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 2025–2026

November 2026

CP 1714



Government of the United Kingdom

Ministry of Justice

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

November 2026

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ISBN 978-1-5286-6913-9

E03727828 11/26

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 2025 to July 2026 but also notes developments up to the date of publication. The report is divided into three sections:

- An overview of the implementation of ECtHR judgments, declarations of incompatibility and how the Government responds to adverse human rights judgments;
- Statistics on applications made against the UK at the ECtHR and progress on the implementation of ECtHR judgments; and
- Update on the Government's response in addressing declarations of incompatibility.

The Government welcomes correspondence from the JCHR should it require further information or clarifications about the content of this report.

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

Overview

This report 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 thereof.

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 which records details of the implementation of each judgment (HUDOC-EXEC).[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.exec.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.

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.

The UK at the ECtHR: statistics

The ECtHR publishes statistical reports for each calendar year.[10] 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 2025, 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 lowest rate of applications of all member States in 2025, at 4 per million, while for all States combined it was 38 per million.[11]

Table 1. Applications against the UK allocated to a judicial formation[12]

1959–2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	Total
23,411	372	415	354	344	301	210	240	201	478	261	**26,587**

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.

[10] https://www.echr.coe.int/dashboards

[11] Source: Analysis of statistics 2025, page 15 (https://www.echr.coe.int/documents/d/echr/stats-analysis-2025-eng).

[12] 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[13]

1959–2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	Total
21,240	360	507	358	347	280	206	255	172	328	385	**24,438**

Judgments

The numbers of judgments and adverse judgments remain low.

Table 3. Judgments in UK cases (judgments finding violations)[14]

1959–2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	Total
526	14	5	2	5	4	7	4	3	3	10	**583**
(305)	(7)	(2)	(1)	(5)	(2)	(5)	(2)	(1)	(1)	(4)	**(335)**

Caseload

The caseload of ongoing applications against the UK under consideration by the ECtHR has been consistently low both in absolute terms and as a proportion of all applications. In 2025, the UK population comprised of 8.2% of the total population of all States (including Russia) but UK cases comprised just 0.26% of the ECtHR caseload.[15]

Table 4. Ongoing caseload of the ECtHR at year end

Year	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
UK	231	130	124	111	124	118	99	127	274	139
Total	79,750	56,262	56,365	59,813	62,000	70,156	74,647	68,468	60,338	53,464
Proportion	0.29%	0.23%	0.22%	0.19%	0.20%	0.17%	0.13%	0.19%	0.45%	0.26%

[13] Source: Analysis of statistics 2025, page 14, and previous reports. A few applications each year are struck out on the basis of a friendly settlement or unilateral declaration.

[14] Source: Violations by Article and by State 2025 (https://www.echr.coe.int/documents/d/echr/stats-violation-2025-eng); Violations by Article and by State 1959–2022 (not produced for 2023).

[15] Source: Analysis of statistics 2025, 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 2025, the UK was responsible for twelve (0.31%) of a total of 3,889 pending cases before the Committee of Ministers. This figure includes both adverse judgments whose implementation is still under supervision as well as friendly settlements.[16]

Further statistics concerning pending judgments for all States from 2023–2025 can be found in Annex B. This annex also lists all judgments that found a violation against the UK that remained under the supervision of the Committee of Ministers at the end of July 2026.

[16] Source: Supervision of the execution of judgments and decisions of the European Court of Human Rights, 19th Annual Report of the Committee of Ministers 2025, Table D.3 (https://www.coe.int/en/web/execution/annual-report-2025). The 2024 statistics now exclude Russia.

Earlier ECtHR judgments

The reporting period (August 2025 – July 2026) began with 12 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:

- *Catt* (43514/15), final judgment on 24 April 2019;
- *Coventry* (6016/16), final judgment on 6 March 2023;
- *Ezeoke* (61280/21), final judgment on 25 May 2025;
- *Malkiewicz* (39449/21), final judgment on 27 June 2025;
- *Neophytou* (28805/21), final judgment on 23 September 2025.

Details of the '*Catt*', '*Coventry', 'Ezeoke'* and *'Malkiewicz'* judgments can be found in last year's annual report. Details of the *'Neophytou'* judgment are included within the **New ECtHR Judgments** section of this report.

Though outside the reporting period, on 16 September 2026, the Committee of Ministers also closed its supervision of the following judgment:

- *Associated Newspapers Limited* (37398/21), final judgment on 12 February 2025.

Details of this judgment can be found in last year's annual report.

The following judgments remained under supervision at the end of July 2026:

- 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;
- *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.

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 the 2023-2024 Annual Report.[17] 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

[17] https://www.gov.uk/government/publications/responding-to-human-rights-judgments-2023-to-2024, pages 13-14.

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

The Committee of Ministers 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 40). 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.[18] Furthermore, the Government committed to

[18] 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.[19] 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.[20]

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.[21] The purpose of the Remedial Order was to 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'* (Joint Framework,18 September 2025).[22] This Joint Framework committed the UK and

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

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

21 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)

22 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

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.[23]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 were due to be progressed alongside the Remedial Order.

