

# Soft Power and Hard Law: why the ECHR is in the UK's National Interest.

Joint Foreword by Lord Anderson KBE KC, Lord Carlile CBE KC and Sir Max Hill KCB KC

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# Foreword

The national interest requires the UK to remain a signatory to the European Convention on Human Rights and a leading member of the Council of Europe. This compelling and practical paper explains why.

The European Convention on Human Rights and Council of Europe were forged in the aftermath of World War II, with figures such as Winston Churchill and Ernest Bevin playing a leading role. They played an important role in later transitions from fascism in the south of Europe and communism in the east. As despotism and illiberalism strengthen across the globe, and a new war rages on the edge of our continent, the Convention provides an international framework for British values that are once again under threat: human rights, democracy and the rule of law.

As previous Independent Reviewers of Terrorism Legislation for the UK Government, we have seen first-hand the concrete benefits of cooperation on national security issues with European partners. Complex, cross-border problems require cross-border solutions and the Council of Europe plays an important role in bringing countries together to agree these. As this paper makes clear, our ECHR membership makes possible both our Council of Europe membership and our considerable influence on the European stage and beyond.

Security and criminal cooperation in the UK-EU Trade and Cooperation Agreement, including police access to European fingerprint and vehicle record data and joint criminal investigations with Europol and Eurojust, is vital for the protection of the public from serious cross-border crime. UK withdrawal from the ECHR places such cooperation – as well as numerous agreements on migration, Gibraltar, and prison transfers – at risk.

In short, as this paper convincingly demonstrates, being a signatory to the ECHR is not only a vote of confidence in values to which we can be proud to adhere. It makes the UK a safer, more secure, and more influential nation.



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# Executive Summary

This paper argues that continued United Kingdom membership of the European Convention on Human Rights (ECHR), and the Council of Europe is firmly in the national interest because of the diplomatic, security and wider practical benefits. ECHR withdrawal would weaken the UK's international authority, reduce valuable forms of cooperation with European partners and create significant legal and political uncertainty.

The paper outlines the important role of the Council of Europe, the ECHR and the European Court of Human Rights (ECtHR), all established in the aftermath of the Second World War, to promote democracy, human rights and the rule of law across Europe. The UK was a founding member and played a leading role in shaping the Convention system. Through the Human Rights Act 1998, Convention rights are largely enforced by UK courts, allowing human rights disputes to be resolved domestically whilst preserving parliamentary sovereignty. The UK has one of the strongest compliance records and lowest rate of decisions made against it at the ECtHR among member states.

A central argument of this paper is that ECHR membership strengthens British soft power. Successive governments have presented the UK as a country committed to the rule of law, international cooperation and human rights. The paper argues that this reputation enhances Britain's ability to influence international affairs and advocate for democratic values abroad. Withdrawal from the ECHR would risk significant reputational damage and weaken the UK's credibility when challenging human rights abuses in other states.

This paper also argues that the Council of Europe has become increasingly important for the UK as one of the principal forums through which the UK engages with European partners and shapes policy on issues such as democracy, artificial intelligence and support for Ukraine. The Council's achievements include helping create a death penalty-free Europe, developing anti-torture monitoring mechanisms, supporting democratic elections and establishing the world's first legally binding international treaty on artificial intelligence. The UK has played a significant role in many of these initiatives and would lose influence if it left the organisation, as it likely would have to if it withdrew from the ECHR.

Beyond questions of reputation and influence, the paper highlights the hard law consequences of withdrawal. ECHR membership is embedded within a range of international agreements, most notably the UK-EU Trade and Cooperation Agreement (TCA). Withdrawal could jeopardise cooperation on extradition, intelligence sharing, Europol and Eurojust engagement, the exchange of DNA and fingerprint data, and joint efforts against organised crime and people-smuggling networks. Other migration, prisoner-transfer and security agreements also rely on shared commitments to ECHR standards.

The paper makes clear that the UK should remain a committed signatory to the ECHR and full, engaged member of the Council of Europe. Continued membership protects the UK's international reputation, supports vital security cooperation and enables collaboration on shared challenges. Withdrawal would carry substantial diplomatic and practical costs whilst offering limited tangible benefits. The paper therefore concludes that remaining within the ECHR framework is the course most consistent with the UK's long-term national interest.



# Introduction to key institutions and laws

Chapter

1

# Introduction to key institutions and laws

As the Council of Europe and the ECHR are not widely or well understood, by way of an introduction, we set out a short guide to the key institutions and legal instruments.

## The Council of Europe and its key institutions

The **Council of Europe** describes itself as *'the continent's leading human rights organisation'*.<sup>1</sup> It was formed in the immediate aftermath of the horrors of the Second World War. One of its primary focuses is to oversee the ECHR, through the European Court of Human Rights ('**ECtHR**') and implementation of that Court's judgments. However, as we shall set out, the Council of Europe has developed over 200 legally binding international treaties<sup>2</sup> on issues from domestic violence to safety at sporting events.

The basic requirement for all Council of Europe members, under the founding statute, is that they must *'accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and the fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council'*.<sup>3</sup> Any European state which meets these criteria can be invited to join, and serious violations can lead to a member being suspended or expelled.

The **Committee of Ministers** is the Council of Europe's *'decision-making body'*.<sup>4</sup> It is made up of all 46 foreign ministers from states which are members. The Presidency of the Committee of Ministers rotates on a six-monthly basis throughout all the member states.<sup>5</sup> The Committee of Ministers is responsible for key decision-making in the Council of Europe including the invitation of new members, when members should be suspended or expelled, and oversees the implementation of ECtHR decisions.<sup>6</sup> Whilst there are equal voting rights, larger countries such as the UK *'informally enjoy more influence than others'* partly because of their financial support.<sup>7</sup>

The **Parliamentary Assembly of the Council of Europe ('PACE')** is the consultative assembly, the *'deliberative organ'* which debates matters and makes recommendations to the Committee of Ministers.<sup>8</sup> PACE is made up of national delegations from member states, which reflect the size of the country.<sup>9</sup> Whilst its motions are generally non-binding, PACE has an important role in holding inquiries, scrutinising politicians, monitoring states' progress on human rights, observing elections and has veto power over new members. Importantly, PACE members also elect the judges of the ECtHR, the Council of Europe Commissioner for Human Rights and the Secretary General.<sup>10</sup> The UK has one of the largest delegations, sending 18 Parliamentarians aiming to reflect the political composition of the House of Commons.<sup>11</sup>

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1 Council of Europe, '[The Council of Europe: key facts](#)', accessed 4 September 2026.

2 Ibid.

3 [Statute of the Council of Europe](#) [1949], art 13.

4 Council of Europe, '[About the Committee of Ministers](#)', accessed 4 September 2026.

5 Ibid.

6 Statute of the Council of Europe (n 3) arts 4, 8, 15.

7 Martyn Bond, 'The Council of Europe: Structure, History and Issues in European Politics' (Routledge, 2012), p 21.

8 Statute of the Council of Europe (n 3), art 22.

9 PACE, '[Parliamentary representation](#)', accessed 4 September 2026.

10 PACE, '[The powers of the Assembly](#)', accessed 4 September 2026.

11 UK Parliament, '[Membership of the UK Delegation](#)', accessed 4 September 2026.

## The European Convention on Human Rights ('ECHR') and European Court of Human Rights ('ECtHR')

The **ECHR** is the first, and most important, of the legal treaties agreed by the Council of Europe. It was a landmark legal agreement, borne out of the horrors of the Second World War, to protect basic human rights across the European continent. Every Council of Europe member state has signed up to the ECHR, as a reflection of its importance.

It protects important democratic values such as freedom of expression, the right to a fair trial and the right to vote. It also prohibits torture, inhuman or degrading treatment, slavery and unlawful detention. Certain rights are absolute rights (such as the prohibition on torture, inhuman or degrading treatment), whilst others are qualified rights which can be limited by the state for a legitimate reason if done so proportionately (for example, the right to respect for private or family life).

### Convention rights



Right to life (Article 2)



Freedom of expression (Article 10)



Prohibition of torture and inhuman or degrading treatment or punishment (Article 3)



Freedom of assembly and association (Article 11)



Prohibition of slavery and forced labour (Article 4)



Right to marry (Article 12)



Right to an effective remedy (Article 13)



Right to liberty and security (Article 5)



Right to enjoy each of these rights without discrimination (Article 14)



Right to a fair trial (Article 6)



Right to the peaceful enjoyment of property (Article 1, Protocol 1)



No punishment without law (Article 7)



Right to education (Article 2, Protocol 1)



Right to respect for private and family life (Article 8)



Right to free elections (Article 3, Protocol 1)



Freedom of thought, conscience and religion (Article 9)

# Introduction to key institutions and laws

The **European Court of Human Rights ('ECtHR')** was set up as an international court in 1959. Any ECHR signatory must allow individuals within its jurisdiction access to the court to claim individual breaches of the ECHR.<sup>12</sup> One judge of the ECtHR is appointed from each of the member states of the Council of Europe; they are elected for a single, non-renewable nine-year term, following election by PACE.<sup>13</sup> Judgments of the ECtHR are binding on member states under international law, and compliance with those judgments is overseen by the Committee of Ministers.

## The Human Rights Act: Bringing Human Rights Home

In 1998, the UK Parliament passed the **Human Rights Act ('HRA')** which meant that for the first time ECHR rights could be enforced in courts in the UK. The HRA requires public authorities to act in a way which respects ECHR rights;<sup>14</sup> not only must they respect the rights of the public, in certain circumstances, they must take reasonable steps to proactively protect rights (for example, the police investigating allegations of serious crime).<sup>15</sup>

The HRA protects parliamentary sovereignty. Whilst, under section 4 HRA, the courts can declare primary legislation incompatible with the ECHR, it remains a decision for Parliament whether and how to remedy the incompatible legislation.<sup>16</sup> The ECtHR cannot compel Parliament to change legislation. In contrast with the supremacy of EU law,<sup>17</sup> its judgments are only binding on the UK Government under international law.

The UK was instrumental in leading the Council of Europe conference in 2012, which led to the Brighton Declaration agreed by the Committee of Ministers. This emphasised the importance of the '*margin of appreciation*' which member states have to uphold the ECHR in their own national context, and that '*national authorities are in principle better placed than an international court to evaluate local needs and conditions*'.<sup>18</sup> The role of the ECtHR is to review the decisions of national authorities, taking into account a member state's margin of appreciation.

The HRA enables human rights issues in the UK to be decided domestically. When human rights cases go to court, in the vast majority of cases, they are now decided by UK judges in our domestic courts. Since the HRA was passed, there has been a consistent downward trend of ECtHR cases against the UK.<sup>19</sup> The UK's independent judiciary are well respected internationally and their decisions are often influential in shaping the approach of the ECtHR to key human rights legal issues.

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12 [European Convention on Human Rights](#), art 34

13 UK in a Changing Europe, '[Who are the judges of the European Court of Human Rights?](#)' (23 February 2024).

14 [Human Rights Act 1998](#), s6(1).

15 JUSTICE, '[From Hillsborough to Rochdale: How the ECHR Has Helped Victims](#)' (May 2026), p5

16 Human Rights Act 1998 (n 14), s4

17 Whereby judgments of the Court of Justice of the European Union took precedent over UK national law, including statutes. Clive Coleman, '[Reality Check: Did the UK lose its sovereignty in 1972?](#)' (BBC News, 10 March 2016).

18 European Court of Human Rights, '[High Level Conference on the Future of the European Court of Human Rights: Brighton Declaration](#)' (20 April 2012), para 11

19 Between 2001 and 2012, there were on average 17 judgments per year against the UK. Between 2013 and 2024, there were on average 4 judgments per year against the UK. Alice Donald and Joelle Grogan, '[Explainer: Compliance with the European Convention on Human Rights: the UK and Europe](#)' (UK in a Changing Europe, 12 Feb 2025).

The facts speak for themselves. From 1959 – 2024, only 1.5% of the ECtHR decisions finding a human rights violation have been against the UK.<sup>20</sup> The UK has one of the **lowest per capita rates of ECtHR applications** amongst all Council of Europe member states.<sup>21</sup> In 2024, the **UK comprised of 0.45% of the ECtHR caseload** despite having 8.1% of the population of the member states.<sup>22</sup> In 2025, there were only four decisions against the UK at the ECtHR – **0.005% of the total decisions finding an ECHR breach** amongst all member states.<sup>23</sup> Since 1980, the ECtHR has found against the UK in only 13 immigration removal cases.<sup>24</sup>

As this paper will go on to argue, remaining a signatory to the ECHR and a member of the Council of Europe is in the wider UK national interest. In the next chapter, we will address the importance of human rights to UK foreign policy and the soft power which the UK is able to exert from being an influential and respected member of the Council of Europe.

20 Ibid.

21 Ibid.

22 This included Russia, prior to its expulsion. Ministry of Justice, '[Responding to Human Rights Judgments: Report to the Joint Committee on Human Rights on the Government's Response to Human Rights Judgments 2024-2025](#)' (December 2025), p11

23 European Court of Human Rights, '[Violations by Article and by State](#)' (2025).

24 University of Oxford, '[Misrepresentations around human rights and immigration fuelling calls to quit ECHR, Oxford report finds](#)' (4 September 2025).





