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Comments by immigration minister Robert Jenrick suggest the Government is still considering an option to leave the European Convention on Human Rights (ECHR) in order to tackle the problem of small boats crossing the English Channel.Here are details on the convention, the potential implications of the UK leaving it and the political positions on the issue. What is the ECHR?The European Convention on Human Rights (ECHR) is an international treaty which came into force in 1953.It broadly protects the human rights and political freedoms of all citizens within the 46 states belonging to the Council of Europe.This means the ECHR is not a European Union convention so the UKs adherence to its principles were not affected by Brexit.The convention is ruled on by the European Court of Human Rights in Strasbourg, with judgments binding on the states concerned. Why is the ECHR in the news again?There have been repeated calls from within the Conservative Party for the UK to leave the ECHR, particularly in relation to migration policy.Comments by immigration minister Robert Jenrick on Wednesday once again raised the prospect of this happening to enable the Government to stem the flow of migrants crossing the English Channel.Despite the Government insisting it can deliver on Prime Minister Rishi Sunaks pledge to stop the boats within the convention, Mr Jenrick said ministers would do whatever is necessary even if that means pulling out of the ECHR.On Times Radio, Mr Jenrick said he, Home Secretary Suella Braverman and Mr Sunak were all working on every possible front on the issue, suggesting a united view within the Cabinet that leaving the ECHR remains an option. What are the views on the ECHR within the broader Conservative Party?There are some Conservative MPs who are strongly opposed to the UK remaining in the ECHR as a matter of principle.This is because the convention protects the rights of everyone within Council of Europe states, regardless of which country they are a citizen of.Therefore the ECHR is seen by some Tories, most notably Home Secretary Suella Braverman, as an unreasonable restriction which limits domestic action on not only migration but other politically sensitive issues such as security and criminality.Others in the party, such as Foreign Secretary James Cleverly, argue it is in the UKs interests to remain a signatory to the convention.The role of the European court in stopping migrant flights to Rwanda last year caused frustration within the party when a last-minute intervention halted departures, despite the policy being cleared by UK courts.The plans then became caught up in legal process, with the UKs Court of Appeal ruling against the policy last month.An appeal against the decision in the Supreme Court is due in the autumn.The official Government line remains that it will abide by its international treaty obligations, with changes necessary to reduce dangerous crossings still deliverable while remaining party to the ECHR.But Mr Jenricks comments are set to reignite a debate among Conservatives over the Governments approach, with the forthcoming Supreme Court decision potentially key to how this transpires.If the ruling does not go the Governments way, there are set to be growing calls for exploring new options.Even if the Supreme Court rules in favour of the plans, potential delays caused by further legal challenges could undermine action aimed at stopping small boats and heighten concerns within the Cabinet over a key pledge to the electorate. What are the implications for the UK of leaving the ECHR?For the UK to leave the ECHR, the Human Rights Act 1998 would have to be repealed.Various other legislation which refers to the Act, including statutes relating to Scotland, Northern Ireland and Wales, would also have to be amended.There is also the complex matter of a potential violation of internal law relating to the UKs agreement to be part of the ECHR in signing a number of treaties.For example, the Good Friday Agreement requires the ECHR to be part of law in Northern Ireland and this has not changed due to the Windsor Framework.Therefore, the UK departure from the convention would be a breach of the Good Friday Agreement, which would still be the case if a new domestic Bill of rights replaced it.Furthermore, the UK-EU Trade and Co-operation Agreement, which governs the post-Brexit relationship, contains an obligation for both the UK and the EU to continue their commitment to human rights.However, the removal of the ECHR would not automatically lead to a suspension or termination of the agreement.As well as the practicalities, there are warnings that leaving the convention could cause significant reputational damage to the UK.The move would leave the UK as a significant regional outlier without membership of Europes major human rights organisation.The only other two states to leave the Council of Europe are Russia and Belarus, which were expelled following the invasion of Ukraine.Commentators have noted that this position could significantly shift international perceptions of the UK, with potentially far-reaching consequences for foreign policy and influence on the global