The Bill received its Second Reading in the House of Commons on 18 November 2025. After some delay, the Bill completed its Committee Stage and all remaining stages in the House of Commons on 19 and 20 October 2026. The Bill was subsequently introduced in the House of Lords on 21 October.

The Government is pleased that, after some delay, the Troubles Bill is now continuing its legislative passage. Through the Bill, the Government remains determined to deliver on its commitments to fundamentally reform the legacy mechanisms established by the Legacy Act 2023, so that they are fully human rights compliant and can command broader public confidence. This includes the commitments that the Government made in the Joint Framework with the Irish Government in September 2025.

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

As part of Committee Stage, the Government tabled a significant package of amendments to strengthen the legislation. These amendments broadly address issues relating to; providing an effective process for victims and survivors, ensuring fair treatment of veterans and police officers who served in Northern Ireland, and increasing confidence and transparency regarding prosecutorial decision making. The amendments also transferred the provisions of the Remedial Order originally laid under the Human Rights Act 1998 into the Bill. These amendments remove provisions from the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 relating to immunity and the prohibition of civil proceedings that were found by domestic courts to be incompatible with the UK's human rights obligations. Their transfer into the Bill ensures that all legislative elements are subject to equal scrutiny by the UK Parliament.[24]

Following its introduction into the House of Lords, the updated Bill, with amendments carried by the House of Commons included, can be viewed online[25]along with the updated explanatory notes.[26]

Individual measures

Inquests

Under the Joint Framework and the Northern Ireland Troubles Bill, those inquests that had already begun 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.

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

[24] The full list of amendments that were tabled during Committee Stage, including non-government amendments, can be viewed at https://publications.parliament.uk/pa/bills/cbill/59-02/0006/amend/ni_troubles_day_cwh_1020.pdf. Only the Government amendments were voted into the Bill.

[25] https://bills.parliament.uk/publications/68245/documents/8948

[26] https://publications.parliament.uk/pa/bills/cbill/59-02/0006/en/260006enlp.pdf

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 dillonks 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.

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".

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

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.

Following consultation, the Inquiry's Terms of Reference were published on 9 March 2026. It held its preliminary hearing on 10 June 2026. The most recent hearings took place on 15 and 16 September, which included an opening statement by the Inquiry's Counsel team, setting out what is currently understood about the murder of Mr Finucane and related issues. This also established a baseline position from which the Inquiry can take forward 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.

On 7 May 2026 the UK Supreme Court published its judgment.[28]In summary, the UK Government was wholly successful in its appeal, including on all ECHR grounds. The Supreme Court rejected the applicants' arguments that the Independent Commission for Reconciliation and Information Recovery (ICRIR) could not discharge the state's Article 2/3 ECHR investigative obligation in all or almost all cases.

In relation to disclosure, the Court stated that the Secretary of State's power to decide whether the disclosure of information would risk prejudicing or would prejudice the national security interests of the UK is not unrestrained, nor is it the "final say" [215]. The Secretary of State's powers do not mean that the ICRIR will lack independence in disclosing sensitive information to the next of kin, victims and the public, nor that this will result in there being an ineffective investigation, in all or almost all cases.

On next of kin participation, the Court stated that what is required, including in relation to legal aid, will depend on the facts and context of each particular case. As such, it will rarely be possible to determine whether the next of kin or victims are sufficiently involved in ICRIR investigations to the extent necessary to secure an effective investigation until that investigation has been completed.

[28] https://supremecourt.uk/cases/uksc-2025-0013-a

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 (DoJ) 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).

Schedule 2 of the CJA was not commenced, as it would have required the destruction of a large volume of material taken under the Police and Criminal Evidence (NI) Order 1989 (PACE NI). In 2015, the DoJ was made aware of the potential loss of investigative leads to

the proposed Historical Investigations Unit, which was intended to investigate Troubles-related deaths, if Schedule 2 of the CJA were brought into operation. The then Justice Minister took the decision to suspend commencement until a lawful solution could be identified to preserve legacy material (further detail below).

Proposed new legislation (Justice Bill) will remove references to indefinite retention and instead set out 75/50/25 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.The subsequent Committee Stage of the Assembly's scrutiny process ran from 2 October 2024 to 26 March 2026 and involved detailed consideration of the legislation by the Committee for Justice. As part of this process, the Committee heard oral evidence from a range of organisations, stakeholders and subject matter experts to inform its consideration of the legislation. Witnesses included:

- Dr Brian Plastow, Scottish Biometrics Commissioner
- The Northern Ireland Human Rights Commission
- The Northern Ireland Commissioner for Children and Young People
- The Northern Ireland Youth Assembly
- The Police Service of Northern Ireland
- Information Commissioner's Office
- Forensic Science Northern Ireland
- Children's Law Centre
- Ada Lovelace Institute

A recurring theme throughout the evidence sessions was the view that photographs should be brought within scope of the legislation alongside DNA profiles and fingerprints. Therefore, the Department agreed to the Committee's proposal that the legislation should include a regulation-making power to provide for the retention and use of photographs, and the amendment was approved by the Assembly during Consideration Stage of the Bill, which concluded in June 2026. The Department's position is that the retention arrangements applicable to DNA profiles and fingerprints should also apply to photographs. The DoJ intends to have the necessary regulations in place to enable their

commencement at the same time as the provisions relating to the retention of DNA profiles and fingerprints.