# Soft Power

Chapter

2

Successive governments of different political persuasions have emphasised the importance of soft power, as a means of extending the influence of the United Kingdom ('UK') globally. This chapter will explain how being a member of the Council of Europe and a signatory to the European Convention on Human Rights ('ECHR') significantly increases the UK's soft power and international standing, thereby serving the national interest.

In its foreign policy, for many years, the UK has described itself as a country which promotes human rights and supports international law. Withdrawal from the ECHR would result in reputational damage and reduce the UK's ability to promote human rights abroad. The UK would likely be perceived as a country that no longer supports international human rights agreements, having just withdrawn from one of such significance and in which it played a formative role. Furthermore, if the UK breached fundamental human rights standards (reflected in the ECHR) after its withdrawal, its ability to point out human rights concerns in and breaches by other countries would be impaired, as the UK would appear hypocritical.

The UK's role in the Council of Europe is of particular importance internationally, because the UK no longer has a role within the European Union. The Council of Europe has become one of the predominant European institutions within which the UK can formally lead and engage in discussion on complex issues, influence areas of joint interest, and reach legal agreements at a regional and international level. Leaving the Council of Europe would push the UK to the fringes of European discussions of joint interest.

If the UK withdrew from the ECHR and the Council of Europe, it would not overnight become a rogue state that abandoned all domestic rights protections or international law. For example, it would still be a longstanding Parliamentary democracy with a robust independent legal system and common law tradition and have a permanent seat on the UN Security Council.

However, as we have set out, most recently in our May 2026 paper, *From Hillsborough to Rochdale - How the ECHR Has Helped Victims*,<sup>25</sup> membership of the ECHR has significantly strengthened domestic rights protections in the UK. Those advocating for withdrawal from the ECHR and the jurisdiction of the European Court of Human Rights (ECtHR) want the UK to be able to act in a way which is presently constrained by the ECHR and/or the ECtHR. In the context of the Rwanda removal policy, for example, the UK Supreme Court found that the removal of asylum-seekers to Rwanda was likely to breach the principle of non-refoulement protected by Article 3 ECHR (the right to not be subject to torture, inhuman or degrading treatment or punishment), but also several other international human rights treaties to which the UK is a party and potentially customary international law.<sup>26</sup>

To withdraw from the ECHR, in order to pursue such policies in breach of fundamental human rights, without oversight by a supranational court, would be perceived by many countries (in our view, correctly) as the UK abandoning a core tenet of international law: *pacta sunt servanda*, agreements must be kept. This would be devastating for the UK's international reputation and its ability to instil trust in future international agreements and negotiations. Reputations are hard-earned but easily lost.

In these ways, the UK's soft power is heavily dependent on our membership of the ECHR and the Council of Europe.

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25 JUSTICE, 'From Hillsborough to Rochdale: How the ECHR has helped victims' (n 15).

26 Including the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, art 3(1); United Nations 1951 Convention relating to the Status of Refugees and its 1967 Protocol, art 33(1); United Nations International Covenant on Civil and Political Rights of 1966, art 2, 6, 7 and General Comment 31 (2004). [R \(AAA & Ors\) v Secretary of State for the Home Department](#) [2023] UKSC 42, paras 20 to 26.

## What is soft power?

Soft power has been defined by the British Academy as *'the ability to influence the behaviour of others and obtain desired outcomes through attraction and co-option'*.<sup>27</sup> Chatham House has said that *'the arrangements that states negotiate with each other to open markets and achieve mutual gain are soft power, as is the reputational voice of being considered a fair trader and a country that abides by the rule of law and the terms of treaties to which it is a signatory'*.<sup>28</sup>

Joseph Nye, widely credited as the inventor of the term 'soft power', has said in the American context that,

*'Realists sometimes complain that human rights interfere with American power in the harsh world of international relations. However, a sophisticated realist understands that, in addition to hard military and economic power, the soft power of attraction is also important. And human rights not only define us as a people, but they can also enhance our soft power'*.<sup>29</sup>

More recently, it has been argued by the British Foreign Policy Group that *'however much hard power may be the "currency of the age", without soft power, this currency devalues considerably'*.<sup>30</sup>

Human rights are, in Joseph Nye's view, *'an essential part of foreign policy, but their effective inclusion is never an easy task'* noting that *'[n]othing dissolves soft power more effectively than charges of hypocrisy'*.<sup>31</sup> The UK promotes itself as a country which respects the rule of law, human rights, and its commitment to international law and global institutions. Its withdrawal from the ECHR and Council of Europe would be noticed by countries across the globe and would be invoked as a shield from hypocrisy, whenever the UK levied human rights criticisms against other countries, particularly any fragile or backsliding democracies which continue to be Council of Europe members.

A key element of the UK's soft power is its reputation for the rule of law, the promotion of human rights, and its commitment to both international law and global institutions. As the UK Soft Power Group, the leading non-governmental organisation collectively representing soft power organisations in the UK, has said, *'Another arena in which the UK has traditionally benefited from soft power has been in multilateral institutions. Having helped establish many of these institutions and possessing both expertise and strong commitment to international law and human rights, the UK has long benefitted from a strong position within multilateral institutions'*.<sup>32</sup> The UK's ability to promote international law and human rights is *'crucial to national security'*.<sup>33</sup>

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27 Christopher Hill and Sarah Beadle, ['The Art of Attraction: Soft Power and the UK's Role in the World'](#) (British Academy, March 2014), p 6.

28 John Nilsson-Wright and Sir Robin Niblett, ['The UK and Japan'](#) (Chatham House, 29 May 2019, updated 26 September 2024).

29 Carr Center for Human Rights Policy, ['Making a Movement: The History and Future of Human Rights'](#) (Harvard Kennedy School, 10 December 2023), p89.

30 Jack Pannell, ['Soft power is the edge in a hard power era'](#) (British Foreign Policy Group, 6 May 2026).

31 Carr Center for Human Rights Policy, ['Making a Movement: The History and Future of Human Rights'](#) (n 5), p 89.

32 UKSPG, British Foreign Policy Group and the British Council, ['Strengthening UK Soft Power: Strategic Recommendations'](#) (2025), p 29.

33 Ibid, p 30.

## Human rights as soft power

The Foreign Office (March 2025) has said that *'[a]t a time of geopolitical competition, soft power is the best way we can attract people to support the UK's goals, whether it be in terms of growth, influence or other government priorities. If the Government's intent to be a force for good is reinforced through the UK being seen as a country which respects international law and institutions, our brand and impact will be further strengthened'*.<sup>34</sup>

This has been a consistent position of UK foreign policy over successive Governments, of various political stripes:

- i. Under the Conservative-Liberal Democrat Coalition, the Foreign Secretary said that *'there will be no downgrading of human rights under this Government indeed there is a substantial upgrading of attention... For pursuing a foreign policy with a conscience is the right thing to do and is in the long-term enlightened national interest of our country'*.<sup>35</sup>
- ii. In March 2018, the Conservative Government's National Security Capability Review said that *'[w]e are championing the rules-based system, which has served our interests as a global trading nation and is of vital importance as geopolitics becomes more contested... we are using our soft power to project our values and advance UK interests'*.<sup>36</sup>
- iii. In March 2021, the Conservative Government published an Integrated Review of Security, Defence, Development and Foreign Policy called *Global Britain in a Competitive Age*. In that review, the Council of Europe is listed as a multilateral organisation which upholds *'international norms on security'*.<sup>37</sup> The Prime Minister at the time, Boris Johnson, said in his foreword:
 

*'History has shown that democratic societies are the strongest supporters of an open and resilient international order, **in which global institutions prove their ability to protect human rights**, manage tensions between great powers, address conflict, instability and climate change, and share prosperity through trade and investment. **That open and resilient international order is in turn the best guarantor of security for our own citizens'*** (emphasis added).<sup>38</sup>
- iv. The former Labour Prime Minister, Gordon Brown, said in 2023 that the *'UK is famed across the world for its independent judiciary and for championing the rule of law, not least because of our involvement in the authorship of the European convention on human rights'*.<sup>39</sup>
- v. In 2023, Conservative Prime Minister at the time, Rishi Sunak MP, addressed the Council of Europe in Reykjavik and said, *'we must work together to defend the values we all hold so dear. The Council of Europe, with its huge reach, has such a vital role to play'*.<sup>40</sup>

34 Foreign, Commonwealth and Development Office, ['Soft Power: The UK's Unique Selling Point: Written Evidence'](#) (3 March 2025), para 5.

35 William Hague, ['There will be no downgrading of human rights under this Government'](#) (31 March 2011)

36 HM Government, ['National Security Capability Review'](#) (March 2018), para 3.

37 HM Government, ['Global Britain in a competitive age: The Integrated Review of Security, Defence, Development and Foreign Policy'](#) (March 2021) p 75.

38 Ibid., p 3.

39 Gordon Brown, ['Dominic Raab is gone, but many others will continue his assault on human rights'](#) (The Guardian, 25 April 2023)

40 Rishi Sunak MP, ['PM remarks at the opening session of the Council of Europe'](#) (16 May 2023)

- vi. Yvette Cooper MP, speaking as the Foreign Secretary earlier this year to the City of London said, *'[t]he role that rules-based frameworks play is vital, and respect for the rule of law is a core British value that supports our national interest, underpins our economic stability, makes us a reliable place for international investment, while the whole world spins around us and underpins our security and prosperity.'*<sup>41</sup>

It has long been accepted that the Council of Europe plays a critical role in promoting human rights and democracy across and beyond the European continent. The United Kingdom has played an integral role in the Council of Europe, since its inception, when the first treaty was signed in London, in 1949.

*"The UK was a driving force behind the establishment of the European Convention on Human Rights in the aftermath of the Second World War. At a time when memories of human rights abuse and mass murder were very much alive in the minds of the people of Europe the UK showed leadership in working with others to create rights that all the people of Europe would share. We are rightly seen as a respected defender of human rights and remaining in the Convention is essential if we are to maintain our position as a champion of freedom and due process amongst the nations of Europe. The UK's PACE representatives are respected because they uphold the principles of the Convention and provide an important voice for human rights across our Continent."*

**Lord Jones of Penybont**, leader of the UK Delegation to PACE<sup>42</sup>

As Joseph Nye has said, soft power can dissolve very quickly in the face of hypocrisy. This may happen when other countries believe that you are not living up to the values by which you judge them.

Over many years, the UK has espoused human rights and the international rules-based order. The impact of withdrawal from the ECHR and likely departure from the Council of Europe would be noticed and would be quietly devastating for the UK's international reputation and its soft power.

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41 Yvette Cooper MP, '[Foreign Secretary Mansion House address to City of London 2026](#)' (9 April 2026)

42 Quote provided to JUSTICE

## Churchill's legacy

There has been recent debate about the extent to which Winston Churchill would have supported the modern ECHR and ECtHR. It is, of course, impossible to state categorically how complex historical figures would have viewed the modern Council of Europe and the current iteration of its bodies.

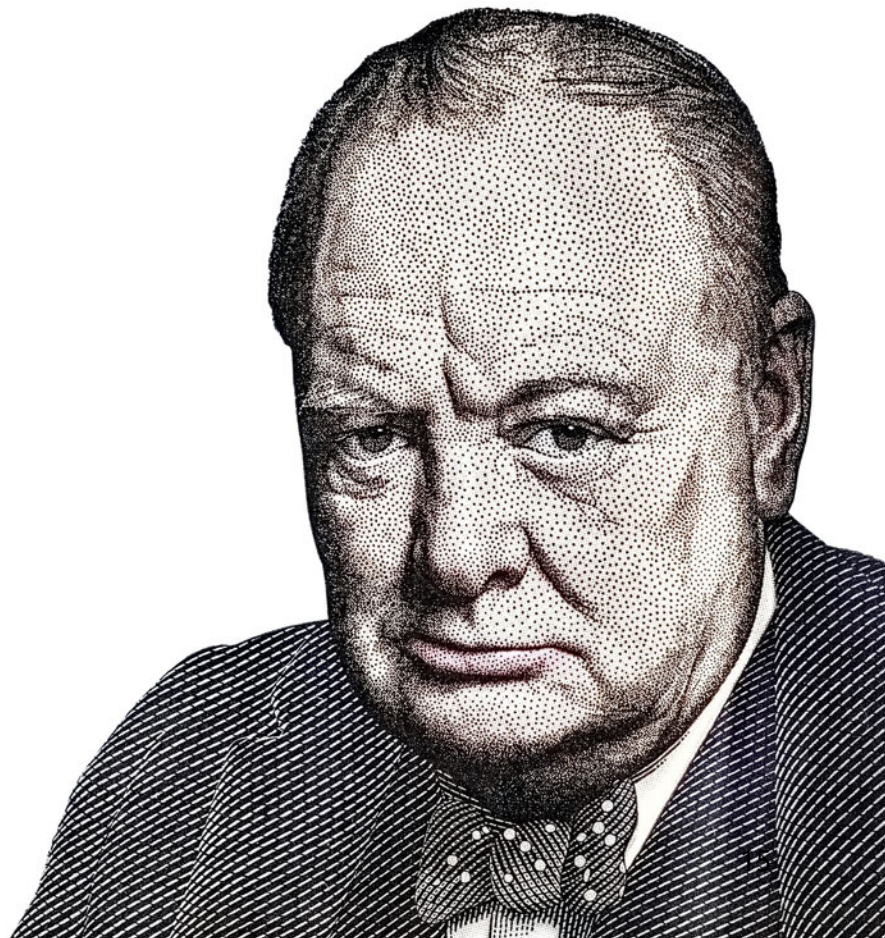
However, it is undoubtedly true that Churchill was very supportive of the Council of Europe being set up as an organisation.<sup>43</sup> Indeed, he spoke on several occasions at the Consultative Assembly, an early version of the current Parliamentary Assembly of the Council of Europe (PACE), about a 'charter for human rights' standing at the 'centre of our movement... guarded by freedom and sustained by law',<sup>44</sup> and was supportive of setting up a European Court of Human Rights.<sup>45</sup> It is also worth noting that he made the following point on sovereignty:

'It is said with some truth that this involves some sacrifice or merger of national sovereignty. I prefer to regard it as the gradual assumption by all the nations concerned of that larger sovereignty which can alone protect their diverse and distinctive customs and characterisations and their national traditions all of which under totalitarian systems, whether Nazi, Fascist or Communist, would certainly be blotted out forever.'

