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

CP 1415

Government of the United Kingdom

Ministry of Justice

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Presented to Parliament by the Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice by Command of His Majesty

December 2025

CP 1415

This publication is available at www.gov.uk/official-documents

Any enquiries regarding this publication should be sent to us at humanrights@justice.gov.uk

ISBN 978-1-5286-6088-4

E0349113 12/25

Printed on paper containing 40% recycled fibre content minimum

Printed in the UK by HH Associates Ltd. on behalf of the Controller of His Majesty's Stationery Office

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Introduction

This is the latest report to the Joint Committee on Human Rights (JCHR) setting out the Government's position on the implementation of adverse human rights judgments from the European Court of Human Rights (ECtHR) and the domestic courts.[1]

This report covers the period from August 2024 to July 2025 (but also notes some developments since then that took place before the date of publication). Following the approach in previous reports, it is divided into three sections:

- a general introduction, including **wider developments in human rights**;
- recent **ECtHR judgments** involving the UK and progress on the implementation of ECtHR judgments; and
- **declarations of incompatibility** in domestic cases and the Government's response.

The Government welcomes correspondence from the JCHR should it require further information on anything in this report.

[1] Previous reports are published at https://www.gov.uk/government/collections/human-rights-the-governments-response-to-human-rights-judgments.

General comments

This paper focuses on two types of human rights judgment:

- **judgments of the European Court of Human Rights (ECtHR)** in Strasbourg against the UK under the European Convention on Human Rights (ECHR or Convention); and
- **declarations of incompatibility** made by UK courts under section 4 of the Human Rights Act 1998 (HRA).

An important aspect of these judgments is that their implementation may require changes to legislation, policy, practice, or a combination of these.

European Court of Human Rights judgments

Under Article 46(1) of the ECHR, the UK is obliged to implement judgments of the ECtHR in cases to which it is a party. Under Article 46(2), the implementation (or execution) of judgments of the ECtHR is overseen by the Committee of Ministers which is the Council of Europe's statutory decision-making body in which every member State is represented.

Member States are accountable to the Committee of Ministers for the execution of adverse judgments. States are required to submit periodic action plans to the Committee of Ministers detailing the actions they are taking in respect of implementation. Once the Committee of Ministers is satisfied that the State has taken sufficient steps to implement the judgment, it will close the case.

The Committee of Ministers is advised by a specialist Secretariat, the Department for the Execution of Judgments, in its work to supervise the implementation of judgments.

There are three parts to the implementation of an adverse ECtHR judgment when a violation is found:

- the payment of **just satisfaction**, a sum of money which the court may award to the applicant;
- **individual measures**, required to put the applicant, so far as possible, in the position they would have been in, had the violation not occurred; and
- **general measures**, required to prevent the violation happening again or to put an end to an ongoing violation.

Past judgments can be found on the ECtHR database (HUDOC).[2] New judgments are announced a few days in advance on the ECtHR's website.[3]

The Department for the Execution of Judgments has a website explaining the supervision process for implementation[4] and a database called HUDOC-EXEC which records details of the implementation of each judgment.[5]

Declarations of incompatibility

Under section 3 of the HRA, legislation must be read and given effect, so far as possible, in a way which is compatible with the Convention rights.[6] If a higher court[7] is satisfied that legislation[8] is incompatible with a Convention right, it may make a declaration of incompatibility (DoI) under section 4 of the HRA. This DoI constitutes a notification to Parliament that the legislation is incompatible with the Convention rights.

A DoI does not affect the continuing operation or enforcement of the legislation in question, nor does it bind the parties to the proceedings in which it is made.[9] This respects the supremacy of Parliament in the making of the law. Under the HRA, there is no legal obligation on the Government to take remedial action following a DoI, nor on Parliament to accept any remedial measures the Government may propose.

There is no official database of DoIs but a summary of all declarations is provided in Annex A to this report.

Coordination of implementation

Lead responsibility for implementation of an adverse judgment rests with the relevant Government department for each case, while the Ministry of Justice (MoJ) provides light-touch coordination of the process.

Following an adverse ECtHR judgment against the UK, the MoJ liaises with the lead department to provide oversight of and advice on the implementation process, and to

2 https://hudoc.echr.coe.int

3 https://www.echr.coe.int/home

4 https://www.coe.int/en/web/execution

5 https://hudoc.echr.coe.int

6 The rights drawn from the ECHR listed in Schedule 1 to the HRA.

7 The level of the High Court or equivalent and above, as listed in section 4(5) of the HRA.

8 Either primary legislation, or subordinate legislation if the primary legislation under which it is made prevents removal of the incompatibility (except by revocation).

9 Section 4(6) of the HRA.

assist with the drafting of action plans and updates which are required by the Committee of Ministers in its role of supervising the execution of judgments. The MoJ passes this information to the UK Delegation to the Council of Europe, which represents the UK at the Committee of Ministers' meetings.

It is not feasible for any one department to identify all the ECtHR judgments against other member States that may be relevant to the UK, so the department with the relevant policy interest is expected to identify judgments relevant to their area of work and take actions as appropriate. The Foreign, Commonwealth and Development Office (FCDO) and the MoJ supplement and support this work.

When a new DoI is made in the domestic courts, the lead department is expected to bring it to the JCHR's attention. The MoJ encourages departments to update the JCHR regularly on their plans for responding to DoIs.

Wider developments in human rights

The Government is fully committed to the protection of human rights both at home and abroad.

As the Prime Minister has made clear, we are committed to the European Convention on Human Rights (ECHR). We also support the important role and the independence of the European Court of Human Rights. Membership of the ECHR is essential for our ability to work with European partners, including for the sharing of intelligence and evidence, and practical agreements to stop people smuggling.

The ECHR is the basis for a wide range of law enforcement and criminal justice cooperation with Europe, which is essential for tackling crime committed against our citizens at home and abroad. This includes cooperation with Council of Europe Member States on extradition, the exchange of biometric data and criminal records, and law enforcement cooperation via Europol. These capabilities are all critical in the fight against people smuggling, serious organised crime and terrorism.

However, commitment to the ECHR does not mean complacency. To retain public confidence in our policies on irregular migration and criminal justice, the ECHR and other instruments must evolve to face modern challenges – a view that has also been reiterated publicly by the Secretary General of the Council of Europe.

In light of the current challenges posed by migration, a number of Council of Europe member States have expressed concern about the interpretation and application of the ECHR in this context, including through an open letter from nine countries in May this year that called for "discussion about how international conventions match the challenges of today".

It is important for States to work together to address these challenges in the appropriate forum, and to that end, the Deputy Prime Minister met his justice minister counterparts on 10 December in Strasbourg to set out the UK position and advance work in the Council of Europe on the ECHR reform agenda.

ECtHR and wider Council of Europe work

Execution Coordinators Network
On 23 June 2025, the Council of Europe's Execution Coordinators Network held its second annual meeting. The UK's national coordinator for the implementation of judgments, a MoJ official, attended.

Delegates participated in the project "*Support to efficient domestic capacity for the execution of ECtHR judgments* (Phase 2)"[10] set up to support member States to deliver full, effective and prompt execution of judgments of the ECtHR. Thematic discussions took place on the challenges of local and regional authorities in the execution of ECtHR judgments, including a discussion with the Department for the Execution of Judgments.

Convention for the Protection of the Profession of Lawyer

The Convention for the Protection of the Profession of Lawyer was adopted by the Council of Europe on 12 March 2025 and the UK signed on 14 May 2025.[11]

It is the first international legally binding treaty dedicated to the protection of the profession of lawyer and is open to States beyond member States of the Council of Europe. The Convention establishes principles and obligations for ratifying States such as ensuring the independence of the profession, entitlement to practise, professional rights, freedom of expression, professional discipline, and specific protective measures for lawyers and professional associations. Compliance with the Convention will be monitored by the Group of Experts on the Protection of Lawyers and the Committee of the Parties.

The signature of the Convention demonstrates the Government's commitment to the rule of law and the UK's standing as a leading legal services hub.

The Convention will require ratification by at least eight countries before it enters into force. Work is underway for the UK to ratify the Convention.

Reporting to United Nations human rights monitoring bodies

The Government is committed to supporting a strong and independent United Nations (UN) human rights system and promoting compliance with international human rights law. The Government takes its international human rights obligations seriously and is committed to playing its role in UN treaty reporting and dialogue processes.

Since August 2024, the UK's reporting on UN human rights obligations has included:

- participation in the interactive dialogue with the Committee on Economic, Social and Cultural Rights under the International Covenant on Economic, Social and Cultural Rights (13–14 February 2025); and
- submission of a midterm report to the UN, updating on the UK's position and actions on recommendations from its fourth Universal Periodic Review (UPR) cycle (August

[10] https://www.coe.int/en/web/implementation/support-to-efficient-domestic-capacity-for-the-execution-of-ecthr-judgments-phase-2-

[11] https://www.coe.int/en/web/portal/-/council-of-europe-adopts-international-convention-on-protecting-lawyers

2025).[12] The UPR is a unique UN mechanism for sharing best practice and promoting continuous improvement.

[12] https://www.ohchr.org/en/hr-bodies/upr/upr-implementation

The UK at the ECtHR: statistics

The ECtHR publishes statistical reports for each calendar year.[13] The following tables summarise data on the applications made against the UK at the ECtHR from its initial establishment in 1959 until the end of 2024, with a focus on the last ten years.

New applications

Applications have been on a general downward trend over the last ten years. By population, the UK had the third lowest rate of applications of all member States in 2024, at 6.9 per million, while for all States combined it was 38.1 per million.[14]

Table 1. Applications against the UK allocated to a judicial formation[15]

1959–2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
22,836	575	372	415	354	344	301	210	240	201	478	**26,326**

Inadmissible applications

Due to the time lag between an application being allocated for initial consideration and a decision being made on its admissibility, the number of applications declared inadmissible cannot be directly compared to newly allocated applications on a year-by-year basis.

It is noteworthy that the number of applications declared inadmissible in the last ten years is close to the number allocated, indicating that only a small minority of allocated applications are found admissible and proceed to a judgment.

13 https://www.echr.coe.int/dashboards

14 Source: Analysis of statistics 2024, page 15 (https://www.echr.coe.int/documents/d/echr/stats-analysis-2024-eng).

15 Source: *Ibid* and previous reports. This is the first stage of consideration by the Court. Single judges can declare applications inadmissible or strike them out where this decision can be taken without further examination. By unanimity, Committees take similar decisions to single judges but can also declare an application admissible and give a judgment if the underlying question is already well-established in the case-law of the Court. Where neither a single judge nor a Committee has taken a decision or made a judgment, Chambers may decide on admissibility and merits.

Table 2. Applications against the UK declared inadmissible or struck out[16]

1959–2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
20,707	533	360	507	358	347	280	206	255	172	328	**24,053**

Judgments

The numbers of judgments and adverse judgments remain low.

Table 3. Judgments in UK cases (judgments finding violations)[17]

1959–2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
513	13	14	5	2	5	4	7	4	3	3	**573**
(301)	(4)	(7)	(2)	(1)	(5)	(2)	(5)	(2)	(1)	(1)	**(331)**

Caseload

The caseload of ongoing applications against the UK under consideration by the ECtHR has followed a downward trend over the last ten years. Furthermore, the caseload is low both in absolute terms and as a proportion of all States' applications: in 2024, UK cases comprised 0.45% of the ECtHR caseload while, in population terms, the UK comprises 8.1% of the population of all States (including Russia).[18]

Table 4. Ongoing caseload of the ECtHR at year end

Year	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
UK	256	231	130	124	111	124	118	99	127	274
Total	64,834	79,750	56,262	56,365	59,813	62,000	70,156	74,647	68,468	60,338
Proportion	0.39%	0.29%	0.23%	0.22%	0.19%	0.20%	0.17%	0.13%	0.19%	0.45%

[16] Source: Analysis of statistics 2024, page 14, and previous reports. A few applications each year are struck out on the basis of a friendly settlement or unilateral declaration.