Royal Assent of the legislation is expected by the end of 2026. Once Royal Assent has been granted, it is likely to take approximately 18–24 months before the legislation can commence, as the PSNI will require sufficient time to develop and test their systems to ensure that they are ready for commencement. Furthermore, there will be a range of subordinate legislation required to support the primary legislation.

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. 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 UK Government recently published a response to their public consultation on a new legal framework for law enforcement use of biometrics, facial recognition and similar technologies in England and Wales. In the response, the Government agreed that the confidence of both the police and the public would be improved by the introduction of a bespoke framework, with specific rules governing law enforcement acquisition, processing and retention of biometrics including facial images. The framework will also establish a new independent oversight body, which will consolidate and expand the functions of the existing Biometrics and Surveillance Camera Commissioner.

The intention is to introduce rules for facial images which build on existing statutory rules for the collection, retention and use of biometric material, such as the legal framework governing DNA and fingerprints. The Home Office further intends, as part of the new legal framework, to build on and implement the existing agreement with the Forensic Information Databases Strategy Board (FINDS) to provide an additional mechanism for an individual to request a review of their retained biometric material in some specific circumstances, even where their material falls to be retained indefinitely under PACE. These proposed measures are subject to introduction of the relevant legislation and to Parliamentary scrutiny, debate and agreement.

Northern Ireland

As noted above, the Northern Ireland authorities are taking forward legislative provisions (Justice Bill) to amend provisions within (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 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 retained material. The DoJ has developed proposals for 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.

The DoJ is expected to launch a consultation on its review proposals by early 2027. Subordinate legislation will then be required for the review mechanism to take effect and will be subject to approval by the Northern Ireland Assembly.

In addition, subordinate legislation in the form of an Amendment Order will be required to update the list of serious (qualifying) offences set out in Article 53A of PACE NI. A public consultation on proposed additions to the list of qualifying offences ran from 1 May to 20 August 2025. The list of qualifying offences will form a key element of the new framework, ensuring a proportionate and graduated approach to the retention of DNA profiles and fingerprints

Further subordinate legislation will be required covering the circumstances in which DNA profiles and fingerprints may be retained for a limited period from individual's arrested, but not charged, with a serious (qualifying) offence. The DoJ is working with stakeholders on the policy detail and expects to launch a consultation on these proposals by early 2027.

Scotland

A report was prepared in October 2024 by the Scottish Government and the Scottish Biometrics Commissioner regarding a review of the retention of biometric data provided for under sections 18 to 19C of the Criminal Procedure (Scotland) Act 1995. The review found that the law on the retention of biometric data as set out under Section 18 of the 1995 Act complied with human rights and recent legal judgments, based on the available evidence. Further evidence was however required to assess whether and how current practices needed to evolve to take account of policing needs, and the expectations of communities in Scotland.

The review recommended that Police Scotland develop an options appraisal for their retention policies for the biometric data of convicted persons, which is evidence-based; observes the need for proportionality and necessity; and complies with the law and relevant legal rulings of the European Court of Human Rights - particularly Article 8 ECHR. The review also recommended that such options must expressly prohibit indefinite retention without periodic review. This work is being progressed by Police Scotland under the oversight of the Scottish Biometrics Commissioner who is an independent officeholder accountable to the Scottish Parliament. The Scottish Government awaits the conclusion of this review and will continue to work with the Scottish Police Authority and the Scottish Biometrics Commissioner to support Police Scotland's development of a revised retention policy and consider whether any further action is necessary to ensure continued compliance with Article 8 ECHR and relevant European Court of Human Rights Judgements.

More broadly, the Commissioner is required under the section 7 of the Scottish Biometrics Commissioner Act 2020 to prepare a statutory code of practice on the acquisition, retention, use and destruction of biometric data in furtherance of the Commissioner's general function under section 2 of that Act. The code of practice must include provision about when biometric data must be destroyed in cases where a relevant enactment does

not make such provision. The current Code took effect from November 2022 following approval from the Scottish Parliament.

The Code seeks to promote good practice, transparency, and accountability in Scotland by setting out an agreed framework of standards for professional decision-making which strikes the right balance between the needs and responsibilities of policing and the criminal justice system in terms of enforcing the law and keeping citizens safe, and the fundamental obligation to guarantee the basic human rights, privacy, and freedoms of individual members of the public. An individual, or someone acting on an individual's behalf, may also make a complaint to the Commissioner that a person who is required to comply with the Code has not done or is not doing so in relation to the individual's biometric data.

4. 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[29] 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)[30] was introduced in 2015 to provide a more robust legal framework to prosecute traffickers and those subjecting people in Northern

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

[30] 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[31] 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, initially published in 2016, were updated in January 2024 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;
- keeping national referral mechanism decision-making times under review, to reduce delays and ensure victims get good quality and timely decisions;
- appropriate support and monitoring the impact that new legislation may have on the identification of and support for potential victims of trafficking; and
- In Scotland regulations were laid in the Scottish Parliament in February and March 2026[32] to respectively outline and commence the duty to notify (section 38 of the HTEA 2015) in Scotland with effect from 1 February 2027. The first regulations specify the public authorities who will be required to notify the Chief Constable of Police Scotland of a person who is or appears to be a victim of human trafficking, slavery, servitude and forced or compulsory labour, and what information should be included in a notification.