43 Sir Winston Churchill, '[Speech delivered at the University of Zurich](#)' (19 September 1946), p 9.

44 Ibid., p 8.

45 Richard M Langworth, '[Churchill and the European Court of Human Rights](#)' (The Churchill Project Hillsdale College, 29 December 2022)



Whilst Governments of the UK have not always been enthusiastic about the ECHR and the ECtHR, in their varied political stripes, they have consistently been of the view that it is in the UK's interests to remain an ECHR signatory and full member of the Council of Europe.

For example, in July 1985, there was political disquiet in Parliament about the ECHR. The UK Government under Margaret Thatcher considered the issue. Some wanted the Government to remove the right of individual petition to the ECtHR. However, the Government made clear that to do so would *'be seen by many as threatening the integrity of the international measures to protect human rights and weak[ening] our international reputation'*.<sup>46</sup> Downing Street concluded that withdrawal from the Convention *'was not a practicable option'*.<sup>47</sup>

The UK's withdrawal from the ECHR and Council of Europe would be a significant step in UK foreign policy and, in our view, a retrograde one.

*"My hon. Friend will know I agree with him that, as we leave the European Union, the country and the world should know that this nation stands for liberty, freedom and human rights. One mark of our standing for those values will be our continued vigorous participation in the Council of Europe and our subscription to the convention on human rights."* <sup>48</sup>

**Sir Geoffrey Cox KC MP**, speaking to Parliament as Attorney General in 2020

Since the days of both Churchill and Thatcher, the Council of Europe has grown to encompass 46 members from across the European continent and five observer states,<sup>49</sup> with Montenegro being the last country to join in 2007.<sup>50</sup> It is separate from the European Union. There is no requirement to be an EU member for a country to join or remain in the Council of Europe; along with the UK, other non-EU countries such as Azerbaijan, Turkey, Norway, and Ukraine are full Council of Europe members.

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46 Margaret Thatcher Archive, ['Letter from Charles Powell at 10 Downing Street to Hugh Taylor Esq., Home Office on the European Court of Human Rights'](#) (17 July 1985)

47 Ibid.

48 Hansard, HC Deb 16 January 2020 on ['Leaving the EU: Human Rights'](#), vol 669, col 1143.

49 Canada, Holy See, Japan, Mexico and the United States of America.

50 Council of Europe, ['Chart of signatures and ratifications of Treaty 001'](#), accessed 08 September 2026.

## “Soft security”: a forum for the UK’s influence

The Council of Europe is an important forum in which the UK engages with other countries on a wide range of joint issues which affect the European continent. As Dr Alice Donald and Professor Philip Leach have pointed out, the Committee of Ministers, ECtHR, and PACE ‘provide opportunities to further the UK’s foreign policy objectives of strengthening national and international security and supporting the development of open societies’.<sup>51</sup> The Council of Europe is, in their view, the ‘preeminent means for the UK to exercise ‘soft power’ influence across the continent’.<sup>52</sup>

It has been widely observed that withdrawal from the Council of Europe would be detrimental to the international reputation of the UK and its ability to influence other countries. Eleanor Fuller, UK Permanent Representative to the Council of Europe 2007 – 2012, told us:

*‘The United Kingdom is a respected member of the Council of Europe. Our seat at the table there gives us a say on matters of human rights, democracy and the rule of law across our continent, in the UK’s national interest.’*<sup>53</sup>

Dr Ioannes De Fabri-Chountis, in a paper for the Henry Jackson Society, has said that the UK’s ‘moral standing on the global stage would be affected’ and that withdrawal would ‘undermine the UK’s ability to advocate for human rights globally and diminish its reputation for holding both itself and other nations accountable’.<sup>54</sup>

Rashmin Sagoo, the former director of the International Law Programme at Chatham House, has said that ECHR withdrawal ‘would make the UK far less able to champion international law and influence states with long records of human rights violations, and run contrary to UK strategic priorities such as tackling aggression from Russia and China, its support for multilateralism, and its global legal leadership’.<sup>55</sup>

The author Martyn Bond argues that the Council of Europe was an essential part of the infrastructure of international organisations set up in the wake of the Second World War: it was ‘the necessary “soft power” to the “hard power” of the North Atlantic Treaty Organization (NATO)’.<sup>56</sup> Defence was specifically excluded from the remit of the Council of Europe because NATO had been set up just a few weeks previously.<sup>57</sup> Bond argues that the Council of Europe has enhanced ‘soft security’ throughout Europe, but also more broadly through its work in conflict zones and international engagement.<sup>58</sup> When the Cold War was coming to an end, he argues that the Council of Europe was an ‘ethical antechamber’ where ‘newly independent states could learn the values of the democratic West’.<sup>59</sup>

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51 Dr Alice Donald and Professor Philip Leach, ‘[Engaging with Europe after Brexit: Time to reset the UK’s relationship with the Council of Europe](#)’ (The Foreign Policy Centre, 16 December 2020)

52 Ibid.

53 Quote provided to JUSTICE.

54 Ioannes De Fabri-Chountis, ‘[Reform to Conserve: A Novel Approach to the UK and the ECtHR via the Council of Europe](#)’ (The Henry Jackson Society, April 2025), p25.

55 Rashmin Sagoo, ‘[The UK must not sleepwalk into leaving the ECHR](#)’ (Chatham House, 17 March 2023, updated 21 April 2023).

56 Martyn Bond (n 7), p 11.

57 Ibid., p 84.

58 Ibid., p 12

59 Ibid., p106.

*"Europe has had 40 years of stability east and west of the iron curtain, but stability has been assured in very different ways. In the West we have achieved and held stability after the most destructive convulsion in our history through free political institutions. Internally, we have relied on democracy; externally, we have built up international institutions freely entered into to draw our democracies closer together. I refer to NATO for our defence, the European Community to strengthen our prosperity, based on free enterprise, and the **Council of Europe to bind us in willing affirmation of those shared values of democracy.**" (emphasis added) <sup>60</sup>*

**Douglas Hurd MP**, then Foreign Secretary, speaking to the House of Commons, 1989

The UK has considerable authority in the Council of Europe as one of its founding members. It has a long history of the rule of law and wide recognition of the quality of its domestic legal system. Were it to withdraw from the Council of Europe, the UK would damage its reputation for promoting human rights and lose its role as a leading member, its ability to influence the future direction of the Council of Europe and to spearhead European approaches to issues of joint importance (from artificial intelligence to the war in Ukraine).

## Can the UK stay in the Council of Europe after leaving the ECHR?

Some have sought to argue that the UK could maintain its membership of the Council of Europe, even if it were to withdraw from the ECHR. Lord Wolfson of Tredegar, in his advice to the Conservative Party, expressed a risk that the UK would be forced to leave, but that there was *'nothing in the founding statute which expressly requires continued ECHR membership'* and that it is *'not obvious that the Council of Europe would want to exclude the UK in view of its international significance more generally'*.<sup>61</sup>

However, based on our analysis, we consider it highly unlikely that the UK would be able to remain in the Council of Europe after formal withdrawal from the ECHR. The ECHR is central to the Council of Europe. Allowing a member to fully withdraw from the ECHR would severely undermine a fundamental purpose of the Council of Europe. It would fatally undercut both central Council of Europe institutions such as the ECtHR and the Council of Europe's policy of requiring new members to become ECHR signatories. The UK would be able to oversee other countries' compliance with the ECHR and implementation of ECtHR decisions, whilst refusing to do so itself.

Furthermore, those advocating withdrawal from the ECHR want the UK to be able to act in a way which would not be permitted under the ECHR or by the ECtHR (such as to treat migrants and their family members in a manner which would likely be held to violate their fundamental human rights). However, the Council of Europe's founding statute mandates that member states *'accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights*

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60 Hansard, HC Deb 24 November 1989 '[Foreign Affairs, European Community And Defence](#)', vol 162, col 346.

61 Lord Wolfson of Tredegar, '[The Wolfson Report](#)' (2 October 2025), para 356.

and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I'.<sup>62</sup> Any member state which seriously violates this can be suspended and/or requested by the Committee of Ministers to withdraw.<sup>63</sup> It is true that there is no mention of the ECHR in the founding statute, but the reason for this is plain: the ECHR had not yet been agreed by the member states.

It is no coincidence that every Council of Europe member state is a signatory to the ECHR. The Vienna Declaration in 1993 of the Committee of Ministers made clear, in the context of new members joining following the fall of the Berlin Wall, that:

*'Such accession presupposes that the applicant country has brought its institutions and legal system into line with the basic principles of democracy, the rule of law and respect for human rights. The people's representatives must have been chosen by means of free and fair elections based on universal suffrage. Guaranteed freedom of expression and notably of the media, protection of national minorities and observance of the principles of international law must remain, in our view, decisive criteria for assessing any application for membership. **An undertaking to sign the European Convention on Human Rights and accept the Convention's supervisory machinery in its entirety within a short period is also fundamental. We are resolved to ensure full compliance with the commitments accepted by all member States within the Council of Europe.**'*<sup>64</sup>

The Council of Europe has also set out, for example in the Explanatory Report to Protocol No. 11 of the ECHR, that *'all Contracting Parties have accepted the right of individual petition [to the ECtHR], and that full **acceptance of the supervisory mechanism established by the Convention has become, de facto, a condition for admission to the Organisation. This has resulted in the jurisdiction of the Court, as provided in Article 34, becoming mandatory.**'*<sup>65</sup> The Committee of Ministers plays a crucial role in overseeing the judgments of the ECtHR by member states. Plainly, the UK could not play a role in this oversight, if it had rejected the jurisdiction of the ECtHR.

PACE is a body of considerable standing within the Council of Europe's structures. It has a veto over new members joining and can set conditions for new member states.<sup>66</sup> It also can recommend that a state be suspended or expelled, with powers to suspend the voting rights of a national delegation to PACE if required.<sup>67</sup> PACE has been consistently clear that being an ECHR signatory is a minimum requirement to becoming a Council of Europe member. We would highlight the following three examples of its resolutions on the issue:

- a. Resolution 1031 (1994) sets out explicitly that *'all member states of the Council of Europe are required to respect their obligations under the Statute, the European Convention on Human Rights and all other conventions to which they are parties'*.<sup>68</sup>

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62 Statute of the Council of Europe (n 3), art 3.

63 Ibid., art 8.

64 Council of Europe, ['Vienna Declaration'](#) (9 October 1993)

65 Council of Europe, ['Explanatory Report to Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby'](#) (11 May 1994), para 85.

66 PACE, 'The Power of the Assembly' (n 10).

67 Ibid.

68 PACE, ['Resolution 1031: Honouring of commitments entered into by member states when joining the Council of Europe'](#) (14 April 1994), para 1.