[17] Source: Violations by Article and by State 2024 (https://www.echr.coe.int/documents/d/echr/stats-violation-2024-eng); Violations by Article and by State 1959–2022 (not produced for 2023).

[18] Source: Analysis of statistics 2024, page 13. Russia ceased to be a member of the Council of Europe on 16 March 2022, but applications against Russia were still being allocated to the Court in 2024.

Implementation

At the end of 2024, the UK was responsible for nine (0.23%) of a total 3,916 of pending cases before the Committee of Ministers. This figure includes both adverse judgments whose implementation is still under supervision as well as friendly settlements. This is lower than for other States with a similar population size (see Annex B).[19]

Further statistics and the numbers of pending judgments for all States for the years 2022–2024 can be found in Annex B. This annex also lists all judgments that found a violation against the UK that were still under the supervision of the Committee of Ministers at the end of July 2025.

[19] Source: Supervision of the execution of judgments and decisions of the European Court of Human Rights, 18th Annual Report of the Committee of Ministers 2024, Table D.3 (https://www.coe.int/en/web/execution/annual-reports). The 2024 statistics now exclude Russia.

Earlier ECtHR judgments

The reporting period (August 2024 – July 2025) began with 11 judgments under the supervision of the Committee of Ministers.

During the reporting period, having examined the action reports submitted by the Government, the Committee of Ministers was satisfied that all necessary measures had been adopted and decided to close its supervision of the following judgments:

- *Big Brother Watch and Others* (58170/13 etc.), final judgment on 25 May 2021
- *Wieder and Guarnieri* (64371/16 and 64407/16), final judgment on 12 December 2023

Details of these judgments can be found in last year's annual report.

The following judgments remained under supervision at the end of July 2024:

- Three judgments of the *McKerr* group (28883/95 etc.), first of the final judgments on 4 August 2001;
- *S and Marper* (30562/04 and 30566/04), final judgment on 4 December 2008;
- *Catt* (43514/15), final judgment on 24 April 2019;
- *Gaughran* (45245/15), final judgment on 13 June 2020;
- *VCL and AN* (77587/12 and 74603/12), final judgment on 5 July 2021;
- *SW* (87/18), final judgment on 22 September 2021; and
- *Coventry* (6016/16), final judgment on 6 March 2023.

Details of the measures being taken to implement these judgments are set out below.

1. McKerr group (28883/95 etc.)

Chamber judgments – violation of Article 2 (right to life)
First final judgments on 4 August 2001

The cases and judgments

The *McKerr* group of cases concern investigations into the deaths of the applicants' next of kin in Northern Ireland in the 1980s and 1990s, either during security force operations or in circumstances giving rise to suspicion of collusion with those forces. The ECtHR was concerned with the obligations under Article 2 (right to life) that require an effective official investigation when individuals have been killed as a result of the use of force by the State.

In the *McKerr* group of cases, the problems identified by the ECtHR related to:

- The effectiveness of the police investigations, including a lack of independence of police officers investigating the incidents; defects in the police investigations, and a lack of public scrutiny and information available to the victims' families.
- A number of shortcomings in the inquest proceedings, including the failure to comply with the requirement of promptness and expedition and the absence of legal aid for the victims' families.
- The implementation of Article 46 (binding force and execution of judgments). The ECtHR indicated that the authorities had to take, as a matter of priority, all necessary and appropriate measures to ensure, that in similar cases – i.e., where inquests were pending into killings by security forces – Article 2 procedural requirements were complied with expeditiously.
- The *McShane* case (now closed) which concerned a failure by the State to comply with its obligations under Article 34 (individual applications).
- *McCaughey and Others* and *Hemsworth* (both now closed) in which the ECtHR found that there had been excessive delay in the inquest proceedings which had concluded in 2012 and 2011 respectively (and thereby resulting in procedural violations of Article 2). These Article 2 procedural violations had been caused by, for example, periods of inactivity; the quality and timeliness of the disclosure of material; and by legal procedures which were necessary to clarify coronial law and practice.

General measures

Following the judgments in these cases, ten general measures were set out – a summary of these general measures can be found in last year's Annual Report.[20] Supervision of nine of these measures was closed by the Committee of Ministers in a series of decisions and interim resolutions between 2005 and 2009. The outstanding issue concerns the lack

[20] https://www.gov.uk/government/publications/responding-to-human-rights-judgments-2023-to-2024, page 13.

of independence of the investigating police officers from the security forces or police officers implicated in the incidents.

The Committee of Ministers last considered the *McKerr* group of cases in June 2024, when it reiterated concerns about the approach taken in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see background below).

The Committee of Ministers examined the *McKerr* group of cases on 2 December 2025. As part of that, the Government provided an update on a number of steps that have been undertaken (set out below).

The Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

The previous Government introduced the Northern Ireland Troubles (Legacy and Reconciliation) Bill (Legacy Act) in May 2022. The legislation received Royal Assent on 18 September 2023. It stopped Troubles-related criminal investigations, new civil proceedings, and legacy inquests and, in their place, created a new independent body, the Independent Commission for Reconciliation and Information Recovery (ICRIR), with the primary objective of providing information to families, victims and survivors. The ICRIR's operational functions were commenced on 1 May 2024. The Legacy Act also made provision to grant immunity from prosecution to individuals who cooperated with the ICRIR, though these functions have not been commenced (see more detail below).

The Legacy Act was opposed by the Irish Government, the Northern Ireland political parties, and many victims and survivors of the Troubles, and became subject to domestic and international legal challenges.

In January 2024, the Irish Government lodged an inter-State case against the UK at the ECtHR. In February 2024, the High Court of Northern Ireland made declarations of incompatibility in respect of a number of provisions of the Legacy Act, including the immunity provisions (details on page 46). However, the High Court of Northern Ireland found the ICRIR to be independent and capable of conducting human rights-compliant investigations. This judgment was appealed to the Northern Ireland Court of Appeal by the previous Government, and cross-appealed by a number of applicants.

This Government committed to repeal and replace the Legacy Act, in particular those provisions strongly opposed by victims and survivors and found deficient by the Northern Ireland High Court. The Secretary of State for Northern Ireland (SOSNI) laid a Written Ministerial Statement in Parliament on 29 July 2024 setting out the proposed approach: specifically, the Government formally abandoned all its grounds of appeal against the declarations of incompatibility made by the High Court of Northern Ireland, including the provisions relating to conditional immunity.[21] Furthermore, the Government committed to

[21] https://questions-statements.parliament.uk/written-statements/detail/2024-07-29/hcws30

reverse the prohibition on bringing new civil proceedings and proposed measures to allow inquests previously halted to proceed.

Separately, the Government asked the Northern Ireland Court of Appeal to continue to consider the interpretation and effect of Article 2(1) of the Windsor Framework, while the applicants continued to pursue their cross-appeal. On 20 September 2024, the Northern Ireland Court of Appeal handed down its judgment.[22] In summary, the Court recognised the wide powers, unfettered access to information, and structural independence of the ICRIR. It found that:

> "issues arise in relation to effective next of kin participation and the role of Secretary of State for Northern Ireland in relation to disclosure in cases where, previously, an inquest would have been required to discharge the State's Article 2 obligations."

In response, on 7 October 2024, the Government confirmed its intention to retain and reform the ICRIR, including by considering measures to further strengthen its independence and powers.[23]

In December 2024, a draft Remedial Order (a form of secondary legislation provided for under section 10 of the HRA to amend legislation found to be incompatible with a Convention right) was also proposed to address the declarations of incompatibility that were found by the Northern Ireland courts. On 28 February 2025, the JCHR reported on the draft Remedial Order. On 14 October 2025, the Government replied and amended the draft Remedial Order accordingly.[24] The Remedial Order will, if approved by Parliament, remove all the provisions from the Legacy Act relating to immunity from prosecution and enable all civil proceedings that were prohibited by the Legacy Act, including future cases, to proceed.

Joint Framework / Northern Ireland Troubles Bill

To deliver the commitment to repeal and replace the Legacy Act and reform the ICRIR, the SOSNI, alongside the Tánaiste of the Government of Ireland, published a Joint Framework titled '*The Legacy of the Troubles: A Joint Framework between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland'*

22 https://www.judiciaryni.uk/judicial-decisions/summary-judgment-re-dillon-and-others-ni-troubles-legacy-and-reconciliation-0

23 Written Ministerial Statement, 7 October 2024, https://questions-statements.parliament.uk/written-statements/detail/2024-10-07/hcws108

24 The Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (Remedial) Order 2025 (https://www.gov.uk/government/publications/the-northern-ireland-troubles-legacy-and-reconciliation-act-2023-remedial-order-2025)

(Joint Framework,18 September 2025).[25] This Joint Framework committed the UK and Irish Governments to work in partnership to deliver effective legacy mechanisms that comply with legal obligations, can command public confidence, and draw on the principles of the Stormont House Agreement (signed on 23 December 2014).

The Joint Framework reflects the significant engagement that the Government has undertaken with political parties, victims and survivors' organisations, human rights groups, veterans and their representatives, and many others. The Government firmly believes that the Joint Framework represents the best possible way forward, while recognising that the significant range of views means that a perfect outcome to these matters is not attainable.

On 14 October 2025, the Government introduced the Northern Ireland Troubles Bill.[26] The Bill implements the commitments of the Joint Framework, including to:

- **Create a reformed Legacy Commission**, with statutory oversight arrangements to provide accountability and confidence, and – learning from Operation Kenova – a victims and survivors' advisory group to ensure that their voices are always heard as part of the Legacy Commission's work;
- **Establish strengthened governance structures within the Legacy Commission**, including a new dual role of 'co-directors for investigations', statutory duties in relation to conflict of interests, and statutory appointments made only following advice from relevant individuals;
- **Provide enhanced investigative powers for the Legacy Commission and a fairer disclosure regime**, ensuring that the Legacy Commission has all it needs to find answers for families and the maximum possible information can be made public, subject to proportionate safeguards; and
- **Allow inquests to proceed** that were in progress but halted by the Legacy Act.

These measures will be progressed alongside the Remedial Order.

Individual measures

Inquests

Under the Joint Framework and the Northern Ireland Troubles Bill, those inquests that had already begun (nine in total) will proceed as inquests in the first instance. If those inquests are subsequently subject to a determination by a coroner that they cannot proceed via the coronial system due to the exclusion of relevant sensitive information, they will be referred to the Legacy Commission.

25 https://www.gov.uk/government/publications/the-legacy-of-the-troubles-a-joint-framework-between-the-government-of-the-united-kingdom-of-great-britain-and-northern-ireland-and-the-government-o#:~:text=The%20Framework%20is%20guided%20by,rights%20compliance%3B%20and%20putting%20in

26 https://publications.parliament.uk/pa/bills/cbill/59-01/0310/240310.pdf

The two cases below are intended to proceed as inquests, subject to the points above:

McKerr
This case was one of the inquests included in the former Lord Chief Justice of Northern Ireland's plan for disposing of remaining legacy inquests relating to the Troubles. A significant amount of disclosure to the coroner took place before it was prohibited from continuing after 1 May 2024 under the Legacy Act.

Kelly and Others
An inquest was held in 1995 following the incident in 1987. The Police Service of Northern Ireland's Historical Enquiries Team began an investigation in 2011. In September 2015, following an announcement by the Advocate General that new inquests into these deaths would be justified, the case formed part of the Lord Chief Justice's plan to resolve legacy inquests. Like *McKerr*, this case was also prohibited from continuing on 1 May 2024 due to the provisions of the Legacy Act.

Finucane Public Inquiry
Finucane
On 27 February 2019, the Supreme Court handed down judgment *In the matter of an application by Mrs Geraldine Finucane for Judicial Review (Northern Ireland).*[27] In respect of the issues regarding Article 2 of the ECHR and the application of the HRA, the Supreme Court found that:

> "there has not been an Article 2 compliant inquiry into the death of Patrick Finucane. It does not follow that a public inquiry of the type which the appellant seeks must be ordered. It is for the state to decide, in light of the incapacity of Sir Desmond de Silva's review and the inquiries which preceded it to meet the procedural requirement of Article 2, what form of investigation, if indeed any is now feasible, is required in order to meet that requirement." (para. 153)

Following the Supreme Court judgment, the previous Government undertook a review of earlier investigations into the murder of Patrick Finucane to inform the SOSNI's decision on what further steps might be necessary to meet the procedural requirements of Article 2. In November 2020, the then SOSNI decided that that it was not appropriate for a public inquiry to be held.