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

[32] The Human Trafficking and Exploitation (Scotland) Act 2015 (Commencement No. 6) Regulations 2026.

Regulations also state who Police Scotland will share this information with, and what information will be shared.

The latest UK Government action plan was submitted to the Department for the Execution of Judgments on 1 October 2025, and an updated action plan will be submitted in December 2026.

5. 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, a social worker, was a professional in witness in care proceedings. The judge in those proceedings, without giving the applicant adequate opportunity to respond, made a number of critical comments about her professional conduct in his judgment and directed that the judgement be sent to the local authority to which she was then assigned. The judge also advised that his findings be shared with other local authorities where she had worked, and with relevant professional bodies. The applicant's assignment with the local authority was subsequently terminated. She appealed to the Court of Appeal, which acknowledged that the process by which the judge came to make the criticisms was manifestly unfair, and that it would be a breach of the applicant's rights under Article 8 of the ECHR (right to respect for private and family life) if the judgment was allowed to stand in the final form proposed. The Court of Appeal therefore ordered that the adverse findings against the applicant be set aside and removed from the judgment.

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. Furthermore, she complained of a violation of Article 13 in that she was unable to claim damages for a judicial act done in good faith because of section 9(3) of the Human Rights Act 1998 (HRA), which restricts the circumstances in which damages can be awarded in respect of a judicial act done in good faith (which do not include a breach of Article 8).

The ECtHR found a violation of Article 8. The Court found that the judge's direction that his adverse findings be sent to the local authorities and relevant professional bodies, without giving the applicant an adequate opportunity to address them in the course of the hearing, interfered both unlawfully and disproportionately with her right to respect for her private life under 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 Heads of the Judiciary of England and Wales, of Northern Ireland, of Scotland, and to the President of the Supreme Court of the United Kingdom.

In respect of the violations of Article 13, on 17 July 2025, the Government published a proposal to amend section 9(3) of the HRA using a 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.[33]

In accordance with the relevant Parliamentary procedures, the proposed Remedial Order was laid under the non-urgent procedure. Under this route, a Minister first lays a proposal before Parliament, triggering a 60-day scrutiny period during which the Joint Committee on Human Rights (JCHR) examines the proposal and reports to both Houses. The report was published on 27 October 2025 on the JCHR website.[34]

In the report, the JCHR agreed that the use of a Remedial Order to implement the *SW* judgment would be appropriate and was satisfied that the power to make a Remedial Order can be relied on in these circumstances. The JCHR accepted that the conditions for the "compelling reasons" test necessary to use this power were met but made a number of drafting recommendations. In addition, the JCHR recommended that the Government consider whether to make wider principled changes to s.9(3) or to remove the provision in its entirety.

The Government laid the revised version of the draft Remedial Order,[35]alongside its response to the JCHR report on 18 May 2026.[36] The draft Remedial Order was subject to a further 60-day scrutiny period in Parliament. The JCHR had published their second report on the draft Remedial Order on 22 June 2026 and recommended that both Houses should approve the draft Remedial Order.[37]

Having examined the JCHR's recommendations carefully, the Government consider the scope of the draft Remedial Order sufficient to address the incompatibility identified by the ECtHR in *SW v UK*, whilst respecting the principle of judicial immunity. The draft Remedial Order was approved by the House of Commons on 12 October 2026 and by the House of

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

[34] Proposal for a Remedial Order to amend the Human Rights Act 1998: Judicial Immunity

[35] The Human Rights Act 1998 (Remedial) Order 2026

[36] Draft Human Rights Act 1998 (Remedial) Order 2026 - GOV.UK

[37] Draft Human Rights Act 1998 (Remedial) Order: Judicial Immunity: Second Report

Lords on 28 October 2026. It was made on 16 November 2026 and came into force on 17 November 2026.

The 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 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 like 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 2026.

The Government is also reviewing the operation of s.9(3) separately to the implementation of this judgment and a call for evidence was launched on 16 November. The focus of the call for evidence is to explore the impact and effectiveness of s.9(3) HRA and whether it remains fit for purpose.

New ECtHR judgments

Five judgments in UK cases became final during the reporting period (August 2025 – July 2026).

No violation was found in:

- *Hayes and Others* (56532/22) – No violation of Article 3, Court (Second Section). Final Judgment on 1 October 2025;
- *Bradshaw and Others* (15653/22) – No violation of Article 3 of Protocol No.1, Court (Fourth Section). Final judgment on 8 December 2025;
- *Hora* (1048/20) – No violation of Article 3 of Protocol No.1, Court (Second Section). Final judgment on 9 February 2026.

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

- *Neophytou* (28805/21) – Violation of Article 6, Court (Second Section Committee). Final judgment on 23 September 2025;
- *A.R.* (6033/19) – Violation of Article 8, Chamber (Fourth Section). Final judgment on 1 October 2025.