- b. Resolution 1823 (2011) states ‘Council of Europe member states are responsible for the effective implementation of international human rights norms they have signed up to, in particular those of the European Convention on Human Rights’.<sup>69</sup>
- c. Resolution 1516 (2006) made clear that ‘respect for the European Convention on Human Rights (ECHR – ETS No. 5), including the compulsory jurisdiction of the European Court of Human Rights (the Court) and its binding judgments, is the main pillar of European public order which guarantees peace, democracy and good government in greater Europe’.<sup>70</sup> The same resolution makes clear that prolonged situations of non-compliance with the ECHR ‘puts at stake the effectiveness of the ECHR system and should be seen as a breach of the state’s obligations under the ECHR and under the Statute of the Council of Europe’.<sup>71</sup>

In considering applications for country’s accession to the Council of Europe, it has become standard for prospective new member states to commit to ratification of the ECHR, and wider treaties, as a means of convincing PACE (and the wider Council of Europe) that it meets the Article 3 entry requirements; see, for example, PACE’s opinions in relation to the [Republic of Montenegro](#) (2007)<sup>72</sup>, [Kosovo](#) (2024)<sup>73</sup>, [Bosnia and Herzegovina](#) (2002)<sup>74</sup>, [Azerbaijan](#) (2000)<sup>75</sup>, [Ukraine](#) (1995)<sup>76</sup> and as far back as [Liechtenstein](#) (1978)<sup>77</sup>. This is a key part of PACE recommending that such a country be invited to become members. In 2020, then President of PACE, Rik Daems, said:

*‘From the very moment the Convention opened for signature on 4 November 1950, just fifteen months after the Assembly’s recommendation, the Assembly recognised the paramount importance of this treaty. [We] considered from the outset that the willingness to ratify it should become a sine qua non condition for membership for states wishing to join the Council of Europe’.*<sup>78</sup>

The Council of Europe has previously acted against member states for serious human rights breaches. Following a military coup in 1967, during which there was torture and elections were banned<sup>79</sup>, the Greek government was found by the then European Commission on Human Rights (now defunct) to have been in systemic breach of the ECHR for a series of derogations from the ECHR.<sup>80</sup> Before any decision was made on expelling Greece, they withdrew from the Council of Europe (and returned later once democracy was restored in 1974).<sup>81</sup>

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69 PACE, ‘[Resolution 1823: National parliaments: guarantors of human rights in Europe](#)’ (23 June 2011), para 1.

70 PACE, ‘[Resolution 1516: Implementation of the judgments of the European Court of Human Rights](#)’ (2 October 2006), para 1.

71 Ibid., para 12.

72 PACE, ‘[Opinion 261: Accession of the Republic of Montenegro to the Council of Europe](#)’ Opinion 261 (17 April 2007).

73 PACE, ‘[Opinion 302: Application by Kosovo\\* for membership of the Council of Europe](#)’ Opinion 302 (16 April 2024)

74 PACE, ‘[Opinion 234: Bosnia and Herzegovina’s application for membership of the Council of Europe](#)’ (22 January 2002).

75 PACE, ‘[Opinion 222: Azerbaijan’s application for membership of the Council of Europe](#)’ (28 June 2000)

76 PACE, ‘[Opinion 190: Application by Ukraine for membership of the Council of Europe](#)’ (26 September 1995)

77 PACE, ‘[Opinion 90: Liechtenstein’s accession to the Council of Europe](#)’ (28 September 1978)

78 PACE, ‘[70 years of the European Convention on Human Rights: the Assembly’s contribution](#)’ (4 November 2020)

79 Council of Europe, ‘[12 December 1969: Greece Withdraws](#)’, accessed 4 September 2026.

80 Kanstantsin Dzehtsiarou and Donal K Coffey, ‘[Suspension and Expulsion of Members of the Council of Europe: Difficult Decisions in Troubled Times](#)’ (2019) 68 International & Comparative Law Quarterly, p 449.

81 Council of Europe, ‘Greece Withdraws’ (n 78).

Following Russia's invasion of Ukraine in 2022, its membership of the Council of Europe was ended by the Committee of Ministers.<sup>82</sup> There have also been examples where voting rights at PACE have been suspended; most recently, PACE voted for Azerbaijan's delegation to be suspended after serious concerns were raised about their respect for core democratic and human rights principles.<sup>83</sup>

If the UK could not maintain its full membership of the Council of Europe, it could in theory become an observer state (and join, at present, Canada, the Holy See, Japan, Mexico and the United States of America).<sup>84</sup> However, this would be entirely at the discretion of the Committee of Ministers and would significantly reduce the UK's influence over the future direction of the Council of Europe.<sup>85</sup> Observer states have no voting rights in PACE, for example.<sup>86</sup> The criteria for becoming an observer state are very similar to the Article 3 ECHR hurdle over which prospective member states leap and, given the diplomatic tensions likely to exist, the UK may not be welcomed back as an observer.<sup>87</sup>

Furthermore, those advocating the UK leave the ECHR want the UK to be able to act in a way which at present would be viewed as a serious violation of the ECHR, according to ECtHR case-law. In the context of immigration, for example, the Rwanda scheme was blocked by the Supreme Court because it risked breaching Article 3 ECHR (the prohibition on torture and serious ill-treatment) and a series of other international law instruments.<sup>88</sup> If the UK was to carry out a migration policy with serious Article 3 breaches, the Council of Europe may not wish to retain the UK as a member or observer.

## But what has the Council of Europe done for us? Key accomplishments of the Council of Europe over the years

The Council of Europe has quietly been at the forefront of significant improvements of rights across the European continent, of which the UK has often played an important role behind the scenes. Many of these achievements have significantly aligned with the goals of UK foreign policy, especially the promotion of human rights, democracy, and the rule of law across Europe.

Since the end of the Cold War, the Council of Europe has been instrumental in helping develop more stable democracies across Eastern Europe. The following are a few examples of the Council's significant achievements over the years.

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- 82 Committee of Ministers, '[Consequences of the aggression of the Russian Federation against Ukraine](#)' (16 March 2022)
  - 83 PACE, '[PACE resolves not to ratify the credentials of Azerbaijan's parliamentary delegation, citing a failure to fulfil "major commitments"](#)' (24 January 2025)
  - 84 Council of Europe, '[The Council of Europe's Relations with Observer States](#)', accessed 4 September 2026.
  - 85 Committee of Ministers, '[Criteria for the Granting of Observer Status with the Council of Europe](#)' (1–2 and 7 July 1999).
  - 86 PACE, '[Special Guests, Observers and Partners for Democracy](#)', accessed 4 September 2026.
  - 87 Committee of Ministers, '[Criteria for the Granting of Observer Status](#)' (n 84).
  - 88 [R \(AAA & Ors\) v Secretary of State for the Home Department](#) [2023] UKSC 42 (n 26).

## Creating a ‘death penalty free zone’ in Europe

It has been a ‘*longstanding policy of the UK to oppose the death penalty in all circumstances as a matter of principle*’.<sup>89</sup> The Council of Europe has been leading on this issue across Europe for many years. Since 1997, there has not been a single execution across its member states, leading the Council of Europe to declare a ‘*death penalty free zone*’.

This is, in no small part, down to the persistent work of the Council of Europe. The original ECHR did not abolish the death penalty but, since 1983, member states have adopted the legally binding Protocol No. 6 to the ECHR which prohibits the death penalty in peacetime. All 46 member states have ratified this Protocol and it has become a ‘*precondition for membership*’ of the Council of Europe ‘*since the 1990s*’.<sup>90</sup> A subsequent Protocol No. 13 (July 2003) abolished the death penalty in times of war: all but one member state has ratified this agreement.<sup>91</sup>

## Investigating torture

Article 3 ECHR (prohibition on torture and inhuman or degrading treatment) is an absolute right under the ECHR. This means, in no circumstances, can it be breached. Building on this, in 1987, the Council of Europe agreed the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.<sup>92</sup>

One of the ways by which the Council of Europe investigates such treatment, beyond the ECHR and ECtHR, is through the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (‘CPT’). Such monitoring mechanisms are a key part of the Council of Europe’s influencing strategy. All 46 member states agree to periodic monitoring and visits by delegations of experts. Since all member states agree to be visited and engage with the findings, accusations of hypocrisy or targeting of certain countries are minimised.

The CPT’s membership is made up of independent experts with a variety of backgrounds (some legal, some medical and others specialists in prisons or policing) nominated by the member states.<sup>93</sup> They organise visits to places of detention – such as prisons, detention centres, police stations, psychiatric facilities and care homes – and such delegations have ‘*unlimited access*’ to move without restriction, to interview those detained in private and gather information. They prepare reports which are sent to member states containing findings and recommendations. This starts a process of dialogue through which countries look to address the CPT’s concerns or respond to questions raised.

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89 Foreign and Commonwealth Office, ‘[HMG Strategy for Abolition of the Death Penalty 2010–2015](#)’ (Human Rights and Democracy Department, revised October 2011), p3.

90 Council of Europe, ‘[Abolition of the Death Penalty in Europe](#)’, accessed 4 September 2026.

91 Azerbaijan is the only country. Council of Europe, ‘[Chart of Signatures and Ratifications of Treaty 187](#)’, accessed 4 September 2026.

92 [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#) (1 February 1989)

93 Council of Europe, ‘[About the CPT](#)’, accessed 4 September 2026.

Whilst it is the decisions of the ECtHR which often receive the most attention, such investigative activities of the Council of Europe play their own important role in raising standards among member states. They often operate on *'a spirit of goodwill and on the basis of mutual trust'*, but compliance is also driven by a fear of negative publicity during the monitoring processes.<sup>94</sup>

It has been a consistent theme of UK foreign policy to improve human rights across the European continent. However, there is also a practical reason why this is important. Hundreds of thousands of British citizens live abroad in Council of Europe member countries.<sup>95</sup> 77% of trips abroad by British citizens are to Europe (around 70 million trips).<sup>96</sup>

The conditions of prison cells and hospitals in Europe, for example, affect a significant number of British citizens each year. Whilst there is limited available data, previous releases have suggested around 1,000 British citizens are arrested or detained in Spain each year.<sup>97</sup> Prisoners Abroad had over 450 cases of British people in prison in Europe.<sup>98</sup>

Additionally, there is value in having an independent oversight body that can help ensure that the UK is meeting the required standards for its places of prison and detention.

## Election observing / monitoring

PACE has been observing elections on behalf of the Council of Europe since 1974, following Greece's return after civilian government was restored. This is key for an organisation built for democracies. PACE supports cross-party delegations of Assembly members and experts to observe local and national elections in member states to assess their fairness and recommend improvements in practice. The UK sends one of the largest PACE delegations of any country with 18 Parliamentarians attending.<sup>99</sup>

Since 1989, the Council of Europe has observed over 250 parliamentary and presidential elections with over 3,000 PACE members deployed to observe them, in 37 member states.<sup>100</sup> Such observations lead to monitoring reports, with recommendations which can then be taken up with the member state. The Council of Europe also provides technical advice on electoral matters and produces best practice guides to ensure electoral integrity is strengthened.<sup>101</sup>

94 Martyn Bond (n 7), p 53.

95 Office for National Statistics, ['UK emigration explained: what we know about Brits moving abroad'](#) (21 May 2026)

96 House of Commons Library, ['Tourism: Statistics and Policy'](#) (11 February 2026), p 12.

97 Foreign and Commonwealth Office, ['Freedom of Information Act 2000 Request Ref: 0440-17'](#) (9 May 2017)

98 Prisoners Abroad, ['Cheal Report 2024 -25: Understanding People in Prison Overseas – Statistics and Analysis'](#) (2025), p6.

99 UK Parliament, ['UK Delegation to the Parliamentary Assembly of the Council of Europe'](#) accessed 4 September 2026.

100 PACE, ['Elections Division'](#), accessed 4 September 2026.

101 Ibid.

## Artificial Intelligence

The Council of Europe opened its Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law (the AI Convention)<sup>102</sup> for signatures in 2024. It is the first international agreement to recognise the threat AI poses specifically to human rights, democracy and the rule of law (rather than being couched in terms of 'AI ethics'). It is also the first legally-binding international treaty on AI, which requires member states to 'adopt or maintain appropriate legislative, administrative or other measures to give effect to the provisions' with a follow-up mechanism to ensure effective implementation.<sup>103</sup>

The UK played an active and direct role in the AI Convention, from its earliest stages. The UK's Alan Turing Institute collaborated with the Council of Europe to publish *Artificial Intelligence, Human Rights, Democracy and the Rule of Law: A Primer* – a foundational text which supported the *Ad Hoc Committee on Artificial Intelligence* (CAHAI)'s work evaluating the feasibility of a treaty on the topic, from 2019 onwards.<sup>104</sup> It actively participated in the two years' of drafting negotiations with the Council of Europe's [Committee on AI \(CAI\)](#).<sup>105</sup> Since publication of the AI Convention, the Alan Turing Institute again has played a key role, developing an assessment framework for the AI Convention which has since been officially adopted by the Council of Europe. Called "HUDERIA" (Human Rights, Democracy, and the Rule of Law Risk and Impact Assessment for AI Systems), the framework supports the implementation of the treaty by providing a structured assessment of risk and impact, translating the treaty's legal obligations into a practical governance process.<sup>106</sup>

The AI Convention is a significant step forward for global collaboration and coherence in AI governance, far beyond Europe. Countries outside the Council of Europe signed the treaty in 2024, most notably the US, joining the UK, other member states and the EU as signatories.<sup>107</sup> Canada and Japan have since followed.<sup>108</sup>

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102 Council of Europe, '[Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law](#)' (opened for signature 5 September 2024).