stage. Britain and it's people 'are not safe', warns former NATO chief The UK lacks ammunition, training, people, logistics, and medical capacity in the case of conflict - meaning that the UK "is not safe".That's according to a former NATO chief, who warned that it is an "understatement" to say Britain is not prepared for war.Peers have been debating the government's Strategic Defence Review (SDR) in the Lords today.Lord Robertson of Port Ellen, who co-wrote the review, told the upper chamber: "Bearing in mind the difficult world that we live in and have to survive in, this is what I firmly believe: we are underinsured, we are underprepared, we are not safe."This country and its people are not safe."The British people are faced with a world in turmoil, with great power competitions spilling over now into conflict, with constant grey zone attacks on our mainland, and with Russia often with the co-operation of Iran, China and North Korea challenging the existing world order."Robertson wrote the SDR alongside General Sir Richard Barrons, the former commander of the joint forces command, and Dr Fiona Hall, a defence adviser.He added: "When we say in the report that we are unprepared, it is an understatement."Robertson admitted that "over the years", successive UK governments have taken a "substantial peace dividend" in the belief "that the world had changed for the better".This refers to governments cutting defence spending and using the money on things like welfare, instead - a process that got underway in full in the 1990s.Watch: Is the UK battle ready?But the peer said that "the brutal, full-scale invasion of Ukraine" has proven "a savage wake-up call", not just for Britain, but for its European allies, too."This world we now live in has changed out of all recognition, and we have got to change as well," he concluded.'The elephant in the room is money'Baroness Goldie, the Tory shadow defence minister said she agreed in principle but added that "none of this excellent aspiration proposed by the review means anything without attaching pound signs to the proposals".She asked how the government will reach spending 3% of GDP on defence.Former military chief Lord Stirrup said the Governments spending would need to be restructured to be "anywhere near 3.5% of GDP for defence by 2035"."There is no sign of any urgency on any side of the political divide on addressing this crucial matter," the crossbench peer added.Defence minster Lord Coaker confirmed the government is still committed to spending 5% of GDP on national security by 2035. But he conceded, "the trajectory to get to that will need to be thought through". Francesca GillettBBC NewsIain WatsonPolitical correspondentThe Conservatives have said the Human Rights Act should no longer apply to immigration decisions.They are calling for a change in the law that would stop people challenging their deportation on human rights grounds in the UK courts.Leader Kemi Badenoch has previously criticised how some foreign criminals and illegal migrants were using the act to avoid deportation.A Home Office source told the BBC the Conservatives had left the asylum system in chaos and their suggestion would be totally unworkable.The Human Rights Act was passed by a previous Labour government, and incorporates the European Convention on Human Rights (ECHR) into British law.The ECHR has been a hotly debated topic within the Conservative Party - with some on the right wanting the UK to pull out of the treaty completely.The act has been used to halt attempts to deport migrants deemed to be in the UK illegally, and it stopped flights carrying asylum seekers taking off for Rwanda.Badenoch has not proposed leaving the ECHR, but has argued some foreign criminals and migrants in the UK illegally have successfully used the act to avoid deportation - saying, for example, this would undermine their right to family life.She also believes some judges generously interpret the provisions of the act when rejecting deportation.The Conservatives are suggesting an amendment to the government's Border Security, Asylum and Immigration Bill - which is currently at the committee stage - that would disapply the act in immigration cases. The policy would give her a clear political dividing line with Labour.Under the ECHR, migrants could still appeal against deportation to the European Court of Human Rights in Strasbourg.Cabinet Office Minister Pat McFadden told the BBC's Sunday with Laura Kuenssberg that the Conservatives' proposal "looks like an outsourcing" of immigration decisions to the Strasbourg court."I don't think that really deals with the issue and I'm afraid it's symptomatic of the kind of gimmicks without action that we saw for a long, long period of time," he said. Later in the programme, Shadow Home Secretary Chris Philp defended the proposal, saying it would make a "very big difference". He said judges have expanded definitions under the EHCR "in ways that defy common sense"."Of course we believe in rights, but where you have courts just constantly expanding the definition in a way that was never contemplated at the beginning…it gets out of hand," he said.Philp said membership in the ECHR requires "proper consideration", which the