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

The adverse judgments and the Government's response are summarised below.[38]

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

1. Neophytou (28805/21)

Committee (Second Section) – Violation of Article 6 - Judgment became final on 23 September 2025

The case and judgment

The applicants, father and son, Mr Achilleos Neophytou and Mr Stefanos Neophytou were convicted in the Crown Court on 21 September 2016 of conspiring to manage a brothel. On 17 October 2016, they were sentenced to twenty-seven months' imprisonment and released on licence on 3 December 2017. The prosecution applied for a confiscation order under the Proceeds of Crime Act 2002 and a directions hearing in relation to the application took place on 19 May 2017, as listed.

The ECtHR considered the length of the confiscation proceedings to be excessive, specifically the period between the applicants' conviction in the Crown Court and the refusal by the Court of Appeal of permission to appeal. The relevant period spanned four years and five months, beginning with the applicants' conviction on 21 September 2016 and ending with the Court of Appeal's refusal to grant leave to appeal on 9 February 2021, following the applicants having renewed their application to a full court.

During this period, the final confiscation hearing began in August 2018 but was postponed repeatedly due to a lack of court time. On 17 January 2020, over three years after the applicants' conviction, the judge made a confiscation order against each applicant in the sum of £3,174,809.18, with a term of imprisonment in default fixed at ten years.

In his ruling, the Crown Court judge set out the following reasons for why the confiscation proceedings were delayed:

- The finances "had been complicated". Mistakes made by both parties' financial experts resulted in several revisions of their reports.
- The case was adjourned multiple times because the time estimate for the proceedings was inadequate, and counsel was unavailable for long periods of time.
- Following the final submissions, the judge was unable to issue his judgment for several months as he was given an insufficient number of reading days to consider and write it.

The applicants sought permission to appeal against the confiscation order, arguing that the hearing was unfair due to the delays. Permission to appeal was refused by both a Single Judge and, upon renewal, by the full Court of Appeal on 9 February 2021. The Court of Appeal held that the delays had not prejudiced the applicants.

The applicants then challenged the enforcement of the confiscation order in judicial review proceedings, again raising the issue of numerous delays. On 27 April 2022, the High Court

refused permission, noting that the Court of Appeal had already found no prejudicial impact of the delays and that any alleged delay after the appeal decision had not been substantiated. The applicants were subsequently imprisoned for defaulting on payment of the confiscation order.

In their application to the ECtHR, the applicants relied on Article 6 § 1 of the Convention, alleging that the confiscation proceedings violated their right to a fair hearing within a reasonable time.

The ECtHR found that there had been a violation of Article 6 § 1 due to the excessive length of confiscation proceedings, which lasted four years and five months between the applicants' conviction and the Court of Appeal's refusal of permission to appeal.

Individual measures

The applicants did not submit a claim for just satisfaction and no award was made.

General measures

The delays in the applicants' confiscation proceedings resulted from exceptional, case-specific factors and did not reflect a systemic problem. Nevertheless, the Government recognises ongoing pressures on the criminal courts and is taking steps to improve the timeliness of proceedings.

The Government continues to maintain safeguards to protect fair trial rights under Article 6, including access to legal representation, disclosure of evidence, and the opportunity to challenge the prosecution's case and present a defence.

The Government has invested in criminal legal aid and increased Crown Court sitting days to reduce the outstanding caseload. It is also taking forward wider reforms, including recommendations from Sir Brian Leveson's Independent Review of the Criminal Courts and measures contained in the Courts and Tribunals Bill.

These reforms are intended to reduce delays, improve the efficiency of criminal proceedings, and strengthen the protection of Article 6 rights.

An action report was submitted to the Department for the Execution of Judgments on the 23 March 2026. Following consideration of the action report, the Committee of Ministers closed its supervision of this cased on 23 September 2026.

2. A.R. (6033/19)

Chamber (Fourth Section) – violation of Article 8 - Judgment became final on 1 October 2025

The case and judgment

The case concerned the disclosure by the police, during enhanced employment vetting in 2011 and 2012, that the applicant, A.R., had previously been charged with rape and acquitted, along with a description of the circumstances of the alleged offence.

A.R. claimed that this disclosure violated his right to respect for private life under Article 8 of the European Convention on Human Rights (ECHR) and undermined the presumption of innocence under Article 6 § 2.

The European Court of Human Rights (Court) held that:

- there had been a violation of Article 8: the disclosure regime governing Enhanced Criminal Records Certificates lacked essential safeguards and therefore did not meet the standard of being "*in accordance with the law*". The Court identified several failings: (i) no statutory guidance governing how police should exercise their discretion; (ii) lack of foreseeability for individuals subject to such disclosures; (iii) no opportunity for the applicant to make representations before disclosure; (iv) absence of independent review of the police decision; and (v) excessive broad discretion left to the authorities with insufficient legal safeguards. Because of these deficiencies, the interference with A.R.'s private life was unlawful under Article 8.
- having found a violation of Article 8, there was no need for the Court to examine the complaint under Article 6 § 2 of the Convention.

The Court considered that the finding of a violation constitutes in itself just satisfaction (Article 41) for any non-pecuniary damage sustained by the applicant. The UK was ordered to pay EUR 25,000 (twenty-five thousand euros) for the applicant's costs and expenses, within three months of the judgment becoming final (Article 44 § 2), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be converted into the currency of the UK at the rate applicable at the date of settlement.