103 Ibid., art 1(2).

104 Council of Europe, '[CAHAI - Ad hoc Committee on Artificial Intelligence](#)', accessed 4 September 2026.

105 Council of Europe, '[Council of Europe and Artificial Intelligence](#)', accessed 4 September 2026.

106 Sam Spindlow, '[Council of Europe adopts Turing-developed human rights risk and impact assessment for AI systems](#)' (The Alan Turing Institute, 5 December 2024)

107 Ministry of Justice and The RT Hon Shabana Mahmood MP, '[UK signs first international treaty addressing risks of artificial intelligence](#)' (5 September 2024)

108 Council of Europe, '[Canada and Japan Sign Council of Europe's First Ever Global Treaty on AI](#)' (11 February 2025)

## Ukraine

The Council of Europe has been at the forefront of the European response to Russia's war against Ukraine. A detailed [opinion](#) from PACE, following an extraordinary session, set out serious human rights violations by the Russian military, its solidarity with the Ukrainian people and 'unwavering support for the sovereignty, independence and territorial integrity of Ukraine'.<sup>109</sup> As a result, Russia was formally expelled from the Council of Europe by the Committee of Ministers.<sup>110</sup> The Council of Europe also suspended co-operation with the Belarusian authorities, though it continues to work with exiled democratic forces and civil society.<sup>111</sup>

*"These tragic events confirm the relevance of and continuing need for the Council of Europe as a value-based intergovernmental organisation working to promote democracy, human rights and the rule of law. Through its numerous bodies and institutions, and in accordance with its remit and mission, the Council of Europe should be on the front line in providing assistance and expertise to support Ukraine and Ukrainians."*<sup>112</sup>

PACE Opinion: Consequences of the Russian Federation's aggression against Ukraine, 2022

Further to this, the Council of Europe has taken several practical steps to help respond to the war in Ukraine and hold Russia accountable for its actions. First, it has set up the **Register of Damage Caused by the Aggression of the Russian Federation against Ukraine**. The UK has played an influential role in this, chairing the Conference of Participants from its inception until recently handing over to Sweden.<sup>113</sup> The Register is gathering a record of claims for compensation based on damage, loss and injury inflicted by Russian aggression since the war began. Whilst it cannot award such compensation yet, its work is intended to support a future international compensation mechanism (if one is established).<sup>114</sup> Nearly 190,000 claims have been received, with 58,000 registered.<sup>115</sup>

Building on this, the Council of Europe has now started the process of setting up an **International Claims Commission** for Ukraine. The purpose of this commission is to review, assess and decide on claims that are submitted to the Register of Damage.<sup>116</sup> At present, there has only been a preparatory committee established to start setting up the Commission. The Commission requires ratification by

109 PACE, '[Opinion 300: Consequences of the Russian Federation's aggression against Ukraine](#)' Opinion 300 (15 March 2022), para 2.

110 Council of Europe, '[The Russian Federation is excluded from the Council of Europe](#)' (16 March 2022)

111 Council of Europe, '[Contact Group on Belarus](#)', accessed 4 September 2026.

112 PACE, 'Consequences of the Russian Federation's aggression against Ukraine', n 108, para 12.

113 UK Delegation to the Council of Europe, [LinkedIn post](#), accessed 4 September 2026.

114 Council of Europe, '[Register of Damage for Ukraine: General](#)', accessed 4 September 2026.

115 Council of Europe, '[Newsroom: Register of Damage for Ukraine opens new categories of claims for compensation](#)' (3 September 2026)

116 Council of Europe, '[International Claims for Commission for Ukraine: Council of Europe launches preparatory committee](#)' (27 February 2026)

at least 25 countries before it can be established.<sup>117</sup> The UK Government has signed the Convention and has laid the Treaty before Parliament with the intention of ratifying it.<sup>118</sup>

Third, it has launched a **Special Tribunal** to prosecute the claim of aggression against Ukraine. The aim of the Tribunal is to *'investigate, prosecute and try individuals who bear the greatest responsibility for the crime of aggression against Ukraine'*, as the International Criminal Court cannot examine the crime of aggression.<sup>119</sup> PACE was the first international body to call for such a tribunal, only a couple of months after the initial invasion (following calls from human rights lawyers, Ukrainian legal experts and government officials).<sup>120</sup>

*"Every war criminal must know: there will be justice, and that includes Russia. Politically, we have already made big progress, and I am grateful to the Council of Europe and to everyone showing leadership. Justice takes time, but it must happen, I am sure. And today's agreement and this tribunal give us a real chance to bring justice for the crime of aggression. Other institutions don't have the tools to do this. And we need to show clearly: aggression leads to punishment, and we must make it happen together."*<sup>121</sup>

**President Zelensky**, speaking to the Council of Europe, 25 June 2025

Such initiatives are at the heart of the Council of Europe's response to the war in Ukraine. By leaving the Council of Europe, the UK may not be barred from playing some part in these initiatives. For example, the Register of Damage is open to non-member states.<sup>122</sup> However, the UK's withdrawal from the Council of Europe at such a crucial time would send a dangerous message that the organisation was no longer united.

The UK would also lose considerable influence, through the Committee of Ministers and PACE, around the future of the Council of Europe and its response to the war in Ukraine. Even observer status would leave its standing and diplomatic heft in the Council significantly reduced as it would be reliant on supporting conventions or agreements reached by the Committee of Ministers, rather than leading in their drafting or development.

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117 [Convention Establishing an International Claims Commission for Ukraine](#) (The Hague, 16 December 2025), art 30.

118 House of Lords Library, ['Convention Establishing an International Claims Commission for Ukraine'](#) (22 June 2026)

119 Council of Europe, ['Special Tribunal for the Crime of Aggression against Ukraine'](#), accessed 4 September 2026.

120 Council of Europe, ['Frequently Asked Questions: Special Tribunal for the Crime of Aggression against Ukraine'](#) (15 May 2026), accessed 4 September 2026.

121 Council of Europe, ['Ukraine and the Council of Europe sign Agreement on establishing a Special Tribunal for the Crime of Aggression against Ukraine'](#) (25 June 2025)

122 Council of Europe, ['Register of Damage for Ukraine: Membership'](#), accessed 4 September 2026.

*"The Parliamentary Assembly was very much a British creation and the treaty setting it up was signed in St James Palace in London on May 5 1949. Whilst many are sadly unaware of the organisation, ceasing to be a member of the Council of Europe would be a tragedy. Following Brexit, it is the one major institution where we meet as equals and talk and work with our European neighbours on issues of shared importance and with the common values of defending human rights, the rule of law and democracy.*

*One issue which unites all Council of Europe members is demonstrated by the work of the Parliamentary Network on the situation of the children of Ukraine which is seeking the return of the 19,500 Ukrainian children taken from the Russian occupied areas to Russia, often offered up for adoption, forced to speak only Russian and deny they are Ukrainian."*

**Lord Touhig**, current member of PACE<sup>123</sup>

It would also be regrettable for the UK to undermine the role of the ECtHR, which was the first international court to rule against Russia following its invasion of Ukraine. This decision was possible because Russia continued to have legal duties under the ECHR, until it formally ceased to be a party in September 2022. The ECtHR found a series of human rights breaches since 2014 (including after the Russian invasion in 2022):

- a. Breaches of Article 2 and 3 ECHR in respect of military attacks on civilian populations;
- b. Breaches of Article 2 for extra-judicial killings of civilians and detained Ukrainian military personnel;
- c. Breaches of Article 3 ECHR for torture, sexual violence and rape by armed separatists and Russian troops;
- d. Breaches of Article 4(2) ECHR for imposing forced labour on detained soldiers and civilians;
- e. Breaches of Article 5 ECHR for the unlawful and arbitrary detention of civilians in occupied areas of Ukraine; and
- f. Breaches of Articles 3, 5 and 8 ECHR for the forced transfer and adoption of thousands of Ukrainian children without parental consent.<sup>124</sup>

The UK Government intervened in the case, alongside a number of other Council of Europe members, and the judgment was a landmark decision welcomed by the Ukrainian Government.<sup>125</sup>

<sup>123</sup> Quote provided to JUSTICE

<sup>124</sup> [Ukraine and the Netherlands v Russia](#) (European Court of Human Rights Grand Chamber, 30 November 2022), Application Nos 8019/16, 43800/14 and 28525/20.

<sup>125</sup> Ministry of Foreign Affairs of Ukraine, '[Comment by the Ministry of Foreign Affairs regarding the ECHR decision in the case "Ukraine and the Netherlands v. Russia"](#)' (9 July 2025)

*"The ECHR decision is an important and significant step on the path to bringing Russia to international legal accountability for its aggression and violations of international law. Ukraine will continue to persistently seek justice for all victims, including through the establishment of a Special Tribunal for the Crime of Aggression against Ukraine, an international compensation mechanism, and the return of deported children."*

Ukrainian Ministry of Foreign Affairs (July 2025)<sup>126</sup>

## Sport safety

The Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events (known as the Saint-Denis Convention) is a landmark treaty to develop safety standards at football matches and other sporting events.<sup>127</sup> It builds on the previous Convention on Violence at Football Matches, which was agreed following the Heysel Stadium disaster where 39 people died and 600 were injured.<sup>128</sup>

The previous Conservative Government ratified the Convention on 1 December 2023. As then Minister of State for Crime, Policing and Fire, Chris Philp MP (now Shadow Home Secretary) said at the time, *'this Government is determined to ensure that law abiding fans are able to enjoy football matches in safety and we believe that ratification of this Convention will demonstrate our commitment to this'*.<sup>129</sup> Julian Zyberstein, when UEFA's Director of European Affairs and Governance, called the Convention *'the most successful legally binding instrument at the international level for the security, safety and services of major sporting events'*.<sup>130</sup>

Over 30 Council of Europe members have ratified the Convention, including many of the large footballing countries within Europe such as France, Germany, Italy and Spain.<sup>131</sup> Hundreds of thousands of British fans go abroad to watch their football teams in Europe each year, with more attending European Championship finals. There have been several high-profile incidents where British fans have been poorly treated, such as the 2022 Paris' Champions League final between Liverpool and Real Madrid. UEFA's independent review of the policing of the final made repeated reference to the failure to meet the standards set by the Saint-Denis Convention when highlighting what had gone wrong.<sup>132</sup>

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126 Ibid.

127 Council of Europe, ['Safety, Security and Service: the Saint-Denis Convention'](#), accessed 08 September 2026.

128 House of Lords International Agreements Committee, ['Scrutiny of International Agreements: Council of Europe Convention on Sports Event Safety and Security 2023'](#) (7 September 2023), p3.

129 Chris Philp MP, ['Letter to Lord Goldsmith: Government Response to the International Agreements Committee 23rd Report – Scrutiny of International Agreements: Council of Europe Convention on Sports Event Safety and Security 2023'](#) (6 November 2023).

130 Tiago Brandão Rodrigues, ['Independent Review 2022 UEFA Champions League Final'](#) (February 2023), p 36.

131 Council of Europe, ['Chart of Signatures and Ratifications of Treaty 218'](#), accessed 4 September 2026.

132 Tiago Brandão Rodrigues (n 129), p 196.

*"... the Council of Europe is so much more than the European Court of Human Rights; it has over 200 conventions that make practical contributions, such as the Saint-Denis convention on the safety in sport, which underpinned the UK and Ireland's successful bid to host the 2028 European football championship, and the Council of Europe convention on preventing violence against women, or Istanbul convention, which helps the UK promote its gender equality priorities."*

**Lord David Cameron**, speaking to Parliament as Foreign Secretary in 2024<sup>133</sup>

## Summary

This chapter has set out the important role which human rights play in the UK's soft power and foreign policy. The Council of Europe is an important body which is critical to the UK's influence on the European continent on a wide variety of issues: ending the death penalty and torture, ensuring free elections across the continent, regulating artificial intelligence, supporting Ukraine and securing safety at sporting events.

As we have argued, withdrawal from the ECHR would very likely lead to the UK having to end its Council of Europe membership. This would be seen as the UK turning its back on the fundamental values of the ECHR, significantly and adversely affecting our international reputation and our ability to collaborate with the Council of Europe on important issues of joint concern.

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133 Hansard, HL Deb 16 April 2024, '[Council of Europe: 75th Anniversary](#)', volume 837 col 882





## Hard Law

Chapter

# 3

The UK's membership of the ECHR is hard-wired into international cooperation between the UK and the rest of the European continent on shared concerns. It is pivotal to a series of agreements, which are key to domestic and international policy. This is to be expected: issues such as criminal justice cooperation and migration involve core issues of human rights.

Withdrawal from the ECHR would have two important consequences for the UK, which we set out in this chapter. First, withdrawal would risk certain important treaties and agreements coming to an end, or cooperation being seriously diminished, with serious, real-world consequences. Second, the ECHR is pivotal to a wide range of international agreements, and withdrawal from it would likely negatively affect the UK's future ability to make agreements on such important issues. To put it succinctly, the UK would become a less trusted partner on the world stage and lose valuable cooperation on collective challenges.

## The Trade and Cooperation Agreement with the European Union ('EU'): Security and Judicial Cooperation

The largest, and most significant, agreement which would be affected is the UK's Trade and Cooperation Agreement with the European Union ('TCA') agreed at the end of December 2020. This was the Agreement signed by the UK under the previous Conservative government upon leaving the EU. It covers the UK's future relationship with the European Union (EU) following Brexit on issues such as trade of goods, access to services, cooperation on policy areas, law enforcement and judicial cooperation and participation in EU programmes.