Mrs Finucane subsequently challenged this decision by way of judicial review. In December 2022, the High Court of Northern Ireland held that there had still not been an Article 2-compliant inquiry into the death of Patrick Finucane. In February 2023, the Government appealed the High Court of Northern Ireland's judgment.

[27] https://www.supremecourt.uk/cases/uksc-2017-0058.html

On 11 July 2024, the Court of Appeal held that there had not been an Article 2-compliant investigation into the death of Patrick Finucane and set a timetable for Government decision-making. On 11 September 2024, the SOSNI confirmed that an independent statutory inquiry under the Inquiries Act 2005 would be established into the death of Patrick Finucane. It is the Government's expectation that the Inquiry will, while doing everything required to meet the State's human rights obligations, also make best endeavours to avoid unnecessary costs, given the previous reviews and investigations, and the volume of material already in the public domain. This approach is supported by the most recent High Court judgment, in which the judge suggested that an inquiry could "build on the significant investigative foundations which are already in place".

On 13 June 2025, the Government announced the appointment of the Rt Hon Sir Gary Hickinbottom as Chair of the Patrick Finucane Inquiry. The Government also announced the Rt Hon Baroness Nuala O'Loan and Francesca Del Mese as Assessors to the Inquiry. They will advise the Chair on their respective areas of expertise and support the Inquiry's independence.

In June 2025, the Chair held his first meeting with the Finucane family and consulted them on the draft Terms of Reference. Upon completion of that consultation exercise, the Government will finalise and publish the Terms of Reference and announce the date on which the Inquiry will commence its work.

Dillon & Others
The Government's appeal against elements of the Northern Ireland Court of Appeal's judgment in *Dillon & Others* was heard by the Supreme Court on 14–16 October 2025, and judgment is pending. The Government is seeking clarification from the Court of Appeal on the following findings:

- the Secretary of State's power to preclude the disclosure of sensitive information in circumstances where such disclosure would prejudice the national security interests of the United Kingdom;
- effective next of kin participation in cases that would otherwise be inquests raise issues that could reach far beyond the scope of the Legacy Act; and
- in relation to Article 2(1) of the Windsor Framework, that primary legislation can be disapplied by the Courts where the Court considers that legislation engages provisions of EU law which no longer apply in Northern Ireland.

2. S and Marper (30562/04 and 30566/04)

Grand Chamber – violation of Article 8 (right to respect for private and family life)
Final judgment on 4 December 2008

The case and judgment

The applicants, both of whom had been arrested but not convicted of criminal offences, sought to have their DNA samples, profiles and fingerprints removed from police records. The refusal of the police to delete this information was upheld by all domestic courts up to the House of Lords (then the UK's final appellate court).

On 4 December 2008, the Grand Chamber of the ECtHR ruled that a blanket policy of retaining this information from individuals arrested or charged but not convicted of an offence was disproportionate and unjustifiable under Article 8.

General measures

To address the judgment, the Government brought forward the Protection of Freedoms Act (PoFA) 2012 (which received Royal Assent on 1 May 2012) across the UK for material collected under counter-terrorism powers.

The legislation adopted the protections of the Scottish model for the retention of DNA and fingerprints. The ECtHR had noted that the Scottish model was consistent with Recommendation No. R (92)1 of the Committee of Ministers, which emphasises the need for an approach towards data retention that distinguishes between different types of cases and applies strictly defined storage periods for data, even in more serious cases. This is the model of PoFA: it sets out a varied regime of how long DNA profiles and fingerprints can be retained depending on the person's status – i.e., innocent or convicted and depending on the seriousness of the crime.

The Government confirmed that, in England and Wales, DNA profiles and fingerprints that could no longer be retained under the provisions of PoFA would be removed from national databases. This was completed by 31 October 2013, the date on which PoFA came into force.

<u>Northern Ireland</u>

The Northern Ireland Department of Justice was unable to secure the necessary legislative consent motion to extend PoFA to Northern Ireland for material collected under policing powers. Instead, the Department of Justice introduced broadly similar provisions in the Criminal Justice Act (Northern Ireland) 2013 (CJA), which received Royal Assent on 25 April 2013 (bar the biometric retention provisions of CJA which remain uncommenced and are discussed below).

Proposed new legislation (Justice Bill 2024) will remove references to indefinite retention and instead set out maximum retention periods based on the nature and seriousness of the offence, the age of the person concerned, criminal history and whether the person was convicted or not convicted.

The proposals set out in the Justice Bill 2024 also contain provision for the appointment and functions of the Northern Ireland Commissioner for the Retention of Biometric Material, who will provide important independent oversight of the operation of the new retention system and the review process. This may also include an independent complaint role relating to a decision by the Police Service of Northern Ireland (PSNI) to continue to retain long-term retained material after a review.

The Justice Bill was introduced to the Northern Ireland Assembly on 17 September 2024 and is currently being scrutinised by the Committee for Justice. To date, the Committee for Justice has taken evidence from a range of interested bodies, including the Scottish Biometrics Commissioner, the Information Commissioner's Office, the Northern Ireland Human Rights Commission, the Northern Ireland Commissioner for Children and Young People, and the Northern Ireland Youth Assembly.

Scrutiny by the Committee for Justice is to be completed by March 2026 but could happen earlier. It is, therefore, not possible at this stage to estimate when Royal Assent may be achieved. Once Royal Assent has been granted, it is likely to take approximately 18–24 months before the legislation can commence, as subordinate legislation will be required to support the primary legislation. The Police Service of Northern Ireland will also need sufficient time to develop and test its systems to ensure readiness for commencement.

Biometric provisions of the CJA

The biometric retention provisions of the CJA remain uncommenced.

On 17 September 2024, Northern Ireland introduced legislation in relation to DNA and fingerprints, which will repeal Schedule 2 of the CJA and amend the Police and Criminal Evidence Order (Northern Ireland) 1989 to create a biometric retention framework in Northern Ireland that will comply with both the *S and Marper* and *Gaughran* judgments.

The legislation completed Second Stage in the Northern Ireland Assembly on 1 October 2024 and is now at Committee Stage. An update letter on the progress of the Bill was submitted to the Department for the Execution of Judgments on 28 November 2024.

Biometric retention for Troubles investigations

PoFA and the new biometric retention framework will require the destruction of a large volume of existing DNA and fingerprints but there is a risk that future investigations into Troubles-related deaths in Northern Ireland could be undermined if such material were to be destroyed.

The Government has mitigated this risk by introducing a statutory provision through secondary legislation made under the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 to allow for the retention of designated biometric material solely for the purposes of such investigations. This secondary legislation, The Independent Commission for Reconciliation and Information Recovery (Biometric Material) Regulations 2024, came into force on 1 May 2024.

These regulations preserve biometric material that may be relevant to the ICRIR in its investigations and that would otherwise be at risk of destruction under the statutory destruction provisions of PoFA. In practice, this will mean that biometric material collected under certain policing and terrorism powers will be protected from the statutory destruction regime. The retention of this data will be strictly time-limited to the period which any such investigations are taking place.

The regulations designate any biometric material collected Northern Ireland before 31 October 2013 as a 'designated collection' and any material in this collection, which would otherwise be subject to the statutory destruction provisions, is retained.

The regulations also designate biometric material taken in England and Wales or in Scotland from individuals who were arrested or convicted between 1 January 1966 and 10 April 1998 of an offence under any of the following Acts:

- the Prevention of Terrorism (Temporary Provisions) Act 1974;
- the Prevention of Terrorism (Temporary Provisions) Act 1976;
- the Prevention of Terrorism (Temporary Provisions) Act 1984;
- the Prevention of Terrorism (Temporary Provisions) Act 1989; and
- the Explosive Substances Act 1883.

Any retained data is subject to regular periodic review by the ICRIR. The regulations do not permit indefinite retention of biometric material, and the material retained is strictly held for the purposes of ICRIR investigations and to support Article 2-compliant investigations into Troubles-related deaths and serious injuries.

3. Catt (43514/15)

Chamber (First Section) – violation of Article 8
Final judgment on 24 April 2019

The case and judgment

The applicant was a pacifist, born in 1925, who participated in demonstrations, including protests organised by a group called Smash EDO. The applicant had no criminal record and was not considered a danger to anyone, but the protests involved disorder and criminality, and information about the protests and members of Smash EDO was collected by the police and retained in a "domestic extremism database".

In 2010, the applicant requested that information relating to his attendance at demonstrations and events, mostly linked to Smash EDO, between 2005–2009 should be deleted from police databases. The request was initially refused. However, following a review in 2012, records that referred primarily to him were deleted. Entries that made incidental reference to him continue to be retained on the database. The applicant challenged this policy, arguing that retaining the data violated Article 8.

On 4 March 2015, the Supreme Court held that the collection and retention of this information were in accordance with the law and proportionate. In particular, the intrusion into the applicant's privacy was minor and the information neither intimate nor sensitive. The Supreme Court found that there were good policing reasons for collecting and retaining such data and that sufficient safeguards were in place, as it was periodically reviewed for retention or deletion.

The ECtHR disagreed on a number of counts and found a violation of Article 8. The Court agreed that there were good policing reasons for collecting such data and that, in the applicant's case, the initial collection has been justified because Smash EDO's activities were known to be violent and potentially criminal. However, the ECtHR expressed concerns about the continued retention of the data considering that there was no pressing need to retain the data with the passage of time. The ECtHR held that the continued retention of data in the applicant's case was disproportionate for the following reasons:

- It was accepted that he did not pose a threat (taking account of his age).
- The data revealed political opinions requiring enhanced protection, but the procedural safeguards were inadequate. The only safeguard provided by the Management of Police Information Code of Practice was that the data would be held for a minimum of six years and then reviewed. The Court did not consider this safeguard meaningful as the decision to retain the data did not take account of the heightened protection required for data revealing political opinions.

- The ECtHR also rejected the argument that it would be too burdensome to review and delete all entries on the database relating to the applicant, noting that if such reasoning were accepted, it would create a route for future violations of Article 8.

Individual measures

The police unit – National Domestic Extremism and Disorder Intelligence Unit – which held the standalone database containing the applicant's six data entries (that were the subject of the judgment) has ceased to exist. The information held by this unit was transferred to the National Counter Terrorism Policing Operations Centre (Centre) within the Metropolitan Police Service (MPS). A new national database, the National Common Intelligence Application (NCIA) is now in existence. Other police forces have migrated their databases to the NCIA.

Searches were conducted by the Compliance and Protective Monitoring Unit across the migrated databases for any references to the applicant. All remaining references were deleted by 4 October 2019.

General measures

The NCIA is administered centrally by the National Counter Terrorism Police Headquarters within the MPS. As this data is now on one database and is under the control of a single police force, this ensures a consistent approach to the review, retention, and disposal of this information. Procedures in place include:

- A team of assessors determines whether a record is relevant and necessary and whether it is proportionate for the record to be added to the database. These decisions are recorded.
- The NCIA database schedules a review for all records at either six, seven or ten years, depending on the category of the data.
- A user may also trigger a record for review at another date in time if considered necessary.

Furthermore, the police have established a national-level Records Management Working Group led by the MPS, the College of Policing and the National Police Chiefs' Council and including a member from the Information Commissioner's Office (ICO). The Records Management Working Group has produced a revised Management of Police Information Code of Practice. The new Code of Practice was laid in Parliament and published by the College of Policing on 20 July 2023, along with complementary Authorised Professional Practice, which is guidance for information practitioners on the application of the Code of Practice.

This statutory Code of Practice sets out the procedures for the collection and retention of information and must be taken into account by police when obtaining, managing, and using information to carry out their duties.

The Government provided a full update to the Committee of Ministers in March 2024, and a comprehensive action report to the Department for the Execution of Judgments in April 2025.