The Court dismissed the remainder of the applicant's claim for just satisfaction.

Individual measures

The amount of EUR 25,000 (twenty-five thousand euros) awarded by the Court for the applicant's costs and expenses has been made to the applicant.

General measures

The UK Government considers that no further general measures are necessary. As the Court observed at paragraph 69 of the judgment, matters have moved on since the

disclosures made in 2011 and 2012. The Court noted that there have been legislative changes, statutory guidance has been published for chief officers of police and the provision requiring a copy of the Enhanced Criminal Record Certificate to be sent to the employer has been repealed (see paragraphs 35–38 of the judgment).

The reforms introduced across England and Wales, Northen Ireland and Scotland, since the material time fundamentally restructure the disclosure regime, ensuring enhanced protection of Article 8 rights while enabling informed safeguarding decisions in the UK.

The Government submitted an action report to the Department for the Execution of Judgments on the 1 October 2026.

Earlier declarations of incompatibility

At the start of the reporting period (August 2025 – July 2026), the Government was addressing 17 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;*
- 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;*
- 58. *R (on the application of Smith) v Secretary of State for the Home Department;*
- *59-62. In the Matter of an Application by Martina Dillon & Others*
- 63. *Kingdom of Spain v Lorenzo*

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 is considering options to address the judgment 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-2022-002460; 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 (right to respect for private and family life). The Secretary of State joined as the appropriate defendant, in order to respond to the human rights aspect of the proceedings.

The High Court found that the severity of the effects on a person in the first defendant's position of not receiving the benefit of the implied terms, 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 Court made a declaration 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 assessing options for addressing the DOI together with any potential upcoming legislative reforms to the mobile homes sector.

49–53. In the matter of applications by Martina Dillon & Others, Teresa Jordan, Patrick Fitzsimmons and 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.[39]

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. On 7 May 2026 the UK Supreme Court published its judgment.[40]In summary, the UK Government was wholly successful in its appeal, including on all ECHR grounds. The Supreme Court rejected the applicants' arguments that the Independent

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

[40] https://www.supremecourt.uk/cases/uksc-2025-0013#judgment-details

Commission for Reconciliation and Information Recovery (ICRIR) could not discharge the state's Article 2/3 ECHR investigative obligation in all or almost all cases.

In relation to disclosure, the Court stated that the Secretary of State's power to decide whether the disclosure of information would risk prejudicing or would prejudice the national security interests of the UK is not unrestrained, nor is it the "final say" [215]. The Secretary of State's powers do not mean that the ICRIR will lack independence in disclosing sensitive information to the next of kin, victims and the public, nor that this will result in there being an ineffective investigation, in all or almost all cases.

On next of kin participation, the Court stated that what is required, including in relation to legal aid, will depend on the facts and context of each particular case. As such, it will rarely be possible to determine whether the next of kin or victims are sufficiently involved in ICRIR investigations to the extent necessary to secure an effective investigation until that investigation has been completed.

The judgment also provided much needed clarity on the interpretation and application of Article 2(1) of the Windsor Framework. It supports the Government's longstanding position that the scope of Article 2 is limited to rights related to ending sectarian conflict in Northern Ireland and should therefore exclude immigration rights.

The Government remains firmly committed to Article 2 of the Windsor Framework. Maintaining clarity in Northern Ireland's human rights framework was the Government's guiding principle in appealing the Dillon case on Article 2 grounds.

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 has brought forward primary legislation to amend the law on detriment and to address the incompatibility. That legislation has now been enacted. Section 76 of the Employment Rights Act 2025 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. Following consultation and affirmative approval of the regulations by Parliament, the Government has made secondary legislation, the Protection Against Detriment (Industrial Action) Regulations 2026, that bans all detriments for taking industrial action. This legislation came into force on 30 October 2026 and has resolved the incompatibility.

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 but was not heard.

Following applications from the NIHRC and Applicant JR295, the Northern Ireland Court of Appeal 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. A declaration of incompatibility was subsequently made in relation to the relevant provisions. The Government subsequently amended the legislation through section 168 of the Crime and Policing Act 2026, restoring

the prohibited return period for unauthorised encampments from 12 months to 3 months and addressing the incompatibility identified by the Court.

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 has responded to the Court's judgment through the Crime and Policing Act 2026, and updated Statutory Guidance for Police on Unauthorised Encampments, reflecting these legislative changes, was published in June 2026.

59-62. In the Matter of an Application by Martina Dillon & Others

Court of Appeal (NI); [2024] NICA 59; 20 September 2024

In the matter of Dillon & others (see 49-53 above) the Northern Ireland Court of Appeal made a number of additional DoIs on 20 September 2024. The detail of each of those declarations is provided below, alongside the steps that the UK Government has since taken in response:

- 59. [3](a) "makes an additional declaration of incompatibility … to the effect that section 43(1) and (2) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023…, which imposes an absolute bar on civil actions which are "Troubles related", is incompatible with Article 6 ECHR (and not merely in respect of those applications pre-dating the Act coming into force)"

The Government initially proposed to address this matter through a Remedial Order under the Human Rights Act 1998. However, as outlined elsewhere in this report, the provisions of the Remedial Order have now been transferred into the Troubles Bill. The clause addressing civil claims in the current draft of the Bill is Clause 107.

