



Policy Statement

UK Membership of the European Convention on Human Rights ("ECHR")

29 August 2023

Executive Summary

The Tory Reform Group ("TRG") has existed for nearly 50 years to bring together those who believe in the values, and safeguard the principles, of One Nation Conservatism and provide a home for One Nation members and friends of the Conservative Party. Being the One Nation voice comes with responsibility: namely a responsibility to speak up when we fear that these One Nation principles are under threat.

TRG's position on the European Convention on Human Rights ("ECHR") is the same as the overwhelming majority of Conservative MPs and the British voters, that the UK must under no circumstances consider leaving the ECHR nor derogate from the human rights it underpins for the sake of the Rwanda policy.

We urge the Prime Minister to publicly commit to the UK remaining a party to the ECHR, and we call on Conservative MPs to make clear they would not support our withdrawal from the ECHR.

A Historic Mistake

Leaving the ECHR would be a historic mistake because it would:

- **Damage the Northern Ireland Peace process**, by breaching the Good Friday Agreement;
- **Damage our ability to bring dangerous criminals to justice** by collapsing security cooperation with the European Union;
- **Damage relations with our democratic allies** and our trustworthiness on the world stage;
- **Damage our ability to promote human rights internationally**, by grouping us with Belarus and Russia as the only non-members in Europe; and
- **Damage the Conservative Party's reputation** as a party that respects the rule of law, international agreements and multilateral institutions

Furthermore, we note that:

- **There are a range of options for stopping the illegal channel crossings while remaining in the ECHR**, including rewriting the Rwanda agreement, seeking similar agreements with safer countries, or introducing digital ID;
- **Polling shows that pledging to leave the ECHR would make voters less likely to vote Conservative**, by a margin of 41% to 26%;
- **The ECtHR rarely finds against the UK**, with a rate of just 2% cases finding violations in 2021;
- **A number of positive changes to UK law have been made following cases in the ECtHR**, including decriminalisation of homosexuality in Northern Ireland; and
- **The bar for derogating from articles in the ECHR is very high**, and wanting to remove asylum seekers is unlikely to pass this bar.

About the European Convention on Human Rights

The ECHR is an international convention which protects human rights across 46 European countries. It entered into force in 1953, having been drafted by British Conservative MP, David Maxwell-Fyfe and supported by Winston Churchill. The Council of Europe (not to be confused with the Council of the European Union or the European Council), was established following the signing of the Treaty of London in 1949 to promote democracy and human rights after the Second World War. A founding member of the Council of Europe, the UK signed this human rights convention in 1950.

The Convention protects a broad range of fundamental human rights and liberties, including the right to life, freedom from torture, the prohibition of slavery, and the rights to a fair trial, privacy and freedom of conscience and religion. It works by allowing individuals and nations to apply to the associated European Court of Human Rights ("ECtHR") in Strasbourg on these issues once they have tried every domestic route to justice, such as their national courts.

Human Rights, ECHR and the Rwanda Policy

The ECHR has been in the news a lot recently due to the Rwanda policy. In 2022, the ECtHR issued a temporary measure to prevent the removal of an asylum seeker, until the legality of the Rwanda agreement could be determined, using the so-called Rule 39 powers. The Prime Minister has since announced plans to push plans to reform the Rule 39 process, to ensure "proper transparency, greater accountability and ensuring decisions can be reconsidered".¹

Separately in June 2023, the Court of Appeal found that the Rwanda policy was unlawful. They ruled that Rwanda was not a safe country. There is a risk Rwanda would return asylum seekers to their home countries where they would face persecution, breaching Article 3 of the ECHR, relating to freedom from torture. The Government is now challenging the Court of Appeal's decision in the Supreme Court, with the hearing expected to begin in October.

Following the challenges to the Rwanda policy, there have been calls from a minority of Conservative MPs for the UK to withdraw from the ECHR or use Article 15's emergency powers to suspend or derogate from certain rights to enable the Rwanda policy to be legally enacted.

TRG's position on the ECHR is that withdrawal or derogation would not be in line with One Nation values of civil liberties, the rule of law, respect for institutions and multilateralism which also underpin the Conservative Party.

Leaving the ECHR is a mistake

Leaving the ECHR would be a profound mistake, damaging the lives of British people and the interests of the UK internationally in a number of ways. Withdrawal would:

- **Damage the Northern Ireland Peace process.** The ECHR is baked into the Good Friday Agreement, which states that the “British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention”.² Leaving the ECHR would therefore be a breach of our obligations under the Agreement, and further damage the Northern Ireland Peace Process, which is already under tremendous strain.
- **Damage the UK’s ability to bring dangerous criminals to justice by collapsing security cooperation with the European Union.** The ECHR is also baked into Part Three of the UK-EU Trade and Cooperation Agreement, which relates to judicial and law enforcement cooperation. Article 692 allows this section of the Agreement to be cancelled if the UK withdraws from the ECHR. This would mean that withdrawal would make it harder for UK and EU law enforcement to work together to bring dangerous criminals to justice, and thereby threaten the security of British citizens.
- **Damage relations with our democratic allies and our trustworthiness on the world stage.** Breaching our international legal obligations under the Good Friday Agreement would inevitably have a seriously detrimental effect on the Special Relationship. The United States have always been clear that no steps should ever be taken that could jeopardise the Good Friday Agreement. Breaching the Trade and Cooperation Agreement would also damage relations with the European Union. Breaching these agreements would undo all the progress made by the Prime Minister to rehabilitate the UK’s trustworthiness on the world stage after the damage done by previous prime ministers.
- **Damage our ability to promote human rights internationally.** The only European countries outside the ECHR are Russia and Belarus, and the optics of leaving the Convention to join these pariah states would make it harder for the UK to promote international human rights. As Foreign Secretary James Cleverly has said “European countries which are not part of the ECHR is a small club. I am not convinced it is a club we want to be part of”.³ Leaving the ECHR would also mean leaving the linked Council of Europe, our membership of which gives us a forum to promote democracy and human rights across the continent.
- **Damage the Conservative Party’s reputation** as a party that respects the rule of law, international agreements and multilateral institutions. In recent years, lawyers and members of the judiciary have sadly become an easy political target for some and, by default, the rule of law itself has been devalued as a conservative principle. This cannot be allowed to continue, and we note that the Law Society of England and Wales has already condemned any suggestion that the UK leave the ECHR and highlighted how small boat crossings by asylum seekers “will not be tackled by leaving an extremely successful international agreement designed to protect individual rights and support political stability”.⁴

Debunking falsehoods about the ECHR

Myth - “We can only stop the illegal channel crossings by leaving or derogating from the ECHR”	Fact - There are a range of options for stopping the illegal channel crossings while remaining in the ECHR. There are a range of other options for reducing the Channel crossings while remaining within the ECHR, including rewriting the agreement with Rwanda or sending officials to Rwanda to provide assurances that it is a safe country - ideas already discussed in the press. ⁵ Making it harder for illegal migrants to live undocumented in the UK through an ID system for work and benefits, as proposed by William Hague, Nick Timothy, and Tony Blair. ⁶ Or striking new Rwanda-style agreements with safe countries, as we already have with Albania.
Myth - “Leaving the ECHR is a position that will win the Conservative Party more votes at the next election”	Fact - Polling shows that pledging to leave the ECHR would make voters <i>less</i> likely to vote Conservative. Recent polling by More in Common shows that 49% of Britons want the UK to remain in the ECHR (23% undecided). Furthermore, 41% said that a Conservative pledge to leave the Convention would make them less likely to vote Conservative, while only 26% said it would make them more likely to do so. ⁷
Myth - “The ECtHR regularly finds against the UK and its judgements are a threat to our sovereignty”	Fact - The ECtHR rarely finds against the UK. Our membership is no more of a threat to our sovereignty than NATO. In 2021, there were 210 applications against the UK, and only 5 found a violation - a rate of 2%. ⁸
Myth - “The UK has an excellent record on human rights - we don’t need an international court arbitrating on them for us”	Fact - A number of positive changes to UK law have been made following cases in the ECtHR, protecting human rights for Britons. The decriminalisation of homosexuality in Northern Ireland, the banning of phone-hacking, and the law preventing employers from reading employee emails without consent all resulted from ECtHR judgements. ⁹
Myth - “Instead of leaving the ECHR, we could derogate from the rights preventing the Rwanda policy from working”	Fact - The bar for derogating from articles in the ECHR is very high, and wanting to remove asylum seekers is unlikely to pass this bar. Specifically, Article 15 of the ECHR allows states to derogate from certain rights only in a “time of war or other public emergency threatening the life of the nation”. While the UK has successfully derogated from articles in the ECHR before, the only successful cases have been related to terrorism in Northern Ireland. The last time the UK tried to derogate from the ECHR in 2001, relating to detaining suspected foreign terrorists who could not be deported, the derogation was deemed unlawful. ¹⁰

Further Reading and References

Explainers

Chatham House, "The UK must not sleepwalk into leaving the ECHR", [17 March 2023](#)

UK and EU, "The European Convention on Human Rights", [24 June 2022](#)

House of Commons Library, "Work of the Council of Europe", [6 June 2023](#)

Policy papers

Onward, "Forced to Move: How to reduce climate migration to the UK", [23 March 2023](#)

Nick Timothy, "Stopping the Crossings", Centre for Policy Studies, [December 2022](#)

Tony Blair Institute, "Fixing the Asylum System: A Workable Plan", [15 July 2022](#)

Opinion

Robert Buckland MP, "Do we really want to be the only democratic nation to ever leave the ECHR?", Politics Home, [16 August 2023](#)

David Gauke, "Leaving the European Convention on Human Rights would be a mistake", Conservative Home, [19 December 2022](#)

References

¹ Politico, [16 May 2023](#)

² Good Friday Agreement, [link](#)

³ Guardian, [20 April 2023](#)

⁴ Guardian, [9 August 2023](#)

⁵ Times, [30 June 2023](#)

⁶ Times, [10 July 2023](#); Centre for Policy Studies, [December 2022](#); Tony Blair Institute, [15 July 2022](#)

⁷ Times, [21 August 2023](#)

⁸ MoJ, Responding to human rights judgments: 2021 to 2022, [5 December 2022](#)

⁹ UK and EU, "The European Convention on Human Rights", [24 June 2022](#)

¹⁰ Joint Committee on Human Rights, "The Government's Independent Review of the Human Rights Act", [23 June 2021](#)



One Nation Conservatives

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