4. Gaughran (45245/15)

Chamber (First Section) – violation of Article 8
Final judgment on 13 June 2020

The case and judgment

Mr Gaughran pleaded guilty in November 2008 to the offence of driving with excess alcohol at Newry Magistrates' Court, meaning he was a convicted person. His DNA profile, fingerprints and photograph (biometrics) were taken. The regime in Northern Ireland relating to police powers allowed these biometrics to be retained indefinitely. Mr Gaughran argued that the Police Service of Northern Ireland's (PSNI) indefinite retention of his biometrics contravened his Article 8 rights. In 2015 the Supreme Court rejected his argument. He subsequently applied to the ECtHR, which heard the case in 2018.

The ECtHR unanimously found that the scheme allowing for the indefinite retention of the biometrics of a person convicted of an offence was disproportionate and in violation of Article 8. In reaching this conclusion the ECtHR pointed to the lack of reference within the scheme to the seriousness of the offence or sufficient safeguards, including the absence of any real possibility of review of the retention.

The rules for the retention regime for DNA and fingerprints of convicted persons in England and Wales are set out in Part V of the Police and Criminal Evidence Act 1984 (PACE), as amended by the Protections of Freedoms Act (PoFA) 2012. The regime allows DNA and fingerprints of convicted persons to be retained indefinitely subject to the type of the offence and the age of the individual (see above for detail on PoFA in judgment *S and Marper* regarding retention of data for persons **not** convicted of an offence).

General measures

The Data Protection Act 2018 (DPA), which came into force in May 2018, requires periodic reviews of the retention of personal data, including biometrics, for law enforcement purposes (part 3, chapter 2, section 39). The DPA applies to all parts of the UK. The *Gaughran* case was brought before the courts prior to the DPA coming into force, so the DPA was not taken into account in the judgment.

Although indefinite retention of biometrics without the possibility of review violates Article 8, that has now been addressed UK-wide by the DPA and the wider data protection framework. This framework provides safeguards and provisions for individuals to apply for the deletion of their DNA and fingerprints. It also includes independent oversight of data protection by the Information Commissioner's Office, which accepts complaints from members of the public who are unhappy with how an organisation has handled their information.

Finally, the ACRO Criminal Records Office (ACRO) is responsible for considering applications to delete criminal records earlier than is specified by the law. Criteria for granting applications are published.

Notwithstanding the existing data protection and records management framework, the Home Office has agreed with the Forensic Information Databases Strategy Board (FINDS) a set of criteria for assessments for the applications for the deletion of indefinitely held biometric data. This would provide an additional mechanism for an individual to request a review of their retained material, even where their material falls to be retained indefinitely under PACE. The intention is for this to be coordinated by ACRO and the Home Office is currently working with them to understand the resources implications.

Additionally, there is an ongoing review of retention and deletion policies on the police's national computer system, as well as a separate review into custody image retention and deletion. The Home Office awaits the conclusion of these reviews and is considering whether further work is necessary in England and Wales to comply with the judgment. The Home Office will continue to work with the police to promote consistent compliance with the DPA and enable more efficient review of the retention of biometric data.

Northern Ireland

As noted above, the Northern Ireland authorities are taking forward legislative provisions (Justice Bill 2024) to amend provisions within the Police and Criminal Evidence (Northern Ireland) Order 1989[28] (PACE NI) to implement a DNA and fingerprints retention framework in Northern Ireland that will comply with the *S and Marper* and *Gaughran* judgments.

In addition to the measures noted above, the Justice Bill 2024 also provides general measures to meet the *Gaughran* ECtHR judgment. It will support the DPA framework by setting out in regulations a requirement to review long-term of retained DNA material. The Department of Justice (DoJ) is developing a suitable statutory review mechanism so that long-term retained DNA and fingerprints are subject to a scheduled review part-way through a maximum retention period. Scheduled reviews will be undertaken by the PSNI who will assess the continuing need to retain DNA profiles and fingerprints in each individual case. Proposals for the review mechanisms are still being developed and are subject to approval by the Minister of Justice. If approved by the Minister, and subject to the successful passage of the Justice Bill, the review mechanism proposals will be subject to a public consultation and will require subordinate legislation to be approved by the Northern Ireland Assembly.

[28] https://www.legislation.gov.uk/nisi/1989/1341/contents

The new retention framework also contains a number of rules regarding the most serious offences (referred to as "qualifying offences" in the legislation) and concomitant retention periods. If an offence is a "qualifying offence" it means:

- that an individual's DNA profiles and fingerprints will attract the longest retention period i.e. a maximum of 75 years;
- that any review of the need to retain an individual's DNA profiles and fingerprints will be further away when compared to a non-qualifying offence;
- that if an individual is charged but not convicted of a qualifying offence, the DNA profile and fingerprints can be kept for three years;
- that if an individual is arrested but not charged with a qualifying offence (only if certain rules are passed by the Northern Ireland Assembly), the Northern Ireland Biometrics Commissioner can order that an individual's DNA profile and fingerprints can be kept for three years; and
- that the PSNI can order an individual back to a police station to have a DNA sample and fingerprints taken if the individual has been convicted of a qualifying offence, no matter how long ago, and not had a DNA sample and fingerprints taken previously.

The current list of qualifying offences is contained in Article 53A of the PACE NI.[29] The DoJ completed an extensive review of the current list of qualifying offences and undertook a public consultation on proposals to update the list (completed on 6 August 2025).[30] The DoJ is considering the responses to the consultation, with a view to modifying the list of qualifying offences if appropriate.

[29] https://www.legislation.gov.uk/nisi/1989/1341/article/53A

[30] https://www.justice-ni.gov.uk/consultations/consultation-contents-list-qualifying-offences-specified-under-article-53a-police-and-criminal-evidence-northern-ireland-order-1989

5. VCL and AN (77587/12 and 74603/12)

Chamber (Fourth Section) – violation of Articles 4 (prohibition of slavery and forced labour) and Article 6 (right to a fair trial)
Final judgment on 5 July 2021

The case and judgment

These joined cases concern two Vietnamese youths, VCL and AN, who were discovered working on cannabis farms in 2009 and were subsequently convicted of drug cultivation offences, to which they pleaded guilty.

VCL and AN unsuccessfully challenged their appeal against prosecution at the Court of Appeal on the basis that the Competent Authority had made a 'Conclusive Grounds Decision' in each case – that it was more likely than not that the applicants were victims of human trafficking and therefore, they should not have been prosecuted for offences that had a nexus with their trafficking – and that if they were prosecuted, the proceedings should have been stayed by order of the judge.

In each case, the ECtHR found a violation of Article 4 (prohibition of slavery and forced labour) as result of a failure to take sufficient operational measures to protect minors prosecuted despite credible suspicion they were trafficking victims, a failure to make sufficient initial and prompt assessment of trafficking status, and not having adequate reasons to continue prosecution despite a positive Competent Authority decision.

The ECtHR also found in each case, a violation of Article 6 (right to a fair trial) due to: a failure to investigate potential trafficking affecting overall fairness of proceedings; critical evidence not being secured; no waiver of the guilty pleas that were made by the minors without full awareness of the facts; and defects in the processes not remedied by subsequent reviews by domestic authorities as they relied on the same inadequate reasons.

The two cases pre-date relevant domestic legislation. In England and Wales, the Modern Slavery Act 2015[31] includes (at section 45) a statutory defence against prosecution where an individual is compelled to commit a crime as a result of their exploitation, except in cases of specified serious offences set out in Schedule 4 to the Act. This legislation supplements the common law defence of duress where a person has been threatened.

In Northern Ireland, the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (HTEA) (Northern Ireland)[32] was introduced in 2015 to provide a more robust legal framework to prosecute traffickers and those subjecting people in Northern

[31] https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted

[32] https://www.legislation.gov.uk/nia/2015/2/enacted

Ireland to slavery. It also improved support for victims whilst also tackling the demand for the services of trafficked victims.

Section 22 of the HTEA (Northern Ireland) 2015 creates a statutory defence for victims of human trafficking and slavery-like offences who have been compelled to commit certain offences. This does not apply in respect of more serious offences.

In Scotland, the Human Trafficking and Exploitation (HTEA) (Scotland) Act 2015[33] was introduced in 2015 and provides police and prosecutors with greater powers to detect and prosecute those responsible for trafficking as well as strengthening protections for victims. The HTEA (Scotland) 2015 included two new criminal offences: i) human trafficking and ii) slavery, servitude and forced or compulsory labour. The maximum penalty for either offence is life imprisonment.

Section 8 of the HTEA (Scotland) 2015 places a duty on the Lord Advocate to issue and publish instructions for prosecutors about the prosecution of suspected or confirmed adult and child victims of the offence of human trafficking and the offence under section 4. The Lord Advocate's Instructions were issued and published in 2016 and continue to be applied by prosecutors.

The Government continues to work closely with operational partners and the devolved nations to take the necessary steps to implement the judgment. An action plan was submitted to the Committee of Ministers on 5 January 2022, with many of the actions completed. Further action plans were submitted on 10 March 2023 and 1 April 2024 to acknowledge the impact of recent changes in legislation. In September 2024 the Committee of Ministers gave feedback on the action plans and in May 2025 a further action plan was submitted. Some of the ongoing actions include:

- improving first responders' training;
- introducing the statutory **duty to notify** for non-consenting adults in Scotland and Northern Ireland;
- keeping national referral mechanism decision-making times under review, to reduce delays and ensure victims get good quality and timely decisions; and
- appropriate support and monitoring the impact that new legislation may have on the identification of and support for potential victims of trafficking.

The latest action plan was submitted to the Department for the Execution of Judgments on 1 October 2025.

[33] https://www.legislation.gov.uk/asp/2015/12/contents/enacted

6. SW (87/18)

Chamber (Fourth Section) – violation of Articles 8 and 13 (right to an effective remedy)
Final judgment on 22 September 2021

The case and judgment

The applicant, SW, was a social worker, and acted as an expert witness in care proceedings. The judge in those proceedings, without warning and during the course of the trial process, made a number of critical comments about SW in his judgment. These comments were passed to her employer and SW was dismissed. SW appealed to the Court of Appeal, which acknowledged that the process by which the judge came to make the criticisms was manifestly unfair, and directed that the criticisms be of no effect and removed from the judgment. SW stated that the proceedings had made her ill and unable to work.

In November 2016 the Court of Appeal held that SW's rights under Article 8 (right to respect for private and family life) had been violated. However, SW was unable to claim compensation in the domestic courts under the HRA due to section 9(3) of the Act, which prevents the payment of damages for judicial acts done in good faith except in very limited circumstances (which do not include a breach of Article 8).

The applicant took the case to the ECtHR in December 2017 for a finding on whether the accusations of professional misconduct violated her rights under Articles 6 (right to a fair trial) and 8. SW also complained of a violation of Article 13 on the basis that she was unable, due to section 9(3) HRA, to claim damages for a judicial act done in good faith.

The ECtHR found a violation of Article 8. This was due to the judge's decision first to criticise the applicant in such strong terms without giving her an adequate opportunity to respond, and then to direct that those criticisms be shared with the local authorities where she worked and with the relevant professional bodies. The ECtHR found that this significantly affected her ability to pursue her chosen professional activity, which in turn would have had consequential effects on the enjoyment of her right to respect for her "private life" within the meaning of Article 8. The ECtHR also found a violation of Article 13, read together with Article 8, on the basis that the applicant did not have access to an effective remedy at the national level capable of addressing the substance of her Article 8 complaint and by virtue of which she could obtain appropriate relief.

Individual measures

The ECtHR awarded €24,000 in respect of non-pecuniary damage and €60,000 in respect of costs and expenses, which have been paid.

General measures

The violation of Article 8 was due to an independent judicial decision rather than any procedural or legal requirement. Judicial acts are subject to section 6 of the HRA, which provides that it is unlawful for a public authority, including a court or tribunal, to act in a way which is incompatible with a Convention right. The ECtHR judgment was disseminated to the independent judiciary of England and Wales, Northern Ireland and Scotland, and the President of the Supreme Court.