The EU and the Council of Europe are different legal entities. The Council of Europe contains countries which are not EU members (or full EU members), but all EU members are members of the Council of Europe and, therefore, signatories to the ECHR. The EU, as an institution, is in the middle of a lengthy process of acceding to the ECHR.<sup>134</sup>

Since all EU member states are ECHR signatories, it follows that they have legal obligations under the ECHR irrespective of the UK's position. The UK's continued membership of the ECHR, after Brexit, has enabled the UK to have significant cooperation with the EU (as a third country) on matters such as criminal justice cooperation.

It is expected, and logical, since all EU member states are ECHR signatories, that when looking to make agreements which involve cooperating on issues which affect human rights obligations (such as criminal justice cooperation and extradition) the UK be required by the EU to continue to respect the ECHR.

There are several references to human rights and the ECHR within the TCA. In the preamble, both parties reaffirm their commitment to '*the rule of law*' and '*human rights*'.<sup>135</sup> Under Article 763, the parties agreed to continue to '*uphold the shared values and principles of democracy, the rule of law, and respect for human rights, which underpin their domestic and international policies*'. Both parties

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134 Council of Europe, '[European Union Accession to the European Convention on Human Rights – Questions and Answers](#)', accessed 4 September 2026.

135 '[Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part](#)' ('TCA'), Preamble, (30 December 2020)

'reaffirm their respect' for the 'international human rights treaties to which they are parties', such as the ECHR.<sup>136</sup> They also agreed to cooperate to promote these values and principles in international forums, including with or in third countries.<sup>137</sup>

Article 771 of the TCA identifies the commitment to human rights as one of the 'essential elements' of the agreement, meaning that a party can terminate or suspend the agreement (in whole or in part) if it considers that there is a 'serious and substantial' failure to fulfil the obligation, a high evidential bar to clear.<sup>138</sup> This 'aspiration clause with bite' shows the importance of human rights to the EU – as it is one of the relatively few areas identified as an essential element in the TCA.<sup>139</sup>

Part Three of the TCA, however, covers law enforcement and judicial cooperation in criminal matters and is more prescriptive and clearer. Article 524 states that:

*'The cooperation provided in this part is based on the Parties' and Member States' long-standing respect for democracy, the rule of law and the protection of fundamental rights and freedoms of individuals, **including as set out in the Universal Declaration of Human Rights and in the European Convention on Human Rights, and on the importance of giving effect to the rights and freedoms in that Convention domestically**'* (emphasis added).<sup>140</sup>

It is clarified that nothing in Part Three changes either the obligations of parties or member states under the ECHR.<sup>141</sup> The UK gives effect to ECHR rights domestically through the HRA.

The TCA, like most international agreements, contains provisions for its termination. Either party may terminate the agreement in writing, with the agreement then ceasing to have effect after 12 months<sup>142</sup> or nine months for just Part Three.<sup>143</sup> However, if the UK gives notice to the Council of Europe of its intention to withdraw from the ECHR, cooperation under Part Three can come to an end after 15 days.<sup>144</sup> This is despite the UK having to give six months' notice to the Council of Europe that it is going to withdraw as an ECHR member, during which it remains bound by the ECHR.<sup>145</sup> The European Union, on announcing the deal in December 2020, made clear that the security cooperation '*can be suspended in case of violations by the UK of its commitment for continued adherence to the European Convention of Human Rights and its domestic enforcement*'.<sup>146</sup>

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136 *ibid.*, art 763(1).

137 *Ibid.*, art 763(2).

138 *Ibid.*, art 771.

139 Connal Mallory, 'Protection of Human Rights and Fundamental Freedoms' in Gemma Davies and Helen Carrapico (ed), 'UK-EU Police and Judicial Cooperation Post-Brexit: Implementing the Trade and Cooperation Agreement' (Hart Publishing, 2025), p 193.

140 *TCA*, n 134, art 524(1).

141 *Ibid.*, art 524(2).

142 *Ibid.*, art 779.

143 *Ibid.*, art 692(1).

144 *Ibid.*, art 692(2).

145 *Ibid.*, art 58.

146 European Commission, '[EU-UK Trade and Cooperation Agreement: protecting European interests, ensuring fair competition, and continued cooperation in areas of mutual interest](#)' (24 December 2020).

## What is in Part Three of the agreement?

The UK Government, on the announcement of the deal, said that Part Three contained ‘a comprehensive package of law enforcement and criminal justice capabilities that ensure the UK can work with counterparts across Europe to tackle serious crime and terrorism – protecting the public and bringing criminals to justice’.<sup>147</sup> It was described as being ‘the most comprehensive law enforcement and criminal justice arrangements the EU has ever agreed with a third country outside the Schengen area’.<sup>148</sup>

### Part Three covers several important areas:

- i. exchange of Passenger Name Record data;
- ii. sharing of DNA and fingerprint data;
- iii. exchange of information relevant to policing operations, and a framework for co-operation with Europol and Eurojust (including data-sharing);
- iv. a new surrender agreement to replace the European Arrest Warrant (i.e. extradition);
- v. mutual legal assistance – i.e. cooperation on the investigation and/or prosecution of criminal offences; and
- vi. obligations to combat money laundering and terrorist financing.

**Passenger Name Record Data.** Passenger Name Record (PNR) data is information collected by airlines, including dates of travel, contact details and payment information.<sup>149</sup> The Home Office has said that, through the TCA, PNR data ‘continue to be used to prevent, detect, investigate and prosecute terrorist offences and serious crimes and, additionally as a result of the TCA, to protect the public, including from significant public health risks’.<sup>150</sup>

The TCA has been said to represent a ‘high-water mark of EU third-country engagement in the area of PNRs’ due to its dedicated chapter on the issue.<sup>151</sup> It makes provision for ‘business as usual’ in the sharing of PNR data<sup>152</sup> as the rules substantially mirror the EU PNR Directive. However, the UK must now delete PNR data after passengers depart from the UK.<sup>153</sup>

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147 Cabinet Office, ‘[UK-EU Trade and Cooperation Agreement Implementation Report \(1 January 2021 to 31 December 2022\)](#)’ (29 June 2023), para 80.

148 Ibid., para 81.

149 Home Office, ‘[Passenger name record data](#)’, accessed 4 September 2026.

150 Dan Jarvis MP, ‘[Letter to Scottish Parliament Criminal Justice Committee: Priorities for the Scottish Criminal Justice System in the forthcoming review of the Trade and Cooperation Agreement between the United Kingdom and the European Union](#)’ (28 August 2025).

151 Elaine Fahey, ‘The EU-UK Trade and Cooperation Agreement Passenger Name Records Provisions: Framing the Effectiveness of Degrees of Liberalisation and Institutionalism’ in Gemma Davies and Helen Carrapico (ed), ‘UK-EU Police and Judicial Cooperation Post-Brexit: Implementing the Trade and Cooperation Agreement’ (Hart Publishing, 2025), p 84

152 Ibid., p 94

153 Gemma Davies and Helena Carrapico, ‘[UK-EU Law Enforcement and Judicial Cooperation in Criminal Matters Under Part Three of the Trade and Cooperation Agreement: The Impact on Scotland](#)’ (September 2024), p 24.

**Sharing of DNA and fingerprint data.** The Prüm framework allows those countries participating to *'exchange anonymised DNA and fingerprint data, certain vehicle registration data and associated policing information for the prevention and investigation of criminal offences'*.<sup>154</sup> Title II of Part Three of the TCA provides for automated transfer of DNA data, fingerprint information and vehicle registration data, mirroring Prüm rules.<sup>155</sup> Title IX of Part Three of the TCA also provides the UK with access to criminal records handed down by courts in the European Union.<sup>156</sup>

The Home Office announced in June 2026 that the UK would now have faster access to European vehicle data, enabling checks on overseas-registered vehicles in *'seconds rather than days, or even months'* and allowing stolen vehicles to be flagged straight away. This was said to be critical to helping disrupt organised criminal networks and identify vehicles used in people smuggling.<sup>157</sup>

**Exchange of information relevant to policing operations and joint working with Europol and Eurojust.** The UK Government has highlighted how the TCA has enabled the UK to continue its *'strong multi-agency liaison bureau'* at the Hague, delivering *'operational activity against the most significant crime groups'*.<sup>158</sup> Through the agreement, the UK was able to retain physical desks at both Europol and Eurojust, which is *'of vital operational importance'* and allows for direct interactions with international counterparts, and without which UK liaisons would have had to move to the British Embassy.<sup>159</sup> The TCA has ensured the UK has continued to have both a multi-agency team, the size of which has increased since 2017, and access to the secure email system.<sup>160</sup>

The UK Government can continue to take part in Joint Investigation Teams through Europol and Eurojust. For example, it was able to take part in coordinated law enforcement action with France, Germany, Belgium and the Netherlands (supported by Europol and Eurojust), which *'resulted in the dismantling of a criminal network suspected of using small boats to smuggle up to 10,000 migrants across the English Channel over the last 12 to 18 months, with 39 suspects arrested and 135 boats seized'*.<sup>161</sup> This was said to be *'the biggest ever international operation of its kind'*.<sup>162</sup>

The UK is also able to have a liaison prosecutor in Eurojust to facilitate cooperation on casework for cross-border criminal activity as a third country.<sup>163</sup> This has enabled joint work on cases involving drug trafficking, cybercrime, terrorism and migrant smuggling. In 2025, the UK's liaison prosecutor supported the highest number of cases initiated by other countries – over 200 new cases (with over 500 ongoing) – and was involved in the highest number of joint activities.<sup>164</sup> In 2024, the UK was the non-EU country with the highest participation in casework at Eurojust (239 cases).<sup>165</sup>

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154 Home Office, ['Policy paper: EM on EU legislation concerning the exchange of data for police cooperation'](#) (20 March 2024).

155 [TCA](#), n 134, article 527 - 541.

156 *Ibid.*, article 643 – 651.

157 Home Office, ['New police data-sharing to target organised crime'](#) (15 June 2026).

158 Cabinet Office, ['Trade and Cooperation Agreement Implementation Report, 2023–2024'](#) (2 September 2025), para 81.

159 Estelle Marks, 'The importance of Trust-based networks in Police and Judicial Cooperation' in Gemma Davies and Helen Carrapico (ed), *'UK-EU Police and Judicial Cooperation Post-Brexit: Implementing the Trade and Cooperation Agreement'* (Hart Publishing, 2025), p 60

160 *Ibid.*, p59 and 60

161 Cabinet Office, *'UK-EU Trade and Cooperation Agreement Implementation Report'* (n 146), para 81.

162 *Ibid.*

163 Home Office, ['UK-Eurojust Working Arrangement'](#) (20 December 2021)

164 Eurojust, ['Annual Report 2025'](#) (2026), p 51.

165 Eurojust, ['Annual Report 2024'](#) (2025), p 12.

**Extradition.** On leaving the EU, the UK left the European Arrest Warrant as the UK became a third country for extradition to and from the EU.<sup>166</sup> Instead, the UK is reliant on the new surrender agreement set out in Title VII of the TCA. The Home Office have said that *'the warrant-based extradition arrangements we operate under the TCA are critical in ensuring offenders do not escape punishment by crossing borders'*.<sup>167</sup>

The surrender agreement in Title VII allows a *'level of continuity'* with the European Arrest Warrant procedures previously.<sup>168</sup> The National Crime Agency has set out that the TCA allows *'streamlined extradition arrangements'* between the UK and the EU.<sup>169</sup> There are *'considerable similarities'* with the European Arrest Warrant process, including the very similar content of the warrant, the timeframes envisaged,<sup>170</sup> the rights of the requested person (including access to a lawyer) and the mandatory refusal grounds.<sup>171</sup>

However, there are some important distinctions, for example, the reintroduction of the possibility for certain states not agreeing to surrender their own nationals. This has resulted in several EU member states refusing to extradite their own nationals to the UK (including Croatia, Finland, France, Germany, Greece, Latvia, Poland, Slovakia, Slovenia and Sweden) or refusing to extradite them without their consent (Austria and the Czech Republic).<sup>172</sup>

It is worth noting that the UK sought *'fast-track extradition arrangements'* in the TCA negotiations, similar to those which Norway and Iceland have with the EU, but this was rejected.<sup>173</sup> The European Commission and the UK, have recently committed to *'explore opportunities to enhance the timeliness, efficiency and effectiveness of'* the provisions in the TCA.<sup>174</sup> Future enhanced extradition arrangements would almost certainly require the UK to remain an ECHR signatory.

**Mutual Legal Assistance.** Mutual legal assistance is a way for states to cooperate in the investigation and prosecution of criminal offences, generally obtaining material that could not be obtained through police force cooperation.<sup>175</sup> It enables evidence to be used in court proceedings. Since September 2023, there has been a mandatory standard form for requests from the UK to EU member states for mutual legal assistance.<sup>176</sup> It is also worth noting that the cooperation supplements and streamlines that agreed in the Council of Europe 1959 Convention on Mutual

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166 Ben Keith, Sophia Kerridge and Edward Grange, ['Extradition under the EU-UK Trade and Cooperation Agreement'](#) (5SAH, 10 March 2021).