- 60. [7](b) "… makes a declaration of incompatibility … to the effect that, in the circumstances mentioned at sub-paragraph (a) above, sections 4(1)(a) and (4), 30(2), (4)-(7), (10) and (11) of, and Part 1, paras 3-5, and Part 2, paras 9-13 of Schedule 6 to, the 2023 Act, insofar as they provide the Secretary of State with a power to preclude disclosure of sensitive information by the ICRIR to the Next of Kin and the public, are incompatible with Article 2 ECHR. [Sections 33 and 34, which relate to Secretary of State giving guidance and making regulations about handling documents, and section 60 (interpretation), are not included in this declaration, as they do not give rise to the Secretary of State's veto on disclosure.]"

The UK Government lodged an appeal against this DoI to the UK Supreme Court. The Government was successful in its appeal, with the UK Supreme Court stating in its judgment of 7 May 2026 that "the democratic constitutional responsibility for, and the institutional competence in relation to, national security lies with the executive." The Court also ruled that it is misleading to categorise the Secretary of State as "the sole decision-maker" and that decisions can be challenged via judicial review. Furthermore, the Court found that the Secretary of State does not have an unrestrained power to "veto" the disclosure of information, nor does the Secretary of State have "the final say."

- 61. 7](c) "… the Court must also make a declaration of incompatibility in relation to section 44 [stopping inquests] of the 2023 Act, simply to reflect current arrangements (and without expressing any view on how the present incompatibility the Court have identified should be remedied)."

The UK Government lodged an appeal against this DoI to the UK Supreme Court. The Government was successful in its appeal, with the UK Supreme Court stating:

> "[230] The Court of Appeal's declaration of incompatibility of section 44 of the 2023 Act (the provision bringing inquests to an end) was consequent upon the finding that the ICRIR lacked independence in relation to the disclosure of documents and information: see para 90 above. As the declaration as to the lack of independence is not justified, neither is the declaration of incompatibility in paragraph 7(c) of the Court of Appeal's order dated 20 September 2024".

- 62. [7](e) "… makes a declaration of incompatibility … that section 45, insofar as it precludes complaints in relation to police misconduct being progressed to misconduct charges or criminal charges, is incompatible with articles 2 and 3 ECHR. [This does not preclude the ICRIR from conducting investigations which would previously have been carried out by PONI but reflects that, where misconduct charges represent part of the State's response to potential Article 2/3 breaches, immunity from misconduct action which might otherwise be possible is incompatible with the Convention on a similar basis to immunity from prosecution.]"

This finding by the Court of Appeal is being addressed by Clauses 85 and 86 of the Troubles Bill, as introduced to the House of Lords, which ensures that potential criminal conduct by police officers that is identified by the Legacy Commission during the course of an investigation, but falls outside of the definition of offences that it is able to investigate, can be referred to the Police Ombudsman of Northern Ireland for consideration. More widely, Clause 103 of the Bill will ensure that the relevant police forces will be able to investigate Troubles-related offences that are not considered to be a serious or connected Troubles-related offence.

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.

New declarations of incompatibility

The domestic courts made one declaration of incompatibility (DoI) under section 4 of the HRA during the reporting period (August 2025–July 2026), which is set out below.

64. Mark Hirst v Chief Constable, Police Service of Scotland and Others

Outer House, Court of Session; [2026] CSOH 8; 5 February 2026

The pursuer, Mark Hirst, brought a damages action against the Chief Constable of the Police and the Lord Advocate. He was charged in May 2020 with an offence under section 127 of the Communications Act 2003 but acquitted at trial in January 2021, following acceptance by the Sheriff that there was no case to answer. Mr Hirst claimed there was no reasonable or probable cause for the investigation and prosecution, and that the relevant individuals in the police and the prosecution services had malicious and improper motivations.

Section 170 of the Criminal Procedure (Scotland) Act 1995 prevents judges, clerks and prosecutors from being sued for damages in summary proceedings unless they have acted in bad faith (maliciously and without probable cause), the proceedings have been quashed, and the pursuer has suffered imprisonment.

Lord Lake declared on 5 February 2026 that section 170 was incompatible with Article 6 ECHR because it constituted an unjustifiable restriction on the pursuer's right to have a determination of the merits of his claim. He found that Mr Hirst would have been entitled to seek a decision on merits were it not for the binding nature of section 170, which was found to confer absolute immunity without permitting the court to weigh or evaluate factors suggesting it should not apply. He accordingly dismissed Mr Hirst's damages action on grounds of irrelevancy but issued a DoI that section 170 was inconsistent with Article 6 ECHR.

The decision was appealed by the Lord Advocate and the DoI was recalled on 18 June 2026 by the Inner House. The appeal court had considered Strasbourg case law and found that Article 6 does not guarantee the content of substantive law in Contracting States. Section 170 provided substantive rather than procedural protection and there was therefore no basis for the court to fail to apply it, meaning Article 6 was not engaged.