The violation of Article 13 arose from the provisions of section 9(3) of the HRA. On 17 July 2025, in accordance with the relevant Parliamentary procedures, the Government laid a proposal to amend section 9(3) of the HRA using a non-urgent Remedial Order (a form of secondary legislation provided for under section 10 of the HRA to amend legislation found to be incompatible with a Convention right). It has been published on the GOV.UK website.[34]

The proposed Remedial Order will make a targeted amendment to section 9(3) of the HRA with the effect that in proceedings in respect of a judicial act done in good faith, where the judicial act is so procedurally defective as to amount to a breach of the requirements of procedural fairness of Article 8, a financial remedy could be awarded to the person to compensate for the breach.

This proposed amendment applies to judicial acts that occurred before, as well as after, the date on which the Order comes into force. The HRA, and therefore the amendment to be made by this Remedial Order, will apply to the whole of the UK.

The Government is satisfied that this Remedial Order will ensure that damages are available to individuals in situations similar to that of SW and satisfies the requirements of the judgment. An update was provided to the Department for the Execution of Judgments on 29 July 2025.

The JCHR published its report on the proposed Remedial Order on 27 October 2025, which the Government is considering.

[34] https://www.gov.uk/government/publications/proposal-for-implementation-of-sw-v-uk-judgment

7. Coventry (6016/16)

Chamber (Fourth Section) – violation of Article 6 (right to a fair trial) and Article 1 of Protocol 1 (protection of property)
Final judgment on 6 March 2023

The case and judgment

The applicant was an unsuccessful defendant in a nuisance action which the claimants had funded through a conditional fee arrangement (CFA) and 'after the event' insurance (ATE). The case was appealed to the Supreme Court in *Coventry v Lawrence* [2015] UKSC 50; Coventry lost the case and was ordered to pay approximately £10,000 in damages and 60% of the claimants' costs.

At the time of the original proceedings, the costs and funding provisions in the Access to Justice Act 1999 (AJA) were in force. This legislation provided that an order for costs made by a court against a losing party could include both the success fees payable under a CFA and any ATE insurance premium, i.e. that these sums could be recoverable from (i.e. payable by) a losing party, in addition to the base legal costs. In other words, Coventry was liable for both the ATE insurance premiums and the claimants' success fees (as well as the base legal costs).

Coventry challenged this Supreme Court Decision before the ECtHR. He argued that the costs incurred were disproportionate and therefore interfered with his rights under Article 6(1) (right to a fair trial) and Article 1 of Protocol 1 (protection of property).

The ECtHR held that the AJA CFA/ATE costs regime had violated Coventry's Article 6(1) and Article 1 of Protocol 1 rights. In its assessment of Article 6(1), the ECtHR held that there was not a fair balance between the parties since Coventry was facing 'rapidly escalating costs', and the Government could not point to any safeguards built into the original scheme to mitigate this risk. In its assessment of Coventry's rights under Article 1 of Protocol 1, the ECtHR held that the original scheme placed an excessive burden on uninsured defendants like Coventry and was therefore not compatible with Convention rights.

Individual measures

The ECtHR considered that the question of the application of Article 41 (just satisfaction) was not ready for decision. Accordingly, the ECtHR reserved the question in whole and invited the Government and the applicant to submit their written observations on the matter within six months of the final judgment (later extended until 6 October 2023). The parties agreed the terms of a friendly settlement and informed the Court in May 2024. The Court announced on 15 October 2024 that it was appropriate to strike out the case. The

Government paid the agreed amount in February 2025 and submitted an action report on 4 March 2025.

General measures

The Government considers that this is a historic case, and no general measures are necessary.

Subsequently, further measures have been taken to reform the AJA regime. The AJA regime caused significant additional costs for losing parties in CFA claims, with the losing party having to pay the winning party up to three times the costs they would otherwise have to pay.

Following widespread concern about high costs and a 2010 report by Lord Justice (Sir Rupert) Jackson, Part 2 of LASPO was implemented on 1 April 2013. This generally abolished the recoverability of success fees and ATE insurance premiums, with such costs becoming payable by the CFA client. These reforms have prevented similar violations of Article 6 and Article 1 of Protocol 1 to those in Coventry from occurring. Following consideration of the action report, the Committee of Ministers closed its supervision of this case on 4 September 2025.

New ECtHR judgments

Four judgments in UK cases became final during the reporting period (August 2024 – July 2025).

No violation was found in:

- *Green* (22077/19) – no violation of Article 8 Chamber (Third Section). Judgment became final on 8 April 2025.

There were three judgments that found a violation against the UK:

- *Associated Newspapers Limited* (37398/21) – violation of Article 10 Chamber (Fourth Section). Judgment became final on 12 February 2025;
- *Malkiewicz & Others* (39449/21) – violation of Article 10 Chamber (Fourth Section). Judgment became final on 17 September 2025; and
- *Ezeoke* (61280/21) – violation of Article 6(1) Chamber (Fourth Section). Judgment became final on 25 May 2025.

Two of these (*Associated Newspapers Limited* and *Malkiewicz & Others*) were cases similar to the closed case of *MGN Limited*, where the general measures were already deemed adequate by the Committee of Ministers. Only the individual measures, i.e. the payment of just satisfaction, were therefore required for these two judgments.

A further eight applications were declared inadmissible in reasoned admissibility decisions.

The adverse judgments and the Government's response are summarised below.[35]

[35] Full details can be found on HUDOC (https://hudoc.echr.coe.int) and HUDOC-EXEC (https://hudoc.exec.coe.int)

1. Associated Newspapers Limited (37398/21)

Chamber (Fourth Section) – violation of Article 10 (right to freedom of expression)
Judgment on 12 November 2024

The case and judgment
The applicant, Associated Newspapers Ltd (ANL), was an unsuccessful defendant in domestic privacy and defamation proceedings which the claimants (AS and EH) funded through a conditional fee agreement (CFA) and 'after the event' (ATE) insurance. In the proceedings with AS, ANL was ordered to pay £770,670 towards the claimant's costs; ANL settled with EH and agreed to pay £709,095.15 towards costs. The case was not appealed to the Supreme Court.

This is a second case against the UK challenging the Access to Justice 1999 (AJA) legislative framework. The AJA was the legislative framework in place at the time of the ANL judgment; it provided that an order for costs made by a court against a losing party could include both the success fees payable under a CFA and any ATE insurance premium, i.e. that these sums could be recoverable from (i.e., payable by) a losing party, in addition to the base legal costs.

In *Flood v. Times Newspapers Ltd (No. 2), Miller v. Associated Newspapers Ltd, and Frost and others v. MGN Ltd* (No. 2) ([2017] UKSC 33), the Supreme Court held ANL liable for the claimants' success fees and ATE insurance premiums. ANL challenged this decision before the ECtHR, arguing that the costs incurred were disproportionate and therefore interfered with Article 10 rights.

The ECtHR, sitting as a Chamber, dealt with two matters: (i) whether the applicant exhausted all domestic remedies; and (ii) whether there had been a violation of Article 10. In the first matter, the ECtHR determined that a domestic challenge to the applicant's costs liability by way of Article 10 would have afforded an effective remedy, and therefore it cannot be said that the applicant failed to exhaust domestic remedies.

In the second matter the ECtHR held that the AJA (i.e., pre-LASPO) costs regime violated Article 10 in respect of the success fees, but not the ATE insurance. In its assessment of the success fees, the ECtHR referred to its earlier *MGN Limited* judgment in 2011 and found that there was insufficient evidence to suggest that the Court should depart from the general rule that was developed in *MGN Limited*, i.e., that the recoverability of success fees was disproportionate to the legitimate aims pursued by the CFA regime.

In relation to ATE insurance, the ECtHR recognised that when considering whether ATE insurance violated Article 10, it should be done on a case-by-case basis having regard to the legitimate aims sought to be achieved by the regime. In the case of neither AS nor EH was it determined that the recoverability of ATE insurance was disproportionate.

Individual measures

The Government has paid all the sums awarded in full: €321,772.23 in respect of pecuniary damages and €15,000 in respect of costs and damages.

General measures

The Government considers that the LASPO reforms (set out above in *Coventry*) meets the Article 10 obligations. An action plan was sent to the Department for the Execution of Judgments on 19 August 2025.

2. Malkiewicz and Others (39449/21)

Committee (Fourth Section) – violation of Article 10
Judgment on 17 June 2025

The case and judgment

This is a further case challenging the AJA legislative framework.

The applicants, who were editors of a Polish magazine based in the UK, were unsuccessful in defamation proceedings against JS, the claimant. The proceedings were funded via a conditional fee agreement (CFA). The case was appealed to the Supreme Court in *Serafin v Malkiewicz and Others* [2020] UKSC 23. The applicants' appeal was dismissed, and the court ordered the applicants to pay an interim payment of £50,000 and 60% of the claimant's appeal costs with a re-trial ordered. Prior to the re-trial, a settlement was offered and accepted. The applicants' costs amounted to £578,438.

Following the Supreme Court judgment in 2020, and the decision that the applicants be liable for the claimants' success fees, *Malkiewicz and Others* challenged this decision before the ECtHR, arguing that the costs incurred were disproportionate and therefore interfered with Article 10 rights.

The ECtHR, sitting as a Committee, considered previous case law on CFAs including *MGN Limited v. the United Kingdom* (no. 39401/04); *MGN Limited v. the United Kingdom* (no. 72497/17); and *Associated Newspapers Limited v. the United Kingdom* (no. 37398/21) – set out above.

The ECtHR found that the CFA regime did violate Article 10 rights. The ECtHR referred to the *MGN Limited* judgment and found that there was insufficient evidence to suggest that the Court should depart from the general rule that was developed in the *MGN Limited* judgment, i.e., that the recoverability of success fees was disproportionate to the legitimate aims pursued by the CFA regime.

Individual measures

The ECtHR considered the question of the application of Article 41 (just satisfaction) and held that it was not appropriate to make an award in respect of pecuniary loss, but it did award the applicants €5,000 (jointly) in respect of non-pecuniary damage.

As with ANL above, the Government paid all the sums awarded in full.

General measures

As set out above, the Government considers that the LASPO reforms meet the Government's obligations to remedy this Article 10 breach. An action plan is due to be sent to the Department for the Execution of Judgments by 19 December 2025.

3. Ezeoke (61280/2)

Committee (Fourth Section) – violation of Article 6
Judgment on 25 February 2025

The case and judgment

The Applicant, Mr Ezeoke, was arrested for the murder of two individuals and faced unprecedented delays to his five trials. His first trial began on 21 March 2017, six months after he was originally charged. His final trial ended on 1 October 2020 where he was sentenced to life imprisonment with a minimum term of forty years.

The Applicant appealed to the Court of Appeal on six grounds including that the decision to go to trial for a fifth time constituted a breach of his right to a fair hearing within reasonable time and that the decision failed to properly deal with the issue of oppression, and the repeated trials and delay had a detrimental effect on the quality of evidence meaning so that the fifth trial was "at least arguably" unsafe. The Court of Appeal rejected these arguments, finding that the discretion exercised by the judge to continue to a fifth trial was not perverse. The Court of Appeal also found that in the exceptional circumstances of the case, there had been no breach of the obligations to hold a trial in a reasonable time. Finally, the Court of Appeal considered it unarguable that the delay had a detrimental effect on the defence's evidence. The Applicant was denied leave to appeal.

The Applicant challenged this decision at the ECtHR, claiming a breach of his rights under Article 6(1) specifically that the length of the criminal proceedings was incompatible with the "reasonable time" requirement and that there had not been a "fair hearing" as a consequence of the delay and repeated retrials. Mr Ezeoke argued that the delay and repeated retrials had prejudiced his defence and therefore, the outcome of the case.

The ECtHR found that there had been a violation of Article 6 as the criminal proceedings against the Applicant did not meet the "reasonable time" requirement. The ECtHR found that the delays in the proceedings were excessive, even in the exceptional circumstances. The ECtHR found that notwithstanding the "undoubted strain" placed on the applicant on account of the successive criminal trials, criminal proceedings were not unfair within the meaning of Article 6, and found no violation on the "fair hearing" point.

