government to investigate deaths by State actors (McCann and Others v UK 1995), freedom of speech in journalism (Goodwin v UK 2002), and decriminalising homosexual acts in Northern Ireland (Dudgeon v UK 1981).
5. Thanks to the Human Rights Act, the ECHR also enables people in the UK to secure justice at home without having to go to Strasbourg. This includes the families of those killed in the Hillsborough disaster and the victims of serial rapist John Worboys.
6. Leaving the ECHR would strip away our most fundamental human rights, leaving millions without protection or the power to legally challenge abuses by the State. Those who are already at the sharpest end of human rights abuses will suffer the most, but it will harm all of us.

¹The Council of Europe was founded in 1949 in the wake of the Second World War to uphold human rights, democracy and the rule of law in Europe. It currently has 46 member states. It is a separate body that is unrelated to the European Union.

²Greece, at the time under a dictatorship, left in 1969 then rejoined in 1974. Belarus never joined.

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CONSTITUTIONAL AND JURISPRUDENTIAL FOUNDATION

7. The ECHR provides a foundation for the UK's constitutional settlement and jurisprudence. Leaving or undermining the Convention would destabilise that foundation and risk threatening the union.
8. For decades, our parliamentarians, judges, and local authorities have relied on the ECHR to make sure our laws and practices respect human rights. Withdrawing would remove that legal foundation and create policy and legal instability, resulting in conflicting interpretation and enforcement of rights in the UK. Not only will it create potential chaos in the courts, it will trickle down, heaping confusion and excessive burden on local councils, police, and frontline workers.
9. The ECHR is foundational to the UK's devolution settlement. In Scotland and Northern Ireland, the ECHR is written into the very laws that created the devolved administrations. The Scotland Act 1998 requires the Scottish Parliament to adhere to the Convention. Leaving the ECHR would drive an ever-larger wedge when Scottish independence remains high on the horizon.
10. The ECHR is especially crucial for Northern Ireland. The Good Friday Agreement (Belfast Agreement) specifically states: "The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights", which it did through the Northern Ireland Act 1998. The Good Friday Agreement underpins the fragile peace in Northern Ireland, and any step to jeopardise the ECHR threatens to destabilise that peace.
11. The Scottish and Welsh Governments, Northern Ireland Human Rights Commission and civil society across the devolved nations have strongly opposed Westminster's efforts to undermine the Human Rights Act and the ECHR. The UK's withdrawal would be disastrous for the union, deepening divergence on rights and endangering hard-won peace in Northern Ireland.

UK'S INTERNATIONAL HUMAN RIGHTS LEADERSHIP

13. The ECHR epitomises the UK's human rights leadership. Leaving or undermining the Convention would irreparably damage the UK's international standing on the world stage.
14. The Government paints the ECHR and ECtHR as an adversary. That could not be further from the truth. The Ministry of Justice themselves acknowledged that "The UK has long been at the forefront of efforts amongst States Parties to improve the effectiveness of the system of the ECHR." ECHR membership and influence should be a source of pride for the UK, a testament to our international commitment to human rights and rule of law.
15. The ECHR and ECtHR actively affirms the sovereignty of each country under its jurisdiction. Known as the 'principle of subsidiarity', it does this by ensuring each state has a 'margin of appreciation' in interpreting Convention rights, as codified in the Brighton Declaration in 2012.
16. Not only do British judges sit on the Strasbourg Court, the UK's membership and the incorporation of the ECHR via the Human Rights Act enables the Court to refer to UK case law to inform its decisions. This valuable judicial dialogue strengthens the UK's leading role in human rights.
17. Withdrawing from the Convention would catastrophically injure the UK's reputation. It would turn the UK into a pariah like Russia. It would isolate the UK from the international community and damage our credibility when raising human rights abuses of other countries. It would encourage other states to ignore human rights and rule of law, depriving individuals in those countries the protections we take for granted.
18. Leaving the ECHR would also have damaging consequences for the UK's trade relations and our other international agreements.

We urge all Parliamentarians to oppose any plan to withdraw from or in any way undermine the European Convention on Human Rights, and to commit to protecting the Convention.

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