Conservatives will be thinking about "in a very carefully considered manner in the coming months".Badenoch said the amendment she is suggesting would be "critical to shift immigration powers from the courts to Parliament and elected ministers, enabling more effective control over our borders". "Operating in Britain's national interest means recognising the government's primary purpose: defending our borders, values, and people. Our amendment aims to restore control and prioritise national security," she said.The Home Office source said: "The Tories left the asylum system in utter chaos. "They had 14 years to make changes and instead spent hundreds of millions of pounds on the failed Rwanda scheme, as small boat crossings hit a record high."This amendment is totally unworkable. "Instead of dealing with mad proposals that will never work, the Labour government is getting a grip of the asylum system, increasing removals of those with no right to be here, saving millions on asylum hotels and looking at ways of tightening the application of Article 8 to ensure the system works more effectively."The ECHR was established in 1950 by a number of countries including the UK.The treaty, which sets out the rights and freedoms people are entitled to in the 46 signatory countries, is overseen by the European Court of Human Rights in Strasbourg.It is separate to the European Union - so the UK remained part of both after Brexit. The European Convention on Human Rights (ECHR) is an international human rights treaty that protects the rights of everyone within or affected by the actions of the 46 states, including the UK, that belong to the Council of Europe. The ECHR is not an EU treaty, and the Council of Europe is not an EU body.This explainer examines the UKs relationship with the ECHR system in 2024 how often the European Court of Human Rights (ECtHR) in Strasbourg finds that the UK has violated human rights and on what issues, and how far the UK complies with those rulings. It compares the UKs record with other European states.What was the UKs record before the European Court of Human Rights in 2024?In 2024, three judgments were given in cases concerning the UK of which only one found a violation. No interim measures (rule 39 orders or urgent injunctions) were issued against the UK.The single violation of an ECHR found in 2024 concerned the right to freedom of expression. Associated Newspapers Limited, publisher of the Daily Mail and and Mail on Sunday, won its case arguing that its right to free expression was breached by the requirement to pay large success fees to lawyers who had represented people to whom Associated Newspapers had paid damages.How does the number of violations found against the UK compare with other countries?In 2024, the Court issued one judgment finding the UK in violation of an ECHR right the 8th joint lowest of the 46 member states, alongside Iceland, Norway, and Monaco.Only seven states had fewer judgments than the UK in 2024: no violations were found in Andorra, Estonia, Finland, Ireland, Liechtenstein, San Marino and Sweden.How often has the European Court of Human Rights found the UK to have violated the ECHR?Compared to other states, the number of ECtHR judgments finding violations of ECHR rights against the UK is low. The ECtHR has in total issued 331 judgments finding at least one violation of an ECHR right against the UK since its first judgment against the UK in 1975. This represents 1.5% of the Courts 22,784 judgments which have found at least one violation against any state since its inception in 1959.The number of judgments issued by the ECtHR is far smaller than the number of applications it receives, since the majority of applications against all states are found inadmissible. In 2024, the UK also continued to have the lowest rate of applications per capita among all member states.There has been a downward trend in the annual number of ECtHR judgments finding violations against the UK since the Human Rights Act (HRA) 1998 came into force in October 2000. The HRA incorporates ECHR rights into UK law. It was introduced as a way to bring rights home, and enable people to protect their rights in domestic courts, rather than face the time and financial costs of bringing a case to Strasbourg.There were 247 judgments finding at least one violation against the UK since 2001. The average number in the first half of the period (2001-2012) was around 17, while the average for the second half (2013-2024) was fewer than four.Experts identify this downward trend as the Human Rights Act effect. This effect had a time lag of several years as cases relating to older violations (or alleged violations) worked their way through the domestic and Strasbourg courts.The reduction in the number of ECtHR judgments against the UK in the past decade could reflect the impact of the HRA in three ways. First, the HRA creates a legal obligation for all public bodies including the police, hospitals, care homes and local councils to protect rights in all their decisions and actions, meaning that peoples rights are less likely to be breached in the first place.Secondly, as a result of the HRA, UK courts are the first port of call for any human rights claimant, and