Individual measures

The Applicant did not submit a claim for just satisfaction and asked for his immediate release from prison. The ECtHR has no jurisdiction to require the UK to release an applicant from prison, nor does the ruling suggest that the Applicant was wrongly convicted. The Government therefore considers that no further individual measures are required.

General measures

As regards the breach of the reasonable time requirement under Article 6 (1), The Government commissioned Sir Brian Leveson, former President of the Queen's Bench Division and Head of Criminal Justice, to lead an independent review and propose ambitious reforms to improve timeliness in the courts. The measures being considered by the Government are expected to prevent similar violations by improving the efficiency and timeliness of criminal proceedings, reducing delays, and ensuring that defendants' rights under Article 6 are fully protected.

The Government is of the view that no further measures are necessary and submitted an Action Report to the Department for the Execution of Judgments on 25 November 2025.

Earlier declarations of incompatibility

At the start of the reporting period (August 2024 – July 2025), the Government was addressing 13 declarations of incompatibility (DoI) relating to seven cases (the full list of DoIs is below):

- 44. *In the matter of an application by 'JR111' for judicial review (ruling on remedy);*
- 47. *Dean, Haggart and Harding v Mitchell and Secretary of State for Levelling-Up, Housing and Communities;*
- 48. *R (on the application of Jesse Quaye) v Secretary of State for Justice;*
- 49–53. *In the matter of applications by Martina Dillon & Others, Teresa Jordan, Patrick Fitzsimmons & Gemma Gilvary for Judicial Review;*
- 54. *Secretary of State for Business and Trade (Respondent) v Mercer (Appellant);*
- 55–57. *In the matter of an application by the Northern Ireland Human Rights Commission for judicial review, in the matter of an application by JR295 for judicial review and in the matter of the Illegal Migration Act 2023;* and
- 58. *R (on the application of Smith) v Secretary of State for the Home Department.*

The latest developments are set out below.

44. In the matter of an application by 'JR111' for judicial review (ruling on remedy)

Queen's Bench Division (NI); substantive judgment [2021] NIQB 48 on 13 May 2021; ruling on remedy 21 May 2021.

The case was brought in the High Court of Northern Ireland and concerns the Gender Recognition Act 2004 (GRA). The GRA provides that an applicant for a Gender Recognition Certificate (GRC) must provide certain evidence before a GRC can be granted, including a medical report confirming that they have a diagnosis of gender dysphoria.

Gender dysphoria is defined at section 25 of the GRA as "... the disorder variously referred to as gender dysphoria, gender identity disorder and transsexualism". Since the Act was passed in 2004, gender dysphoria is no longer regarded or classified as a mental disorder.

The applicant claimed that it was a breach of her human rights to require her to produce a medical report in order to obtain a GRC, and that requiring a diagnosis of gender dysphoria, described as a disorder, was stigmatising and a breach of her Article 8 and Article 14 rights.

The High Court of Northern Ireland held that the requirement for a medical diagnosis and medical report could be viewed as part of the proper checks and balances which the State was entitled to adopt and was Convention compliant. However, the requirement that the diagnosis was one which was specifically and expressly defined as a 'disorder' was not: it was unnecessary, unjustified and 'an affront to the dignity' of those applying for a GRC.

The Court declared that:

> "sections 2(1)(a) and 25(1) of the Gender Recognition Act 2004 are incompatible with the applicant's Convention rights under Article 8 ECHR insofar as they impose a requirement that she prove herself to be suffering or to have suffered from a *'disorder'* in order to secure a gender recognition certificate."

The time limit for the applicant to appeal the decision was reached on 9 September 2021.

The Government will consider how to address the incompatibility set out in the decision of the High Court of Northern Ireland.

47. Dean, Haggart and Harding v Mitchell and Secretary of State for Levelling-Up, Housing and Communities

King's Bench Division; QB-2022002460; 29 June 2023

The Mobile Homes Act 1983 (MHA) provides mobile home occupiers on 'protected sites' with security of tenure through the imposition of implied terms. A protected site is land with planning permission for residential use and in respect of which a site licence is required. In *Murphy v Wyatt [2011] EWCA Civ 408*, the Court of Appeal held that a mobile home occupier would only have security of tenure under the MHA if their pitch was on a 'protected site' at the inception of the agreement.

When the first defendant initially moved on to the claimants' land, the site was not a 'protected site'. Planning permission was later obtained by the claimants who then served a 'notice to quit' on the first defendant. The first defendant refused to vacate the site on the basis that he had security of tenure under the MHA following the grant of planning permission. The first defendant argued that the relevant provision of the MHA was incompatible with his Article 8 rights. The Secretary of State joined as the appropriate defendant to address the human rights aspects.

The High Court found that the severity of the effects of not receiving the benefit of the implied terms for those in the position of the first defendant must outweigh, and therefore render disproportionate, any implicit support which the terms of the MHA might provide for an objective. Those objectives include seeking to deter potential mobile home occupiers from entering into occupation prior to the grant of planning permission for the relevant site, because the MHA protection can never be obtained, even if planning permission is subsequently obtained.

The High Court declared that:

> "by excluding from the scope of the Mobile Homes Act 1983 persons whose occupation agreements pre-date (but continue after) the grant of planning permission, s.1 of that Act infringes those persons' rights under Article 8 of the European Convention on Human Rights."

The Government did not appeal the decision and is exploring options to address this DoI.

48. R (on the application of Jesse Quaye) v Secretary of State for Justice

King's Bench Division; [2024] EWHC 211 (Admin); 9 February 2024
Detention at His Majesty's Pleasure (DHMP) is a mandatory life sentence for individuals who commit murder as a child (i.e. when under 18 years of age). Before February 2021, all individuals sentenced to DHMP could apply to the Secretary of State for a review of their minimum term, initially after having served half that term and then every two years thereafter.

The policy was revised with effect from February 2021. Subsequently, individuals sentenced to DHMP while under 18 years of age could still apply for a review after having served half their minimum term but could then apply for additional reviews every two years thereafter until they turned 18. Individuals who had turned 18 before sentencing could no longer apply for a review of their minimum term. The policy change applied retrospectively to all prisoners sentenced to DHMP. This change was proposed in the 2020 Sentencing White Paper and was then codified in section 128 of the Police, Crime, Sentencing and Courts Act 2022 (PCSC Act) and when enacted, gave powers under section 27A of the Crime (Sentences) Act 1997.

Jesse Quaye was convicted of a murder he committed as a child and was sentenced to DHMP at the age of 18, prior to the 2021 policy change. In his claim, Mr Quaye argued that the legislation is incompatible with a number of ECHR rights (set out below). The Secretary of State for Justice argued that the PCSC Act sufficiently answers the claim in that the claimant is now subject to lawful legislation.

The High Court heard Mr Quaye's case in January 2024, which was set out four grounds of incompatibility with the Convention: Article 5 (right to liberty and security), Article 6 (right to a fair trial), Article 7 (no punishment without law), and Article 14 (protection from discrimination). Much of Mr Quaye's argument centred on unlawful differential treatment based upon age (Article 14), asserting that the policy discriminated between those who were sentenced under the age of 18 thereby retaining a right to a review until they turn 18 and those sentenced after they turn 18, who have no right to review at all. Mr Quaye argued that the age of 18 is an arbitrary cut-off point because development continues well into young adulthood. Mr Quaye also argued that this policy commits individuals to periods of custody that may be counter to their rehabilitation, amounting to arbitrary detention in violation of Article 5).

On 9 February 2024, the High Court made a DoI against the PCSC Act. It ruled that the changes set out in the PCSC Act were incompatible with Articles 5 and 14. The Court did not accept that legislation can draw a cut off for those sentenced at the age of 18 or over so as to remove their right to apply for a review of their minimum term. The High Court

ruled that Article 6 was not engaged and that the Article 7 claim was academic given the Article 5 ruling.

On 16 February 2024, the Secretary of State lodged an appeal against the DoI and on 14 March 2024 leave to appeal was granted. On 11 March 2025 the Court of Appeal determined that the legislation was compatible with Articles 5, 7 and 14. The Court of Appeal found that in respect of Article 5 the legislation did not involve arbitrary or unlawful detention and in respect of Article 7 the provisions did not impose a heavier penalty than the one that was applicable at the time. Overall, the Court of Appeal found that the legislation pursued a legitimate aim, and the DoI was set aside.

49–53. In the matter of applications by Martina Dillon & Others, Teresa Jordan, Patrick Fitzsimmons & Gemma Gilvary for Judicial Review

King's Bench Division (NI); [2024] NIKB 11; 28 February 2024

On 28 February 2024, the Northern Ireland High Court of Northern Ireland made the following DoIs in relation to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023:

- a declaration that the immunity from prosecution provisions are incompatible with Articles 2 (right to life) and 3 (prohibition against torture, inhuman and degrading treatment);
- a declaration that section 43(1) (troubles-related civil actions brought on or after 17 May 2022 may not be continued) is incompatible with Article 6 (right to a fair trial);
- a declaration that section 8 (exclusion of evidence in civil proceedings) is incompatible with Articles 2, 3, and 6;
- a declaration that section 41 (prohibition of criminal enforcement action for non-serious/connected troubles-related offences) is incompatible with Article 2; and
- a declaration that parts of sections 46 and 47 (interim custody orders) are incompatible with Article 6 and Article 1 Protocol 1 (protection of property).

The High Court of Northern Ireland found that the provisions which are incompatible with the ECHR (other than those in sections 46 and 47) also breach the non-diminution commitment in Article 2(1) of the Windsor Framework. The Court found that the consequence of breach of Article 2(1) of the Windsor Framework is disapplication of those provisions.

The High Court of Northern Ireland judgment was subject to appeal to the Northern Ireland Court of Appeal by the previous Government, and to cross-appeal by the applicants. The appeal was heard in June 2024. On 29 July 2024, the Secretary of State for Northern Ireland laid a Written Ministerial Statement in Parliament confirming that this Government has formally abandoned all its grounds of appeal against these DoIs.

The Government asked the High Court of Northern Ireland to continue with its consideration of the interpretation and effect of Article 2(1) of the Windsor Framework, while the applicants continued to pursue their cross-appeal. The judgment of the Northern Ireland Court of Appeal was delivered on 20 September 2024 ([2024] NICA 59).

In summary, the Northern Ireland Court of Appeal recognised the wide powers, unfettered access to information and structural independence of the Independent Commission for Reconciliation and Information Recovery. However, the Court also found that "issues arise in relation to effective next-of-kin participation, and the role of the Secretary of State for

Northern Ireland in relation to disclosure in cases where previously an inquest would have been required to discharge the State's Article 2 obligations."

In relation to Article 2 of the Windsor Framework, the Northern Ireland Court of Appeal upheld the High Court of Northern Ireland's findings, ruling that victims' rights, including those protected under Article 11 of the Victim's Directive, had been diminished by the conditional immunity provisions in the Act. The Court of Appeal ruled that the Government could not have legislated contrary to the Victim's Directive prior to EU exit and that the test for direct effect had been met, upholding the High Court of Northern Ireland's disapplication of the impugned provisions. The Government laid a further Written Ministerial Statement in Parliament on 7 October 2024 providing an initial response.[36]

On 4 December 2024, the Secretary of State for Northern Ireland confirmed via an oral statement to Parliament that the Government had made an application to appeal to the Supreme Court In his statement, the Secretary of State stated:

> "As I have said, the Government will use primary legislation to respond directly to a number of the Court of Appeal's findings on disclosure.
>
> However, the primacy of the Executive in decisions relating to the security of the State is a principle long recognised by the UK Courts, and is a crucial element of our ability to keep people safe. For this reason, we will appeal the Court's specific finding relating to the Secretary of State's power to preclude the disclosure of sensitive information in circumstances where such disclosure would prejudice the national security interests of the United Kingdom.
>
> Furthermore, the Court's findings relating to effective next of kin participation in cases that would otherwise be inquests raise issues that could reach far beyond the scope of the Legacy Act. It is important that the Government seeks legal clarity from the Supreme Court and that is why we have decided that the Government must seek to appeal on this particular issue as well.
>
> The Government will also pursue an appeal in relation to the findings on Article 2 of the Windsor Framework for reasons I set out in my Written Ministerial Statement of the 29 of July."

