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## **BRITAIN AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

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### KEY POINTS

The European Convention on Human Rights (ECHR) and the Strasbourg Court, which enforces it, have, in recent years, come under attack in the United Kingdom. The relevant debates feature two main options for reforming the relationship between the ECHR and the UK:

- The creation of a **British Bill of Rights**. This would not in itself mean that the UK could cease to apply the Convention, either effectively or formally. Instead, it is intended to replace the Human Rights Act 1998. However, it remains unclear precisely in what way it would do so, from a legal perspective.
- **Reform within the current institutional framework.** This note discusses reforms at the Convention level, relating to questions such as judicial activism, the margin of appreciation, and operational issues such as delays or age limits for judges. It emphasizes important recent changes to the Convention system under Protocols 15 and 16, and suggests that further steps could be taken as regards political cooperation at the Council of Europe level and judicial dialogue between UK courts and the ECtHR.

### Introduction

In recent years, the European Convention on Human Rights (ECHR) and particularly the Court entrusted with safeguarding its application, the European Court of Human Rights (ECtHR), have come under attack in the United Kingdom.

The current legal framework is set up as follows. The United Kingdom is, from an international law perspective, bound to observe the European Convention, of which it was one of the original signatories in 1950. However, this does not mean that claimants can simply invoke the ECHR before UK courts. The UK maintains a dualist stance towards international law, so that the provisions of the Convention can only be invoked in legal disputes in British courts in virtue of Human Rights Act 1998, a UK Act of Parliament that codifies the ECHR in UK law. This Act imposes an obligation on British courts to administer the provisions of the ECHR and to take into account the judgments of the Strasbourg Court. Following controversial rulings regarding issues such as UK deportations policy, the treatment of terrorism suspects, and prisoners' voting rights, both the Strasbourg Court and the Human Rights Act have been criticized politically.

How the relationship between the UK and the ECHR can be maintained in the future is therefore subject to two related debates. The first debate focuses on reforming the UK legal system, i.e. how UK law 'reads' the protections enshrined in the Convention. Would the UK be better off if it had its own Bill of Rights, to be applied solely by British courts? Would this limit the influence of the ECtHR under the HRA?

The second debate focuses on other reform mechanisms, within the current Convention framework. Can the UK and ECHR systems cooperate more smoothly, avoiding clashes regarding key issues and, if so, how?

This note discusses both options for reform and their associated challenges. The way in which the Convention system is portrayed in the UK media can at times be imbalanced. This note offers a more nuanced, legal perspective on current debates. It suggests that, while there is indeed need for specific reforms, the Convention framework overall functions reasonably well. Establishing a more harmonious relationship between the UK and the ECHR systems is, in contrast to the prevailing perception, an achievable task that is not far from current legal realities. It is, however, a task that also depends on the political recognition of the benefits of membership of the ECHR framework an aspect commonly underplayed in current UK public discourse.

# A British Bill of Rights?

The creation of a British Bill of Rights has been advocated by the current government for several years<sup>1</sup>. It can be viewed in two conflicting ways:

View 1: The UK would effectively exit the Convention system as the main legal instrument for the protection of human rights. Prime Minister David Cameron, for one, has invoked the British Bill of Rights as a way of redressing 'frankly wrong' Strasbourg judgments.<sup>2</sup>

View 2: A British Bill of Rights would not per se revoke the UK's legal obligation to apply the Convention as an international treaty it has signed and ratified. It would merely replace the Human Rights Act 1998. The latter is institutionally unconnected to the ECHR.<sup>3</sup> Whether the legislation implementing the Convention is called a 'British Bill of Rights' or a Human Rights Act would be more important politically than legally.

**Legally, the key question is *in what way* a Bill of Rights would amend the Human Rights Act: would it retain, increase or reduce the level of human rights protection?**

In 2011, the government created the Commission on a Bill of Rights, which was tasked with assessing the benefits and drawbacks of replacing the HRA with a British Bill of Rights. Its **final report** cautioned against repealing the existing system of human rights protection in the UK beyond a symbolic rebranding of the legislation.<sup>4</sup> Two Commission members, Baroness Helena Kennedy QC and Professor Philippe Sands QC, were concerned that any changes would be motivated by a wish to lower rather than heighten human rights protection in the UK.<sup>5</sup>

While considering the Convention text itself as unproblematic, in October 2014 the Conservative government put together a **document** containing its main position regarding the protection of human rights in the UK. If re-elected, it is likely to put this before Parliament.<sup>6</sup> The proposal does not refer to the work of the Commission on a Bill of Rights. It maintains the idea of a British Bill of Rights as a way of limiting the extent to which judgments by the Strasbourg Court apply to the UK.<sup>7</sup> Legally, the position outlined lacks coherence.<sup>8</sup>

**The key tenets of the government's proposal are:**

- a Under a Bill of Rights the UK would no longer be bound by Strasbourg judgments, but only by judgments rendered by British courts.<sup>9</sup>
- b British courts should be prevented from 'effectively rewriting our laws through "interpretation"', subject as they are to the principle of parliamentary sovereignty.<sup>10</sup>

**Both of these premises are legally problematic, for the following reasons:**

- a A UK Bill of Rights will have no impact on Article 46 ECHR, which stipulates that Strasbourg judgments are binding and require compliance by the contracting states. As long as the UK remains a signatory of the Convention, a refusal to comply with ECtHR decisions is likely to result only in further references to the Strasbourg Court by affected applicants.<sup>11</sup>
- b It is unclear in what way the proposal wishes to depart from the Human Rights Act. First, the HRA preserves the principle of parliamentary sovereignty under section 3(1). Second, it does not obligate the Supreme Court to follow Strasbourg judgments as legal precedent, but merely to take them into account.<sup>12</sup> As such, the Bill would curb the ability not only of the Strasbourg Court to interpret the Convention, but also of British courts namely through a restrictive interpretation of the judicial review mechanism available in UK constitutional law.