UK judges consider human rights more explicitly and intensively than they could before. This means that fewer cases are likely to find their way to Strasbourg, because claimants will have been able to obtain justice through UK courts, like those who used the HRA to uncover the truth about the Hillsborough disaster.Thirdly, when a case does reach Strasbourg, the ECtHR is more likely to follow the reasoning and conclusions of UK courts and the decisions of public authorities where they are informed by human rights considerations, as the HRA requires.What happens if a state is found to be in violation of the ECHR?Where the ECtHR finds a violation of an ECHR right, the state has an obligation under the ECHR to remedy the problem(s). This may involve taking individual measures, such as releasing someone who has been unlawfully detained or paying damages. A judgment may also require the state to take general measures to remedy a problem in the law or in a widespread state practice that is ongoing or may reoccur, such as inhuman or degrading prison conditions affecting thousands of people.The Committee of Ministers tracks what states do (or fail to do) after the finding of a violation, to ensure that the necessary measures are taken and that the violation cannot be repeated. The Committee of Ministers is the intergovernmental arm of the Council of Europe, formally made up of the foreign ministers of the 46 states. David Lammy MP, as Secretary of State for Foreign, Commonwealth and Development Affairs, represents the UK.States often have wide discretion as to what action to take to remedy a violation of the ECHR. They must submit action plans to the Committee of Ministers and keep it updated as to progress. The Committee of Ministers will close the case when it is satisfied that sufficient steps have been taken. It also ensures that states implement the terms of friendly settlements (where cases are settled during the proceedings without coming to a full judgment).How does the UK compare with other countries in or implementing ECHR rulings?The UK has a relatively strong record of implementing judgments of the ECtHR currently the 6th best in the Council of Europe. At the end of 2024, there were 11 cases pending before the Committee of Ministers (i.e. 11 cases that had not yet been fully implemented), representing around 0.2% of pending cases from all states.Some 98% of all judgments and decisions (including friendly settlements) issued by the Court against the UK since the first in 1975 have been fully implemented, meaning that the cases have been closed by the Committee of Ministers.The UK also has the 6th best record in the Council of Europe in resolving leading cases (96%). This is an important measure because leading cases are often those that reveal structural or systemic problems which require the adoption of general measures, such as legislative reform, to prevent similar violations in the future.UK cases which are currently being monitored by the Committee of Ministers concern the failure to protect two children from criminal prosecution despite a credible suspicion they were trafficking victims; and breaches of privacy arising from the indefinite retention of biometric data of people convicted of minor offences.In addition, the Committee of Ministers continues to monitor a group of UK cases concerning ineffective investigations into suspicious deaths of individuals during the conflict in Northern Ireland, either during security force operations or with the suspected collusion of security force personnel.How does the number of interim measures issued in UK cases compare with other countries?Interim measures are urgent orders issued by the ECtHR on an exceptional basis, where there is an imminent risk of irreparable harm. As there is a high bar for applicants to prove the necessity of the urgent injunction, requests are often refused by the Court and they do not prejudge the outcome of the case in question.Between 2022-2024, 192 requests for interim measures were made in UK cases, of which the Court granted six: five in 2022, one in 2023 and none in 2024.Several states had much higher totals than the UK: 2,290 interim measures were issued against Belgium, 222 against Greece, 72 against Poland, and 59 against France. The majority of these were due to systemic problems with the treatment of asylum seekers facing life-threatening or inhuman conditions living rough or in inadequate reception facilities or being pushed back across the Poland-Belarus border.ByDr Joelle Grogan, Head of Research, UK in a Changing Europe, and Dr Alice Donald, Associate Professor of Human Rights Law, Middlesex University. This month marks 70 years since the European Convention on Human Rights (ECHR) came into force. The ECHR is an international treaty which aims to ensure that states in Europe cannot deny human rights to anyone a framework as vital today as it was in the wake of the tragedies of the Second World War, when it was created. Despite this, the UKs membership of the ECHR is under threat, with Ministers openly questioning support for the treaty unless the European Court of Human Rightsupholds the Governments harsh anti-refugee laws, such as the Illegal Migration