Permission to appeal was granted by the Supreme Court. The hearing was held from 14–16 October 2025, and the Government is awaiting the judgment.

[36] https://questions-statements.parliament.uk/written-statements/detail/2024-10-07/hcws108

54. Secretary of State for Business and Trade (Respondent) v Mercer (Appellant)

Supreme Court; [2024] UKSC 12; 17 April 2024

On 23 August 2019, Ms Mercer, an employee, brought a case, supported by the Unison trade union, alleging she had suffered detriment, short of dismissal, for taking part in industrial action. The case related to whether an employer may subject workers to detriment, short of dismissal, where they participate in lawful industrial action. The domestic law as it stands broadly permits such action by employers. The Department for Business and Trade intervened in the proceedings to defend the UK's trade union legislation.

On 17 April 2024, the Supreme Court found that section 146 of the Trade Union and Labour Relations (Consolidation) Act 1992 is incompatible with Article 11 (freedom of assembly and association) in so far as it fails to provide any protection against detriments (sanctions, short of dismissal) intended to deter or penalise trade union members from taking part in lawful strike action organised by their trade union. The Court made a DoI to that effect.

The Government is bringing forward primary legislation to amend the law on detriment and to address the incompatibility. Clause 73 of the Employment Rights Bill inserts section 236A into the Trade Union and Labour Relations (Consolidation) Act 1992 to provide that a worker has the right not to be subject to detriment of a prescribed description by an act, or any deliberate failure to act, by the worker's employer, if the act or failure takes place for the sole or main purpose of preventing or deterring the worker from taking protected industrial action or penalising the worker for doing so. The prescribed detriments will be set out in secondary legislation following a consultation which is planned for late 2025 or early 2026.

55–57. In the matter of an application by the Northern Ireland Human Rights Commission for judicial review, in the matter of an application by JR295 for judicial review and in the matter of the Illegal Migration Act 2023

King's Bench Division (NI); [2024] NIKB 35; 13 May 2024

The Northern Ireland Human Rights Commission (NIHRC) and Applicant JR295 (an unaccompanied child who has been anonymised) brought claims against uncommenced provisions in the Illegal Migration Act 2023 (IMA). They argued that several of the key provisions of the IMA (i) are incompatible with the ECHR and (ii) breach Article 2 of the Windsor Framework.

On 13 May 2024, the High Court of Northern Ireland handed down its judgment. The Court disapplied provisions found to be incompatible with Article 2 of the Windsor Framework and declared provisions incompatible with the ECHR. Specifically, in relation to the ECHR, the judge ruled that the following core provisions were incompatible with Articles 3 (prohibition against torture, inhuman and degrading treatment), 4 (prohibition against slavery and forced labour), 6 (right to a fair trial) and 8 (right to respect for private and family life), and made DoIs in respect of:

- sections 2(1), 5(1), 6(3) and 6(7) insofar as they impose a duty to remove;
- sections 2(1), 5, 6 and 22 insofar as they relate to potential victims of modern slavery or human trafficking, and;
- sections 2(1), 5(1) and 6 relating to children.

The judge found that the restriction on the ability to challenge age assessment decisions in section 57 of the IMA is incompatible with Articles 6 and 8, but did not make a DoI given the facts of the *JR295* case where the individual has been the subject of age assessment which had resolved in his favour. The judge also found that section 13(4) of the IMA (only ability to challenge detention in the first 28 days by way of habeas corpus) is not necessarily incompatible with Article 5:

> "[236] The remedy of habeas corpus may have been out of fashion in asylum and immigration cases since *Cheblak*, and judicial review has been seen as having procedural primacy. However, the respondents themselves say in argument that the principles would apply to either remedy in the same way. It remains to be seen whether the courts will seek to reinvigorate habeas corpus in due course.
>
> [237] On that basis, it cannot be said, at least for the purposes of an *ab ante* challenge, that the detention provisions cannot be operated in a Convention compliant way…"

The Government filed a notice of appeal against all findings relating to the IMA made in the first instance. The Northern Ireland Court of Appeal hearing was provisionally booked for 4–7 March 2025.

Following applications from the NIHRC and Applicant JR295, the Northern Ireland Court of Appeal dismissed the appeal and subsequently issued a stay on the appeal proceedings. In its reasoning, the Court cited substantial overlap between this case and the case of *Dillon* [2024] NICA 59, as well as the introduction of the Border Security, Asylum and Immigration Bill, which seeks to repeal key provisions of the IMA 2023.

In response, the SSHD applied to the UK Supreme Court for permission to appeal, this application was subsequently refused on 28 July 2025. As a result, the stay imposed by the Northern Ireland Court of Appeal remains in place.

58. R (on the application of Smith) v Secretary of State for the Home Department

King's Bench Division; [2024] EWHC 1137 (Admin); 14 May 2024

The Police, Crime, Sentencing and Courts (PCSC) Act 2022 strengthened police powers to deal with unauthorised encampments by amending the Criminal Justice and Public Order Act 1994. The legislation introduced a new criminal offence of residing on land without consent in or with a vehicle. The legislation also amended existing powers to make it easier for the police to direct trespassers away from land: if a person has been directed to leave the land under these powers, it is a criminal offence for them to return within twelve months. This 'no-return' period allows the police to arrest the person and seize their vehicle(s) if they return within this time. Before the introduction of the PCSC Act 2022, the no-return period for the existing power to direct trespassers away was three months.

The amendments made through the PCSC Act 2022 were the subject of a judicial review brought by Wendy Smith, a Romany woman, as the claimant. The groups Friends, Families and Travellers and Liberty joined as interveners. The claimant contended that the amendments were incompatible with the Convention rights because they gave rise to discrimination.

One of the claimant's grounds related to the 12-month no-return period. The claimant argued that the extension of the no-return period from 3 months to 12 months was disproportionate given the maximum permitted length of stay on a transit pitch, which is an authorised temporary site used by travellers, is 3 months. This means that they would no longer be able to avoid the risks of criminal penalty by resorting to transit pitches, making it difficult for them to comply with the law.

The High Court accepted this submission by the claimant. The High Court found that the extension of the no-return period narrowed the options available to comply with the requirements of the relevant provisions in the PCSC Act. This is because the rules only allow individuals to remain at transit sites for a maximum of 3 months, in addition to there being an undersupply of transit sites, meaning that there was little opportunity for the claimant to move to another transit site after the 3-month period expired. This was found to disadvantage the claimant who had no authorised site to move to but was also unable to return to the original site without committing an offence.

The High Court rejected the remainder of the claimants' arguments and the claim only succeeded on the ground relating to the duration of the no-return period. The High Court's judgment was officially handed down on 14 May 2024. The High Court has since made a DoI directed to the relevant sections of the legislation.

The Government is committed to protecting and preserving the rights of individuals to live a private life, including a nomadic lifestyle, without discrimination. The Government is working on a response to the Court's judgment and has committed to update Parliament before Report Stage in the House of Lords of the Crime and Policing Bill.

New declarations of incompatibility

The domestic courts made five declarations of incompatibility (DoI) under section 4 of the HRA during the reporting period (August 2024–July 2025).

Four of the DoIs were made under *Dillon* (no. 59–62). These are summarised in the section on *Dillon* above (on page 46).

The fifth DoI is set out below.

63. Kingdom of Spain v Lorenzo

Court of Appeal; [2025] EWCA Civ 59; 29 January 2025

The Court of Appeal declared that section 4(2)(a) of the State Immunity Act 1978 is incompatible with Article 6 ECHR insofar as it barred a dual British-Spanish national from bringing employment claims in the UK courts against Spain. It also upheld the disapplication of the provision by the employment tribunal in relation to claims falling within the scope of EU law.

The respondent, Lydia Lorenzo, alleged constructive unfair dismissal, racial discrimination and harassment during her employment at the Spanish Embassy in London. Spain claimed immunity under the 1978 Act, arguing that Lorenzo's Spanish nationality precluded her from bringing a claim.

Having concluded that Lorenzo's duties were administrative and not sovereign in nature, the Court held that the Supreme Court's rationale in *Benkharbouche* for concluding that section 4(2)(b) of the 1978 Act was incompatible with both Article 47 of the EU Charter and with Articles 6 and 14 of the ECHR, applied equally to section 4(2)(a). Spain's appeal was dismissed and in a supplementary judgment dated 29 January 2025, the Court of Appeal made a declaration that section 4(2)(a) is incompatible with Article 6 ECHR.

The Government is considering its response to the DoI.

Annex A: All declarations of incompatibility

As there is no official database of declarations of incompatibility (DoI), this annex lists all the DoIs which have been made.

Between the entry into force of section 4 of the HRA on 2 October 2000 and the 31 July 2025 (end of the current reporting period), 63 DoIs have been made.

Of these, 46 have been fully addressed:
- 13 have been overturned on appeal (and there is no scope for further appeal);
- 5 related to provisions that had already been amended by primary legislation at the time of the DoI;
- 11 have been addressed by Remedial Order;
- 16 have been addressed by primary or secondary legislation (other than by Remedial Order); and
- 1 has been addressed by various measures.

A further 17 are ongoing:
- 4 are currently open to appeal;
- 6 the Government has proposed to address by Remedial Order; and
- 7 are currently under consideration by the Government.

The DoIs in each category are listed below under their case name in chronological order of the date when the initial DoI was made (rather than any appeals). The 2019 report was the last to give full details of all DoIs (at that time, numbers 1–42). For DoIs which have been fully addressed since then, the report containing the final update is indicated in superscript after the case name in the list below.[37]

Overturned on appeal

1. R (on the application of Alconbury Developments Ltd.) v Secretary of State for the Environment, Transport and the Regions
   Administrative Court; [2001] HRLR 2; 13 December 2000

3. Wilson v First County Trust Ltd (no.2)
   Court of Appeal; [2001] EWCA Civ 633; 2 May 2001

[37] The reports can be found at https://www.gov.uk/government/collections/human-rights-the-governments-response-to-human-rights-judgments

6. Matthews v Ministry of Defence
Queen's Bench Division; [2002] EWHC 13 (QB); 22 January 2002

10. R (on the application of Uttley) v Secretary of State for the Home Department
Administrative Court; [2003] EWHC 950 (Admin); 8 April 2003

15. R (on the application of MH) v Secretary of State for Health
Court of Appeal; [2004] EWCA Civ 1609; 3 December 2004

20. Re MB *Administrative Court; [2006] EWHC 1000 (Admin); 12 April 2006*

24. Nasseri v Secretary of State for the Home Department
Administrative Court; [2007] EWHC 1548 (Admin); 2 July 2007

25. R (on the application of Wayne Thomas Black) v Secretary of State for Justice
Court of Appeal; [2008] EWCA Civ 359; 15 April 2008

31. Northern Ireland Human Rights Commission, Re Judicial Review
Queen's Bench Division (NI); [2015] NIQB 102; 16 December 2015

42. R (on the application of the Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department(2022 report)
Administrative Court; [2019] EWHC 452 (Admin); 1 March 2019

45. In the matter of an application by JR123 for judicial review(2023 report)
Queen's Bench Division (NI); [2021] NIQB 97; 1 November 2021

46. R v Marks, Morgan, Lynch and Heaney(2023 report)
Court of Appeal (NI); [2021] NICA 67; 22 December 2021

48. R (on the application of Jesse Quaye) v Secretary of State for Justice
Court of Appeal; [2025] EWCA Civ 226; 11 March 2025

Provisions already amended by primary legislation

13. R (on the application of Wilkinson) v Inland Revenue Commissioners
Court of Appeal; [2003] EWCA Civ 814; 18 June 2003

14. R (on the application of Hooper and others) v Secretary of State for Work and Pensions
Court of Appeal; [2003] EWCA Civ 875; 18 June 2003