167 n 140.

168 n 162.

169 National Crime Agency, ['Extradition arrangements with EU countries'](#), accessed 4 September 2026.

170 Paul Arnell, 'Extradition/ Surrender under the Trade and Cooperation Agreement – The Shifting Cooperative-Protective Balance' in Gemma Davies and Helen Carrapico (ed), 'UK-EU Police and Judicial Cooperation Post-Brexit: Implementing the Trade and Cooperation Agreement' (Hart Publishing, 2025), p 153.

171 n 162.

172 Kevin Foster MP, ['Letter to Chair of the EU Security and Justice Sub-Committee: EU Member State Notifications under the Law Enforcement and Criminal Justice Title of the Trade and Cooperation Agreement including Extradition of Own Nationals'](#) (5 March 2021).

173 n 162.

174 Cabinet Office, ['UK-EU Summit – Common Understanding'](#) (19 May 2025), para 49.

175 Home Office, ['Mutual legal assistance'](#) (26 March 2013, updated 5 March 2025), accessed 4 September 2026.

176 n 154, para 85.

Assistance in Criminal Matters,<sup>177</sup> another benefit of cooperation with the Council of Europe.<sup>178</sup>

Whilst there have been reports that evidence exchange is *'taking longer'* and *'facing greater legal barriers'*,<sup>179</sup> the Common Understanding at the May 2025 UK-EU summit set out included agreement to *'intensify technical work'* with the aim of streamlining mutual legal assistance cooperation.<sup>180</sup>

Losing the cooperation in the TCA would prevent any further such progress. It would also prevent the UK negotiating an agreement on access to electronic evidence, which would significantly enhance the UK's ability to access evidence in a timely manner. Bilateral mutual assistance treaties would take time to negotiate and likely be much less efficient than the cooperation under the TCA.

**Obligations to combat money laundering and terrorist financing.** The TCA commits both the EU and the UK to continue cooperation on the EU's Anti-Money Laundering and Countering the Financing of Terrorism Directive.<sup>181</sup> The parties have committed to *'exchange relevant information, as appropriate within their respective legal frameworks'* and *'maintain a comprehensive regime to combat money laundering and terrorist financing'*.<sup>182</sup> Further cooperation beyond this is limited and could be further explored in future negotiations.

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177 [European Convention on Mutual Assistance in Criminal Matters](#) (20 April 1959).

178 Gemma Davies and Helena Carrapico, 'Understanding the Impact of Brexit on Police and Judicial Cooperation: Can Operational Deficits be Addressed in the Future?' in Gemma Davies and Helen Carrapico (ed), 'UK-EU Police and Judicial Cooperation Post-Brexit: Implementing the Trade and Cooperation Agreement' (Hart Publishing, 2025), p306

179 Ibid., p311.

180 Cabinet Office, 'UK-EU Summit – Common Understanding' (n 170) para 49.

181 Alex MacKenzie and Christian Kaunert, 'Two Steps Forward, One Step Back? Fighting Terrorism under the Trade and Cooperation Agreement' in Gemma Davies and Helen Carrapico (ed), 'UK-EU Police and Judicial Cooperation Post-Brexit: Implementing the Trade and Cooperation Agreement' (Hart Publishing, 2025), p216.

182 TCA (n 134), art 653.



## Northern Ireland – Republic of Ireland cooperation

We would also observe that such criminal justice cooperation is particularly important for Northern Ireland, because of the common travel area arrangements which it has with the Republic of Ireland (an EU member state). In 2025, the Police Service of Northern Ireland announced a significant joint cross-border initiative with their equivalent in the Republic of Ireland, An Garda Síochána.<sup>183</sup>

Cooperation on aspects, such as the retention of data sharing, are crucial to maintaining the strong working relationship which exists between PSNI and An Garda Síochána.<sup>184</sup> The UK's departure from the EU has been less damaging on cross-border policing because of the cooperation set out in the TCA and its prior relationships.<sup>185</sup> However, criminal cooperation with the Republic of Ireland would be fundamentally affected by the UK's withdrawal from the ECHR and the potential loss of practical mechanisms to ensure close cooperation.

This would be on top of the significant consequences for the Belfast/ Good Friday Agreement and the wider peace process in Northern Ireland of ECHR withdrawal and/or HRA repeal. We intend to address these consequences in significant detail in a future JUSTICE paper, given their seriousness and importance, but observe that ECHR withdrawal would create profound practical consequences and legal uncertainty in a fragile post-conflict society.

## Would the EU really suspend cooperation under Part Three?

Some commentators may argue that the EU would not suspend cooperation on areas of joint interest, if the UK were to withdraw from the ECHR. Lord Wolfson, in his advice to the Conservative Party on the UK leaving the ECHR, set out that whilst the EU could terminate Part Three of the TCA, it is not obliged to do so: *'there is, of course, a prospect that the EU may waive its right to terminate, and proceed on the basis of the current TCA terms'*.<sup>186</sup>

This analysis fails to appreciate the importance which the EU placed on the ECHR when agreeing Part Three of the TCA, which both parties have acknowledged is unprecedented for a third country. The EU Council and EU Commission, on finalising the TCA, agreed that the EU *'will terminate'* Part Three if the UK denounces the ECHR.<sup>187</sup> If the UK does not give effect to the ECHR domestically, allowing individuals to rely on it before domestic courts (at present, through the Human Rights Act), the EU has already agreed to *'suspend'* Part Three.<sup>188</sup> This was a position which was clearly agreed, and insisted upon, by the EU.

183 BBC News, ['PSNI and Gardai launch strategy to tackle cross-border crime'](#) (9 December 2014), accessed 4 September 2026.

184 See Gemma Davies, Northern Ireland Affairs Committee, ['Oral evidence: Policing and security in Northern Ireland'](#), HC 1341 (11 March 2026), q 170 and q 171.

185 Vicky Conway, Shelly Deane and Katy Hayward, 'Cross-border Policing Cooperation under UK-EU Agreements: Policing the Post-Brexit Irish Border' in Gemma Davies and Helen Carrapico (ed), 'UK-EU Police and Judicial Cooperation Post-Brexit: Implementing the Trade and Cooperation Agreement' (Hart Publishing, 2025), p 120.

186 The Wolfson Report (n 60), para 278.

187 Council of the European Union, ['EU-UK Agreements – Statements to be inserted in the minutes of the Council adopting the decision on Conclusion of the TCA'](#) (23 April 2021) accessed 4 September 2026, p 12.

188 Ibid.

The Wolfson advice highlights how the EU (and the UK) have a general right to terminate the agreement; Part Three can in fact be terminated on nine months' notice irrespective of the UK's position of the ECHR (slightly shorter than the 12 months for the wider treaty).<sup>189</sup> The fact that the agreement *can* be terminated (a standard provision for any international agreement) is very different from the fact of the EU being clear that Part 3 *will* be terminated if the UK withdraws from the ECHR. Since, on top of the general termination right, the EU insisted on a much more rapid termination clause if the UK denounces the ECHR, the EU places clear importance on UK membership of the ECHR. This would suggest the EU is *more likely* to follow through with termination or suspension, should the UK begin the formal process of withdrawal from the ECHR.

As additional evidence of its importance, the EU repeatedly insisted on the UK's ECHR membership, during the Brexit negotiations. For example, Michel Barnier following the second round of negotiations in April 2020, highlighted one of the central issues that was preventing further progress was the UK's '*continued adherence to the European Convention on Human Rights*' with domestic effect, being '*particularly important in the field of law enforcement and internal security*'.<sup>190</sup> The UK Government's initial negotiating position was that the EU should not specify how the UK '*should protect and enforce human rights*',<sup>191</sup> but the UK altered its position to reach the final agreement.

If the EU was satisfied with a simple commitment to human rights more generally, it would not have insisted upon ECHR membership in the TCA. Since it did not waiver on this point during the negotiations, it would be very surprising if this principle was abandoned upon the UK's notification of withdrawal from the ECHR.

The EU's hard stance on ECHR membership is to be expected, given all EU member states have ECHR obligations and, in human rights sensitive areas such as crime and policing, want to ensure there are common standards for cross-border cooperation. As the academics Helena Carrapico and Gemma Davies have set out, the EU considered that the UK leaving the ECHR could '*endanger*' future cooperation and therefore '*clarified that a UK departure from the ECHR would automatically result in the termination of any future police and judicial cooperation*'.<sup>192</sup>

As we have explained, the UK's ongoing membership of the ECHR enables it to access significant, practical criminal justice cooperation with the EU, through the TCA. Losing such cooperation would be damaging for UK law enforcement agencies and police forces working on cross-border crime. The EU insisted that the UK remain an ECHR signatory to agree such cooperation and it is very likely that the UK withdrawing from the ECHR would lead to the end of such cooperation.

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189 [TCA \(n 134\), arts 188 and 692\(1\)](#).

190 Michel Barnier, '[Press statement by Michel Barnier following the second round of future relationship negotiations with the United Kingdom](#)' (24 April 2020).

191 HM Government, '[The Future Relationship with the EU: The UK's Approach to Negotiations](#)' (February 2020), para 31.

192 Helen Carrapico and Gemma Davies, 'The Trade and Cooperation Agreement – Preparation, Negotiation and Outcomes for Police and Judicial Cooperation in Criminal Matters' in Gemma Davies and Helen Carrapico (ed), 'UK-EU Police and Judicial Cooperation Post-Brexit: Implementing the Trade and Cooperation Agreement' (Hart Publishing, 2025), p 44.

## UK-EU agreement on Gibraltar

In July 2026, the UK Government signed an agreement with the European Union to remove the physical barriers on the border between Gibraltar and Spain.<sup>193</sup> On publication of the draft treaty, the Chief Minister of Gibraltar said that it was a *'safe and secure agreement... that unequivocally protects our position on sovereignty, safeguards our economy and delivers the certainty our people and businesses need'*.<sup>194</sup>

Gibraltar was not covered by the TCA. Without an agreement to keep an open border, before the implementation of the EU's Entry/Exit System ('EES'), there would have been a significant impact on Gibraltar as half of its working population (around 15,000 people) cross the border daily.<sup>195</sup>

Part Two of the agreement in respect of Gibraltar enables people to circulate freely between Gibraltar and the EU. It also contains law enforcement and judicial cooperation provisions which are similar to those in the TCA. Key benefits include that Gibraltar residents will be exempt from the requirements of the EES<sup>196</sup> and that UK military personnel and their families will be exempt from border checks<sup>197</sup>. On criminal justice cooperation, the agreement goes beyond the TCA by allowing Spanish authorities and UK/Gibraltar officers *'uninterrupted pursuit'* of a criminal suspect into the others jurisdiction.<sup>198</sup>

Part Two of the agreement is based on the respect that Parties and Member States have for democracy, the rule of law and fundamental human rights, including the ECHR and *'the importance of giving effect to the rights and freedoms in that Convention domestically'*.<sup>199</sup> It would follow that if the UK were to withdraw from the ECHR, and repeal the Human Rights Act, the EU would at the very least require Part Two of the agreement to be re-negotiated. As with the TCA, it is not certain that the EU would agree to items such as criminal justice cooperation without requiring the UK to meet ECHR standards.

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193 HM Government, ['UK-EU Agreement in respect of Gibraltar'](#) (14 July 2026).

194 Foreign, Commonwealth and Development Office, ['Draft treaty published to secure Gibraltar's economic future and protect British sovereignty'](#) (26 February 2026)

195 HM Government of Gibraltar, ['Gibraltar Factsheet'](#), accessed 4 September 2026.

196 ['Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part'](#), article 42.

197 Ibid., article 38.

198 Ibid., article 56

199 Ibid., article 25(1).

## Why the Council of Europe and ECHR are central to wider international cooperation

The ECHR also plays a key role in other international agreements to which the UK is a signatory. This further highlights the legal and practical uncertainty which would result from the UK's withdrawal from the ECHR and the areas in which the UK may find it harder to come to international agreement.

Commitment to human rights and the basic standards contained within the ECHR enable the UK to come to agreements with other countries, in particular those nearest to us on the European continent, on issues of vital national importance. In a globalised world, such agreements are often essential to deal with cross-border issues such as extradition, migration, human trafficking and crime. Below we provide non-exhaustive examples of areas which are linked to the UK's membership of the ECHR.

### Prisoner transfer arrangements

Foreign national offenders, serving custodial sentences in the UK, can be transferred to serve their sentence in a prison in their country of origin if the UK has a reciprocal prisoner transfer agreement.<sup>200</sup> Since the UK has left the European Union which had its own prisoner transfer agreement,<sup>201</sup> unless it has an individual agreement with a member state, it relies upon the Council of Europe Convention on the Transfer of Sentenced Persons.<sup>202</sup> This again highlights the importance of the UK being a party to Council of Europe treaties and agreements.