Act 2023. To mark the occasion, PLPs CEO, Shameem Ahmad, said: The ECHR is a force for good in the UK, in Europe and beyond. The UKs membership is a sign that we are part of a community of nations dedicated to human rights and the international rule of law. These are so important to defend, especially now after Russias invasion of Ukraine and the troubling treatment of refugees and migrants across Europe exemplified by the UK Governments Illegal Migration Act which flies in the face of fairness, human rights and international law. At PLP we see the good the ECHR does every day for people in the UK through our work in the courtroom, in the evidence we submit to Parliament, and in the recommendations we make to Government. Our human rights are stronger because of this crucial treaty. Now signed by all 46 democracies in Europe, the ECHR enshrines and protects some of our most basic and fundamental human rights, including the right to life, the prohibition of torture, the prohibition of slavery, the right to a fair trial, freedom of expression, and the right to protest. British lawyers played an important part in establishing the ECHR, having seen firsthand during WWII the importance of having international protection for human rights including Nuremberg prosecutor, Sir David Maxwell-Fyfe. The UK was one of the first countries to ratify the treaty and enable British people to take cases to the European Court of Human Rights. 70 years on, the ECHR is still our mainbackstop when the UK Parliament and Government fail to properly protect our human rights. This has included rulings that the police could not keepa mass database of innocent peoples DNA and could not randomly stop-and-search people with no suspicion of wrongdoing. The Strasbourg Court also caused the Government to lift the UKs prejudiced ban on gay men and lesbian women serving openly in the armed forces and made the Government decriminalise same-sex relations in Northern Ireland. PLPs CEO, Shameem Ahmad, said: At a time when the UK Government appears to be considering leaving membership of the ECHR, we remind Ministers that only two countries have ever left: Greece, following a military coup which abolished its democracy and imposed a junta; and Russia, which was removed after it invaded Ukraine. The ECHR embodies democracy the UK is a voluntary member,it helps prevent harm to minorities by majorities, and the EuropeanCourt consistently engages with the views of British courts and governments. Now more than ever, the UK Government must not weaken its resolve to ensure basic standards of human dignity, fairness and equality embodied in the ECHR. It must hold its nerve, and reinforce the importance of human rights. For more on why the ECHR is so essential, see the Council of Europescase studies,illustrating how the ECHR has secured peoples fundamental rights across Europe, and read PLP Senior Researcher Lee Marsons on: The European Convention on Human Rights (ECHR) has played a pivotal role in shaping the human rights landscape of the United Kingdom. However, both the Conservative Party and Reform UK have proposed to leave the ECHR, sparking intense debate about the future of human rights protections in the country. This article delves into the implications of such a move, highlights key cases and innovations brought by the ECHR to the UK, and argues for the importance of remaining part of this supranational entity. Conservative and Reform UK Plans The Conservative Party and Reform UK have expressed strong desires to regain full sovereignty over national laws, which includes withdrawing from the ECHR. Their argument is predicated on the belief that the ECHR infringes upon British sovereignty and that domestic courts should have the final say in human rights matters. Conservative Party The Conservative Partys manifesto argues that the ECHR often hampers the UKs ability to effectively manage issues such as immigration and counter-terrorism. They propose replacing the Human Rights Act 1998, which incorporates the ECHR into UK law, with a new Bill of Rights. This new legislation would purportedly restore parliamentary sovereignty and ensure that the UKs Supreme Court is the ultimate arbiter of human rights issues. On the European Court, the Conservative Manifesto notes: If we are forced to choose between our security and the jurisdiction of a foreign court, including the ECtHR, we will always choose our security. Reform UK Reform UK takes an even more hardline stance, suggesting that the ECHR undermines British law and governance. They advocate for a complete withdrawal from the ECHR, arguing that it would allow the UK to better control its borders, manage immigration, and enhance national security. Reform UKs manifesto frames the ECHR as an outdated institution that no longer serves the best interests of the UK, noting it would leave the ECHR within the first 100 days. Reform UK goes further, concerningly stating that they would: Protect our servicemen and women on active duty inside and outside the UK from civil law and human rights lawyers. Key Cases and Innovations Brought by the ECHR Since its inception, the ECHR has significantly influenced the development of human rights in the UK. Several