21. R (on the application of (1) June Wright; (2) Khemraj Jummun; (3) Mary Quinn; (4) Barbara Gambier) v (1) Secretary of State for Health; (2) Secretary of State for Education & Skills
Administrative Court; [2006] EWHC 2886 (Admin); 16 November 2006

22. R (on the application of Clift) v Secretary of State for the Home Department; Secretary of State for the Home Department v Hindawi and another
House of Lords; [2006] UKHL 54; 13 December 2006

32. David Miranda v Secretary of State for the Home Department
Court of Appeal; [2016] EWCA Civ 6; 19 January 2016

Addressed by Remedial Order

2. R (on the application of H) v Mental Health Review Tribunal for the North and East London Region & The Secretary of State for Health
Court of Appeal; [2001] EWCA Civ 415; 28 March 2001

19. R (on the application of Baiai and others) v Secretary of State for the Home Department and another
Administrative Court; [2006] EWHC 823 (Admin); 10 April 2006

26. R (on the application of (1) F; (2) Angus Aubrey Thompson) v Secretary of State for the Home Department
Administrative Court; [2008] EWHC 3170 (Admin); 19 December 2008

29. R (on the application of Reilly (no.2) and Hewstone) v Secretary of State for Work and Pensions
Administrative Court; [2014] EWHC 2182; 4 July 2014

30. Benkharbouche and Janah v Embassy of the Republic of Sudan, and Libya(2023 report)
Court of Appeal; [2015] EWCA Civ 33; 5 February 2015

35. Z (A Child) (no.2)
Family Court; [2016] EWHC 1191 (Fam); 20 May 2016

36. R (on the application of Johnson) v Secretary of State for the Home Department
Supreme Court; [2016] UKSC 56; 19 October 2016

37. Consent Order in R (on the application of David Fenton Bangs) v Secretary of State for the Home Department
Administrative Court; 4 July 2017

38. Smith v (1) Lancashire Teaching Hospitals NHS Foundation Trust; (2) Lancashire Care NHS Foundation Trust; (3) Secretary of State for Justice(2020 report)
Court of Appeal; [2017] EWCA Civ 1916; 28 November 2017

41. Siobhan McLaughlin, Re Judicial Review (Northern Ireland)(2023 report)
Supreme Court; [2018] UKSC 48; 30 August 2018

43. Jackson and Simpson v Secretary of State for Work and Pensions[2023 report]
Administrative Court; [2020] EWHC 183 (Admin); 7 February 2020

Addressed by other primary or secondary legislation

4. McR's Application for Judicial Review
Queen's Bench Division (NI); [2002] NIQB 58; 15 January 2002

5. International Transport Roth GmbH v Secretary of State for the Home Department
Court of Appeal; [2002] EWCA Civ 158; 22 February 2002

7. R (on the application of Anderson) v Secretary of State for the Home Department
House of Lords; [2002] UKHL 46; 25 November 2002

8. R (on the application of D) v Secretary of State for the Home Department
Administrative Court; [2002] EWHC 2805 (Admin); 19 December 2002

9. Blood and Tarbuck v Secretary of State for Health
Unreported; 28 February 2003

11. Bellinger v Bellinger
House of Lords; [2003] UKHL 21; 10 April 2003

12. R (on the application of M) v Secretary of State for Health
Administrative Court; [2003] EWHC 1094 (Admin);16 April 2003

16. A and others v Secretary of State for the Home Department
House of Lords; [2004] UKHL 56; 16 December 2004

17. R (on the application of Sylviane Pierrette Morris) v Westminster City Council and First Secretary of State (no.3)
Court of Appeal; [2005] EWCA Civ 1184; 14 October 2005

18. R (on the application of Gabaj) v First Secretary of State
Administrative Court; unreported; 28 March 2006

27. R (on the application of Royal College of Nursing and others) v Secretary of State for Home Department
Administrative Court; [2010] EWHC 2761; 10 November 2010

28. R (on the application of T, JB and AW) v Chief Constable of Greater Manchester, Secretary of State for the Home Department and Secretary of State for Justice
Court of Appeal; [2013] EWCA Civ 25; 29 January 2013

33. R (on the application of P and A) v Secretary of State for the Home Department and Others(2020 report)
Administrative Court; [2016] EWHC 89 (Admin); 22 January 2016

34. R (on the application of G) v Constable of Surrey Police & Others(2020 report)
Administrative Court; [2016] EWHC 295 (Admin); 19 February 2016

39. Steinfeld and another v Secretary of State for International Development(2020 report)
Supreme Court; [2018] UKSC 32; 27 June 2018

40. K (A Child) v Secretary of State for the Home Department(2022 report)
Administrative Court; [2018] EWHC 1834 (Admin); 18 July 2018

Addressed by various measures

23. Smith v Scott(2021 report)
Registration Appeal Court (Scotland); [2007] CSIH 9; 24 January 2007

Open to appeal

55–57. In the matter of an application by the Northern Ireland Human Rights Commission for judicial review, in the matter of an application by JR295 for judicial review and in the matter of the Illegal Migration Act 2023
King's Bench Division (NI); [2024] NIKB 35; 13 May 2024

60. In the Matter of an Application by Martina Dillon and others
Court of Appeal (NI); [2024] NICA 59; 20 September 2024

Proposed to address by Remedial Order

49–53. In the matter of applications by Martina Dillon & Others, Teresa Jordan, Patrick Fitzsimmons & Gemma Gilvary for Judicial Review
King's Bench Division (NI); [2024] NIKB 11; 28 February 2024

59. In the Matter of an Application by Martina Dillon and others
Court of Appeal (NI); [2024] NICA 59; 20 September 2024

Under consideration

44. In the matter of an application by 'JR111' for judicial review (ruling on remedy)
Queen's Bench Division (NI); substantive judgment [2021] NIQB 48 on 13 May 2021; ruling on remedy 21 May 2021

47. Dean, Haggart and Harding v Mitchell and Secretary of State for Levelling-Up, Housing and Communities
King's Bench Division; QB-2022-002460; 29 June 2023

54. Secretary of State for Business and Trade (Respondent) v Mercer (Appellant)
Supreme Court; [2024] UKSC 12; 17 April 2024

58. R (on the application of Smith) v Secretary of State for the Home Department
King's Bench Division; [2024] EWHC 1137 (Admin); 14 May 2024

61. In the Matter of an Application by Martina Dillon and others
Court of Appeal (NI); [2024] NICA 59; 20 September 2024

62. In the Matter of an Application by Martina Dillon and others
Court of Appeal (NI); [2024] NICA 59; 20 September 2024

63. Kingdom of Spain v Lorenzo
Court of Appeal; [2025] EWCA Civ 59; 29 January 2025

Annex B: Statistical information on implementation of ECtHR judgments

Data in tables 1 and 2 are taken from the Annual Reports of the Committee of Ministers, 'Supervision of the execution of judgments and decisions of the European Court of Human Rights'.[38] The source table is indicated in brackets. 'Case' in these statistics refers to a final judgment or decision of the ECtHR (including strike-out decisions following a friendly settlement).

Table 1: Statistics on UK cases

New cases under supervision (C.3)	**2022**	**2023**	**2024**
All cases	11	4	1
of which leading cases	4	1	0
Cases closed by final resolution (E.3)	**2022**	**2023**	**2024**
All cases	13	6	4
of which leading cases	4	4	1
Pending cases at year end (D.3)	**2022**	**2023**	**2024**
All cases	14	12	9
of which leading cases	11	8	7
Leading cases by time pending (D.4)	**2022**	**2023**	**2024**
Pending <2 years	5	1	1
Pending 2–5 years	2	5	3
Pending >5 years	3	2	3
Payment of just satisfaction (F.2)	**2022**	**2023**	**2024**
Paid within deadline	8	1	3
Paid outside deadline	5	1	0
Awaiting confirmation of payment	1	1	0
Just satisfaction (F.1)	**2022**	**2022**	**2024**
Total awarded (€)	157,552	674,186	36,454

[38] Annual Reports of the Committee of Ministers can be found at https://www.coe.int/en/web/execution/annual-reports

Table 2: Pending cases at year end by State (D.3)

Ranking by 2024 pending cases	State	All pending cases			of which leading cases		
		2022	2023	2024	2022	2023	2024
1	Russian Federation[39]	2,352	2,566	**2,867**	228	238	**244**
2	Ukraine	716	766	**842**	99	103	**106**
3	Türkiye	480	446	**440**	126	124	**137**
4	Romania	509	476	**411**	113	115	**111**
5	Azerbaijan	285	337	**329**	53	50	**51**
6	Italy	187	249	**310**	59	66	**74**
7	Hungary	219	165	**198**	43	45	**47**
8	Bulgaria	182	166	**164**	93	89	**89**
9	Republic of Moldova	153	162	**163**	45	46	**46**
10	Poland	125	131	**147**	46	46	**52**
11	Georgia	68	78	**73**	27	27	**27**
12	Armenia	57	70	**71**	23	28	**28**
13	Greece	70	70	**68**	27	28	**30**
14	Slovak Republic	59	69	**66**	24	29	**31**
15	Croatia	77	67	**63**	26	27	**30**
16	Serbia	97	77	**61**	13	14	**20**
17	Albania	36	54	**58**	16	24	**25**
18=	Malta	46	57	**56**	15	15	**14**
	Portugal	39	48	**56**	15	16	**19**
20	France	39	42	**39**	29	20	**26**
21	Lithuania	38	34	**35**	19	22	**20**
22=	North Macedonia	29	33	**31**	11	13	**18**
	Bosnia and Herzegovina	42	31	**31**	13	11	**12**
24	Spain	30	30	**30**	21	23	**23**
25	Belgium	44	36	**27**	22	21	**17**
26	Montenegro	9	6	**22**	5	3	**6**
27=	Latvia	8	8	**12**	8	8	**9**
	Czech Republic	7	8	**12**	4	5	**9**
29	Switzerland	11	11	**10**	8	9	**10**
30=	Cyprus	10	13	**9**	9	10	**8**

[39] The statistics for Russia are in a separate chapter of the Committee of Ministers' report, table B.3.

Ranking by 2024 pending cases	State	All pending cases			of which leading cases		
		2022	2023	2024	2022	2023	2024
	Germany	14	12	**9**	12	10	**9**
	United Kingdom	14	12	**9**	11	8	**7**
	Netherlands	4	7	**9**	4	5	**7**
	Denmark	4	7	**9**	3	3	**3**
35=	Austria	6	10	**8**	3	6	**5**
	Luxembourg	3	4	**8**	1	2	**4**
37	Norway	4	6	**6**	1	1	**1**
38=	Finland	18	6	**5**	9	2	**1**
	Estonia	3	3	**5**	3	3	**5**
	San Marino	2	3	**5**	2	3	**3**
41	Slovenia	6	6	**4**	4	5	**4**
42	Ireland	2	2	**2**	2	2	**2**
43=	Sweden	2	1	**1**	2	1	**1**
	Monaco	1	0	**1**	1	0	**1**
	Iceland	5	0	**1**	1	0	**1**
46=	Liechtenstein	0	0	**0**	0	0	**0**
	Andorra	0	0	**0**	0	0	**0**
	Total	**6,112**	**6,385**	**6,783**	**1,299**	**1,326**	**1,393**

Table 3: Judgments finding a violation against the UK under the supervision of the Committee of Ministers at the end of July 2025

Case name	Application	Final judgment
Enhanced Procedure		
McKerr group		
McKerr	28883/95	4 August 2001
Kelly and Others	30054/96	4 August 2001
Finucane	29178/95	1 October 2003
Gaughran group		
S and Marper	30562/04 and 30566/04	4 December 2008
Gaughran	45245/15	13 June 2020
VCL and AN	77587/12 and 74603/12	5 July 2021
Standard Procedure		
Catt	43514/15	24 April 2019
SW	87/18	22 September 2021
Coventry	6016/16	6 March 2023
Associated Newspapers Limited	37398/21	12 February 2025
Ezeoke	61280/21	25 May 2025
Malkiewicz	39449/21	17 June 2025

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978-1-5286-6088-4