



Northern Ireland Affairs Committee

From
Rt Hon. Sir Robert Buckland KBE KC MP

Rt Hon. Chris Heaton-Harris MP
Secretary of State for Northern Ireland

by email only

European Convention on Human Rights: potential implications for Northern Ireland of UK withdrawal

Dear Chris,

My Committee acknowledges the Government's current position that the UK will remain a party to the European Convention on Human Rights (ECHR). That has not prevented speculation, however, as to the possibility of withdrawal from the Convention following legal decisions the Government has found unfavourable, most recently in response to the Rwanda policy.

Given the Convention is embedded in the Belfast/Good Friday Agreement, written into the Northern Ireland Act 1998 and determines how the Northern Ireland Assembly legislates, we note that Northern Ireland is often overlooked whenever the prospect of ECHR withdrawal is raised.

We held an oral evidence session on 14 May 2024 in which experts in human rights law discussed the potential implications of withdrawal for the region. They told us the following:

- **Calls to withdraw from the ECHR have provided no credible argument in favour of leaving from a Northern Ireland perspective.** Arguments in favour of withdrawal tended to arise when critics disagreed with a court judgment. However, they were frequently based on "myths, rumours and gossip" about what the Convention meant in practice.¹ Alyson Kilpatrick, Chief Commissioner for the Northern Ireland Human Rights Commission (NIHRC), said that, in the context of Northern Ireland, the Convention "is doing us, and has done us, an awful lot of good."²
- **The ECHR was integral to the rebuilding of trust in public institutions in Northern Ireland after the Troubles.** We heard that adherence to a set of

¹ Q2

² Q15



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internationally agreed human rights standards was important to all communities in Northern Ireland.

- **Leaving the ECHR would have practical implications for policing in Northern Ireland.** The duty to comply with the ECHR had become “the most natural thing in the world” to the police which used Convention rights as an operational model.³ For example, we heard that compliance with the Convention had made policing protests easier, with armed response units no longer required to keep public order.
- **Withdrawal from the Convention could affect cross-border collaboration in criminal investigations, including legacy.** Investigations relied on information and data sharing practices based on both parties complying with the ECHR. The UK would likely breach part 3 of the Trade and Co-operation Agreement with the EU which sets out the standards for criminal justice co-operation between the UK and EU states. We heard that extraditing criminal suspects from the Republic to Northern Ireland, a process which was made easier due to the European Arrest Warrant, could also become more difficult.
- **Witnesses took the view that Article 2 of the Windsor Framework reinforced the ECHR in Northern Ireland.** Parliament would likely need to repeal Section 7A of the Withdrawal Act if the UK were to withdraw from the ECHR, and this could have negative consequences for relations between the EU and the UK. Article 2 would present an issue for any Government wanting to withdraw from the ECHR.
- **The ECHR, as applied through the Human Rights Act 1998 and the devolution settlements, provides a UK wide standard of rights.** There is a debate as to whether the Government could use its prerogative to withdraw from the Convention. Christopher McCrudden, Professor of Human Rights and Equality Law at Queens University Belfast observed that if the Government was to withdraw from the ECHR without amending the Northern Ireland Act 1998, a situation could arise in which Northern Ireland would have a separate human rights framework, certainly concerning devolved competences, to the rest of the UK. He noted that it would be “a failure of statesmanship for that to be the situation.”⁴
- **It is unlikely the UK could withdraw from the ECHR without triggering a review procedure built into the Good Friday Agreement.** If so, the UK and Irish Governments, as parties to the Agreement, would be required to conduct a review in consultation with the Northern Ireland Assembly.

Witnesses concluded that that if the UK were to withdraw from the ECHR it would have a detrimental impact on Northern Ireland. They argued that the Government would knowingly be in breach of the Belfast/Good Friday Agreement and a promise to the people of Northern Ireland that their human rights would be protected “and not subject to political will or change of Government”. Alyson Kilpatrick added that “we all know how dangerous it is to breach promises. To do it without reason, justification or any real rationale would be very troubling”.⁵

³ Q2

⁴ Q15

⁵ Q32



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Given the imminent Prorogation of Parliament, I wanted on behalf of my Committee to put these points and concerns on the record, so that this and the next Administration, and others with an interest in human rights law in this country, might understand clearly the UK-wide context – the context of both Great Britain *and* Northern Ireland – in which the ECHR operates.

Yours ever,

Robert Buckland

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Chair, Northern Ireland Affairs Committee