landmark cases illustrate the vital role the ECHR has played in safeguarding individual freedoms and promoting justice. Right to Life and the McCann Case The McCann v. United Kingdom (1995) case, concerning the killing of IRA suspects in Gibraltar by British forces, underscored the ECHRs emphasis on the right to life. The European Court of Human Rights (ECtHR) ruled that the use of lethal force by the British government was a violation of Article 2 of the ECHR. This case highlighted the necessity for stringent controls and accountability measures regarding the use of force by the state. Freedom from Torture: The Chahal Case Chahal v. United Kingdom (1996) was a seminal case where the ECtHR ruled against the deportation of Mr. Chahal, a Sikh separatist, to India due to the risk of torture. This decision reinforced the absolute prohibition of torture and inhumane treatment under Article 3 of the ECHR, shaping UK policies on deportation and asylum. The Court stated that: Article 3 enshrines one of the most fundamental values of democratic society []The Court is well aware of the immense difficulties faced by States in modern times in protecting their communities from terrorist violence.However, even in these circumstances, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victims conduct. Right to a Fair Trial: The Golder Case In Golder v. United Kingdom (1975), the ECtHR ruled that prisoners have the right to access courts, establishing an important precedent for the right to a fair trial (Article 6). This case emphasised that prisoners retain certain fundamental rights, influencing UK prison policies and judicial access. Privacy and Family Life: The Marper Case The case of S and Marper v. United Kingdom (2008) dealt with the indefinite retention of DNA profiles of individuals who had not been convicted of any crime. The ECtHR found this practice violated Article 8 (right to respect for private and family life), prompting significant reforms in how biometric data is managed in the UK. In passing judgment, the Court held: the blanket and indiscriminate nature of the powers of retention of the fingerprints, cellular samples and DNA profiles of persons suspected but not convicted of offences, as applied in the case of the present applicants, fails to strike a fair balance between the competing public and private interests and that the respondent State has overstepped any acceptable margin of appreciation in this regard. Importance of Remaining Part of the ECHR Remaining a part of the ECHR is crucial. The ECHR provides robust protections for fundamental rights that may not always be adequately safeguarded by domestic laws or the common law. Its comprehensive framework ensures that individuals can seek redress for human rights violations even when national mechanisms fail. The European Court of Human Rights serves as an essential oversight body, holding states accountable for human rights violations. This external scrutiny helps maintain high standards of human rights protection and encourages governments to adhere to international norms, the majority of human rights claims are against the state, as such, having the state itself as the last backstop in questions of human rights represents an alarming system. The ECHR has driven significant legal and social progress in the UK. Cases adjudicated by the ECtHR have led to reforms that might not have occurred through domestic channels alone. The convention acts as a catalyst for continuous improvement in human rights protections and requires states to constantly do better, rather than sit on the floor of what is acceptable. The Conservative and Reform UK proposals to leave the ECHR raise serious concerns about the future of human rights in the UK. The ECHR has been instrumental in safeguarding fundamental freedoms and promoting justice. Its role in ensuring accountability, providing oversight, and driving legal and social progress cannot be overstated. As such, remaining a part of this supranational entity is crucial for upholding the high standards of human rights protection that the UK has long championed. The move to withdraw would not only undermine these protections but also signal a troubling shift away from the values that have been central to the UKs identity on the international stage. There is a notable paradox in the positions of the Conservative and Reform UK parties, which emphasize national sovereignty. The ECHR, after all, was largely drafted and spearheaded by the UK in the aftermath of World War II. Furthermore, the rights protected by the ECHR, such as free speech, are precisely those that allow political discourse and the promotion of ideas, including those espoused by parties like the Conservatives and Reform UK. Ironically, the same framework they seek to dismantle is what enables their own rhetoric and policy proposals to thrive. This contradiction underscores the broader importance of maintaining robust human rights protections for all, and shows the dangers of making a complex area such as human rights, a black and white, populist election talking point. Avaia Williams Founder This blog was published on Monday 24th June 2024

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