There is a hearing to determine permission to appeal to the UK Supreme Court on 9 December 2026.

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 2026, 64 DoIs have been made.

Of these, 54 have been fully addressed:

- 20 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;
- 17 have been addressed by primary or secondary legislation (other than by Remedial Order); and
- 1 has been addressed by various measures.

A further 10 are ongoing:

- 4 are currently open to appeal;
- 3 the Government has proposed to address by primary or secondary legislation; and
- 3 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.[41]

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

[41] 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. Decision upheld by Supreme Court; *[2026] UKSC 34; 22 September 2026*

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

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

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

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

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

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

64. Mark Hirst v Chief Constable, Police Service of Scotland and Others
Outer House, Court of Session; [2026] CSOH 8; 5 February 2026

Proposed to address by primary or secondary legislation

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

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

62. In the Matter of an Application by Martina Dillon & 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

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'.[42] 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)	**2023**	**2024**	**2025**
All cases	4	1	5
of which leading cases	1	0	2
Cases closed by final resolution (E.3)	**2023**	**2024**	**2025**
All cases	6	4	2
of which leading cases	4	1	2
Pending cases at year end (D.3)	**2023**	**2024**	**2025**
All cases	12	9	12
of which leading cases	8	7	7
Leading cases by time pending (D.4)	**2023**	**2024**	**2025**
Pending <2 years	1	1	2
Pending 2–5 years	5	3	2
Pending >5 years	2	3	3
Payment of just satisfaction (F.2)	**2023**	**2024**	**2025**
Paid within deadline	1	3	3
Paid outside deadline	1	0	1
Awaiting confirmation of payment	1	0	0
Just satisfaction (F.1)	**2023**	**2024**	**2025**
Total awarded (€)	674,186	36,454	1,076, 110

[42] 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 2025 pending cases	State	All pending cases			of which leading cases		
		2023	2024	2025	2023	2024	2025
1	Russian Federation[43]	2,566	2,867	**3,025**	238	244	**251**
2	Ukraine	766	842	**904**	103	106	**114**
3	Türkiye	446	440	**445**	124	137	**143**
4	Azerbaijan	337	329	**397**	50	51	**53**
5	Italy	249	310	**318**	66	74	**79**
6	Romania	476	411	**287**	115	111	**84**
7	Republic of Moldova	162	163	**177**	46	46	**55**
8	Hungary	165	198	**170**	45	47	**49**
9	Bulgaria	166	164	**163**	89	89	**93**
10	Poland	131	147	**162**	46	52	**57**
11	Greece	70	68	**88**	28	30	**36**
12	Georgia	78	73	**77**	27	27	**29**
13	Armenia	70	71	**75**	28	28	**28**
14	Slovak Republic	69	66	**72**	29	31	**34**
15	Albania	54	58	**63**	24	25	**28**
16	Croatia	67	63	**61**	27	30	**33**
17	Malta	57	56	**56**	15	14	**15**
18	North Macedonia	33	31	**44**	13	18	**21**
19	Portugal	48	56	**39**	16	19	**18**
20	Serbia	77	61	**37**	14	20	**22**
21	France	42	39	**28**	20	26	**18**
=	Bosnia and Herzegovina	31	31	**28**	11	12	**11**
23	Belgium	36	27	**25**	21	17	**19**
24	Spain	30	30	**23**	23	23	**18**
25	Cyprus	13	9	**19**	10	8	**14**
26	Lithuania	34	35	**18**	22	20	**11**
27	Switzerland	11	10	**13**	9	10	**10**
28	United Kingdom	12	9	**12**	8	7	**7**
29	Czech Republic	8	12	**11**	5	9	**9**

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

Ranking by 2025 pending cases	State	All pending cases			of which leading cases		
		2023	2024	2025	2023	2024	2025
=	Netherlands	7	9	**11**	5	7	**11**
31	Latvia	8	12	**9**	8	9	**7**
=	Denmark	7	9	**9**	3	3	**5**
33	Montenegro	6	22	**8**	3	6	**7**
34	Luxembourg	4	8	**6**	2	4	**3**
=	Slovenia	6	4	**6**	5	4	**5**
36	Germany	12	9	**5**	10	9	**4**
=	Finland	6	5	**5**	2	1	**1**
38	San Marino	3	5	**4**	3	3	**2**
39	Austria	10	8	**3**	6	5	**1**
=	Iceland	0	1	**3**	0	1	**2**
41	Norway	6	6	**2**	1	1	**1**
=	Estonia	3	5	**2**	3	5	**2**
=	Ireland	2	2	**2**	2	2	**2**
=	Monaco	0	1	**2**	0	1	**1**
45	Sweden	1	1	**0**	1	1	**0**
=	Liechtenstein	0	0	**0**	0	0	**0**
=	Andorra	0	0	**0**	0	0	**0**
Total	**All States**	**6,385**	**6,783**	**6,914**	**1,326**	**1,393**	**1,413**

Table 3: Judgments finding a violation against the UK under the supervision of the Committee of Ministers at the end of July 2026

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		
SW	87/18	22 September 2021
Associated Newspapers Limited	37398/21	12 February 2025
A.R.	6033/19	1 October 2025

E03727828

978-1-5286-6913-9