The Council of Europe agreement is more limited, as it relies on the prisoner's consent. However, it has been ratified by every Council of Europe member state (besides Monaco) and 26 non-member states (including Australia, Brazil and India).<sup>203</sup> Withdrawal from the ECHR would not necessarily mean the UK had to withdraw from this treaty, but it highlights issues of cooperation over which the UK would lose significant influence. It may also affect the extent to which other parties cooperate in practice under the treaty.

It is in the UK's interest to be involved in the development of such treaties, rather than a third party which must either take or leave what is agreed. If the UK was not a member, any future agreements on such issues would require the Council of Europe's consent for the UK to take part.

To go beyond the Council of Europe Convention, the UK has had to negotiate agreements with individual member states. Recent agreements with individual states on prisoner transfers have required the UK to commit to ECHR-equivalent standards:

- i. The recent **Memorandum of Understanding with Latvia on justice cooperation** (2026) sets out, for the purpose of prisoner transfer, that both parties must ensure such transfer arrangements are in accordance with ECtHR caselaw.<sup>204</sup>

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200 House of Commons Library, '[In brief: Deportation and early removal of foreign national offenders](#)', (2 February 2024), [p 7](#).

201 [EU Council Framework Decision 2008/909/JHA](#) of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty with a view to their enforcement in the European Union (28 March 2009).

202 [Convention on the Transfer of Sentenced Persons](#) (Strasbourg, 21 March 1983, ETS No 112)

203 Council of Europe, '[Chart of Signatures and Ratifications of Treaty 112](#)', accessed 4 September 2026.

204 '[Memorandum of Understanding between the Ministry of Justice of the Republic of Latvia and the Ministry of Justice and Home Office of the United Kingdom of Great Britain and Northern Ireland on Justice Cooperation](#)', para 4.

- ii. Article 9 of the **agreement between the UK Government and Albania on the transfer of sentenced persons (2021)** requires each party to act in accordance with international human rights obligations, particularly ‘the right to life and the prohibition against torture and cruel, inhuman or degrading treatment or punishment’, which are protected by Articles 2 and 3 ECHR.<sup>205</sup>
- iii. The **transfer of sentenced persons agreement with Italy** (2026) is without prejudice to both parties’ binding obligations under international human rights conventions (which would include, for both Italy and the UK, the ECHR).<sup>206</sup> Similar language is also set out in the UK’s agreements with non-Council of Europe members such as **Ghana**,<sup>207</sup> **Saudi Arabia**,<sup>208</sup> **Iraq**<sup>209</sup> and **Nigeria**.<sup>210</sup>

This is not to say that such agreements would end automatically, upon the UK withdrawing from the ECHR. However, these examples show that human rights obligations have played an important part in reaching such agreements and, if we wanted this cooperation to continue, such obligations would need to be respected by the UK. This could be more challenging for the UK to prove, if the UK was not signed up to the ECHR and did not have it domestically incorporated through the Human Rights Act.

## Migration agreements

The **UK’s so-called “one in, one out” migration agreement with France** (2025), is dependent on both parties’ respect for the ECHR. Under the agreement, the UK can return some asylum-seekers who have travelled across the Channel irregularly to France in exchange for accepting a different asylum-seeker directly from France. Under this agreement, just over a thousand asylum-seekers have been returned to France (with the UK accepting a similar number in return).<sup>211</sup>

The agreement is made ‘*without prejudice*’ to both the UK and France’s international law obligations under the ECHR and other international law instruments.<sup>212</sup> All individuals transferred under this agreement must be treated ‘*at all times in accordance*’ with international law, including the ECHR.<sup>213</sup> In light of this, it is hard to see that the agreement could survive the UK’s withdrawal from the ECHR.

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205 [‘Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Albania on the Transfer of Sentenced Persons’](#) (26 July 2021), art 9.

206 [‘Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Italian Republic on the Transfer of Sentenced Persons’](#) (26 January 2026), art 3.

207 [Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Ghana on the Transfer of Sentenced Persons](#) (15 November 2015), art 10 (1).

208 [Agreement between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Saudi Arabia on the Transfer of Sentenced Persons](#) (2 January 2012), art 9.

209 [Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Iraq on the Transfer of Sentenced Persons](#) (8 October 2015), art 11.

210 [Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federal Republic of Nigeria on the Transfer of Sentenced Persons](#) (9 January 2014), art 9.

211 BBC News, [“‘One in, one out’ deal returns 4% of migrants’](#) BBC News (4 August 2026), accessed 4 September 2026.

212 Most notably, the Refugee Convention of 1951 and its 1967 Protocol. [Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic on the Prevention of Dangerous Journeys](#) (29 and 30 July 2025).

213 Ibid, art 1(4)(c).

The UK's recent **returns agreement with Moldova** (2026) is also '*without prejudice*' to both parties' obligations under the ECHR and the Refugee Convention. Article 17 makes clear in a "non-affection clause" that both the UK and Moldova have obligations under international law, including but not limited to the ECHR.<sup>214</sup> The **UK's returns agreement with Albania** (2021) is made subject to both parties' rights and duties under the Refugee Convention, other international agreements on extradition and '*any international agreements on human rights*'.<sup>215</sup> A similar clause in the **UK's returns agreement with Switzerland (2005)** makes clear the agreement does not affect the parties' rights and duties under various international instruments, including the ECHR.<sup>216</sup>

As above, this does not mean that these treaties would automatically end upon UK withdrawal from the ECHR. However, it does demonstrate that returns agreements with Council of Europe members will be required to be ECHR-compliant. Since countries such as Albania, Moldova and Switzerland are ECHR signatories, they would need to be assured that the UK would act in accordance with the requirements of the ECHR when acting under the agreement. UK membership of the ECHR, including the right to apply to the ECtHR, ensures that the UK has a common baseline with such countries. In future, negotiations may be made more complex and agreement difficult to reach if more prescriptive assurances are required that the UK will act in an ECHR-compatible way without the assurance of the UK being a party to the ECHR.

## International counterterrorism

The Council of Europe Convention on the Prevention of Terrorism provides a regionally legally binding framework for intergovernmental cooperation on preventing terrorism and apprehending suspected terrorists. The Council of Europe Committee on Counter-Terrorism ('CDCT') is an inter-governmental body which coordinates counter-terrorism action.

Its task is to implement the 2023 to 2027 Counter-Terrorism Strategy which includes negotiating a pan-European legal definition of terrorism, setting out best practice resources for the use of information collected in conflict zones in criminal proceedings and provides an international forum to discuss current trends (including the abuse of the internet and new technologies by terrorists).<sup>217</sup> The Committee meets twice a year.

The Council of Europe '*operates a 24/7 network of contact points on foreign terrorist fighters and a Network for the exchange of procedural information regarding the legal standing of victims of terrorism*'.<sup>218</sup> This is '*open for participation by non-member states*', but it would be for the Council of Europe to decide who is permitted to participate.<sup>219</sup> Similarly, a state which is not a member of the Council of Europe can be a signatory to the Convention on the Prevention of Terrorism, but this is a decision for the Committee of Ministers. It would be possible for the UK to continue attending meetings of the CDCT, if it were to remain a signatory to the Convention on the Prevention of

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214 [Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Moldova on the Readmission of Persons Residing without Authorisation](#) (20 November 2024), art 17.

215 [Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Albania on the Readmission of Persons](#) (signed 8 July 2021), art 21(1)(c).

216 [Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council on the Readmission of Persons Present without Authorisation with Protocol](#) (16 December 2005), art 22.

217 Council of Europe, '[Council of Europe Committee on Counter-Terrorism \(CDCT\)](#)', accessed 4 September 2026.

218 Council of Europe, 'Contribution of the Council of Europe to the Report of the Secretary-General of the United Nations on the Implementation of the Declaration on Measures to Eliminate International Terrorism' (2024)

219 Ibid.,

Terrorism, though this again remains ultimately a decision for the Committee of Ministers.<sup>220</sup> However, the UK would inevitably lose influence in the CDCT by not being a core member state of the Council of Europe.

More broadly, human rights, the ECHR, and ECtHR have played an important role in national security and counter-terrorism by improving public confidence through the insistence on adequate safeguards. Lord Anderson, the House of Lords peer and previous Government Independent Reviewer of Terrorism Legislation, has set out how *'human rights have had a significant impact: not in preventing the use of valuable capabilities or powers, but in ensuring that their use is appropriately safeguarded'*.<sup>221</sup>

The ECHR has ensured that there has been adequate parliamentary authorisation for national security powers,<sup>222</sup> and the ECHR required the law to *'indicate with reasonable clarity the scope of the governing power and the manner in which it can be exercised'*.<sup>223</sup> Such transparency, in Lord Anderson's view, gives *'covert powers the legitimacy that they require'* for public confidence.<sup>224</sup>

Whilst the ECtHR rarely finds against the UK, its findings in certain counter-terrorism cases have undoubtedly improved accountability of UK counter-terrorism powers. Few would now argue, for instance, that robust safeguards are not needed when bulk data collection could target journalists<sup>225</sup> or that the scope of such data collection should be set out in law precisely<sup>226</sup>. The ability of the Strasbourg Court to bind the UK in international law has, therefore, led to significant improvements in how these powers operate.

The HRA has also enabled domestic judicial supervision of executive decision-making. For example, the Belmarsh judgment found there to be a breach of the right to liberty and security contained in Article 5 ECHR when there was a power to detain someone indefinitely who could not be tried or deported.<sup>227</sup> Human rights law has helped provide careful scrutiny of government policy in a politically sensitive area, leading to improvements which have curbed executive over-reach.

220 Council of Europe, ['Terms of reference of the Council of Europe Committee on Counter-terrorism \(CDCT\)'](#), accessed 4 September 2026.

221 Lord Anderson of Ipswich KBE KC, 'The Impact of the European Convention on Human Rights on UK National Security', European Convention on Human Rights Law XX (2025), p 2.

222 [Hewitt and Harman v United Kingdom](#) App no 12175/86 (Commission Report, 9 May 1989).

223 Lord Anderson of Ipswich KBE KC (n 217), p 3.

224 *Ibid.*, p4.

225 [Big Brother Watch and Others v United Kingdom](#) (2021) App nos 58170/13, 62322/14 and 24960/15 (ECtHR, 25 May 2021).

226 *Ibid.*,

227 [A \(FC\) and others \(FC\) \(Appellants\) v Secretary of State for the Home Department; X \(FC\) and another \(FC\) v Secretary of State for the Home Department](#) [2004] UKHL 56.

## Summary

In this chapter, we have set out some of the practical, legal implications of the UK's withdrawal from the ECHR in areas of critical national importance. The criminal justice cooperation agreed with the EU in the TCA would likely end, affecting the police's ability to obtain vital information such as fingerprint data and our ability to take part in cross-border investigations through Europol. Such cooperation has been vital in recent years to handle serious cross-border crime, including criminal trafficking networks.

ECHR withdrawal would also affect the UK-EU agreement on Gibraltar, the "one in, one out" agreement with France, and prisoner transfer arrangements reached with individual countries. In short, there is a practical, hard-headed case for the UK's ongoing ECHR membership. Those who advocate for withdrawal should consider these potentially serious consequences. In our view, the only clear way to maintain our current role on the international stage, and thereby protect the national interest, is to remain a full ECHR member.



# Conclusion

This paper has argued that remaining a committed ECHR member is clearly in the UK's national interest. The UK has led in the Council of Europe since its inception and was heavily involved in the creation of the ECHR. It has been an area of cross-party consensus of successive governments for decades because, despite their political differences, they have all recognised the value of the UK leading on human rights issues on the European continent.

If the UK were to withdraw from the ECHR, it is very likely that the UK would have to leave the Council of Europe. This would be a significant blow to the UK's reputation and soft power, as a country which upholds and promotes fundamental rights. It is likely that the UK would be perceived as a country with an intention to breach the basic safeguards set by the ECHR. The UK's hard-earned reputation would be easily lost and difficult to regain, leaving the UK open to claims of hypocrisy when it criticises other countries for human rights breaches.

The Council of Europe provides a key opportunity for the UK to collaborate on issues of joint importance with its nearest neighbours and those across the European continent (not only EU member states). It has been pivotal in recent years to the response to Russia's war in Ukraine, been a key voice in the spread of democracy and the rule of law across the continent and has reached joint agreements on issues of national importance, from artificial intelligence to safety at sporting events. The UK has played a leading role in the development of such agreements and that influence would be ceded by its withdrawal.

Finally, there would be practical, hard law consequences of UK withdrawal from the ECHR. Cross-border problems require international agreements to resolve them, and the ECHR has been a basic safeguard in many such agreements. The UK would likely lose its criminal justice cooperation with the EU under the TCA, at a time when it is seeking to reset its relationship with the EU, and it would have cascading impacts on other international treaties, such as the UK-EU Gibraltar agreement, prisoner transfer arrangements and migration agreements.

The role of the Council of Europe and the practical consequences of withdrawal from the ECHR are not widely known or well understood. We hope that this paper helps increase public and political awareness of these important issues. JUSTICE will continue to make the case for upholding vital human rights protections, for, as this paper demonstrates, they are in the wider national interest.

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