## PARLIAMENTARY SOVEREIGNTY AND THE RULE OF LAW

The Conservative government's reform proposals are premised on the idea that Strasbourg judgments prejudice parliamentary sovereignty, which is a cornerstone of the UK constitutional order. In accordance with this principle, courts do not have the power to strike down legislation duly enacted by Parliament.<sup>13</sup>

The ECtHR's ability to rule that legislation violates human rights in turn imposes an obligation on parliament to remedy such violations. This is perceived to be inconsistent with parliamentary sovereignty. Further, while section 3(1) of the HRA specifically protects parliamentary sovereignty, it allows British courts to make a declaration of incompatibility under section 4, if it is thought that a particular law infringes human rights enshrined in the Convention. Such a declaration does not amount to the striking down of legislation, and is not binding on parliament. It is, however, a power that British courts had not previously been granted expressly. Nevertheless, parliamentary sovereignty in the United Kingdom is not without limits. Leading interpreters of the UK constitution have over time taken a more nuanced position. In the words of A.V. Dicey: 'Parliament is supreme legislator, but from the moment Parliament has uttered its will as lawgiver, that will becomes subject to the interpretation put upon it by the judges of the land.'<sup>14</sup> More recently, Tom Bingham has argued that parliamentary sovereignty must be judged compatibly with the rule of law: the latter "does not require that official or judicial decision-makers should be deprived of all discretion, but it does require that no discretion should be unconstrained so as to be potentially arbitrary. No discretion may be legally unfettered."<sup>15</sup> This is important when reconsidering the UK's relationship to the ECHR. The Convention may render human rights in the UK subject to review under the Human Rights Act – but it is questionable whether this extends the interpretive powers already resting with UK courts.

1 O Wright, 'David Cameron to 'scrap' Human Rights Act for new "British Bill of Rights"', The Independent, 1 October 2014, available at: <http://www.independent.co.uk/news/uk/politics/conservative-party-conference-cameron-announces-plans-to-scrap-human-rights-act-9767435.html>, [accessed 09.03.2014].

2 *ibid.*

3 C Gearty, 'The Tories' proposal for a British Bill of Rights is incoherent, but they don't care', The Guardian, 3 October 2014, available at: <http://www.theguardian.com/commentisfree/2014/oct/03/tories-proposal-british-bill-of-rights-incoherent-human-rights-act-strasbourg>, [accessed 09.03.2014].

4 Commission on a Bill of Rights, 'A UK Bill of Rights? The Choice Before Us', Volume 1, 18 December 2012, available at: <http://webarchive.nationalarchives.gov.uk/20130128112038/http://www.justice.gov.uk/downloads/about/cbr/uk-bill-rights-vol-1.pdf>, [accessed 09.03.2014].

5 Baroness Kennedy QC and Professor Philippe Sands QC, 'In Defence of Rights', in Commission on a Bill of Rights, *ibid*, 222ff. See further: A Williams, 'The choice before us? The report of the Commission on a Bill of Rights', Oxford Human Rights Hub 13 July 2013, available at: <http://ohrh.law.ox.ac.uk/the-choice-before-us-the-report-of-the-commission-on-a-bill-of-rights/>, [accessed 09.03.2014].

6 The ideas contained therein played a key role in David Cameron's 'Speech to Conservative Party Conference 2014', 1 October 2014, Conservative Party Press: <http://press.conervatives.com/press/98882674910/david-cameron-speech-to-conservative-party>, [accessed 18.03.2014].

7 Conservative Party, 'Protecting Human Rights in the UK: The Conservatives' Proposals for Changing Britain's Human Rights Laws', October 2014, available at: [https://www.conervatives.com/-/media/files/downloadable%20Files/human\\_rights.pdf](https://www.conervatives.com/-/media/files/downloadable%20Files/human_rights.pdf), [accessed 09.03.2014], 5-6.

8 See Gearty (n 3).

9 Conservative Party (n 6), 6-7.

10 Conservative Party (n 6), 6.

11 See Gearty (n 3).

12 Human Rights Act 1998, section 2(1)(a). See also B Hale, 'Argentoratum Locutum: Is the Strasbourg or the Supreme Court Supreme?' (2012) 12: 1 Human Rights Law Review 65, 76-77.

13 See further: UCL Policy Briefing, 'Human Rights and British Values: The Role of the European Convention on Human Rights in the UK Today', December 2013, available at [http://www.ucl.ac.uk/european-institute/analysis-publications/britain-europe/ECHR\\_briefing\\_FINAL.pdf](http://www.ucl.ac.uk/european-institute/analysis-publications/britain-europe/ECHR_briefing_FINAL.pdf), [accessed 09.03.2014].

14 AV Dicey, *Introduction to the Study of the Law of the Constitution* (8th ed. 1915, Liberty Classics 1982) 273, available at: [http://files.libertyfund.org/files/1714/0125\\_Bk.pdf](http://files.libertyfund.org/files/1714/0125_Bk.pdf), [accessed 09.03.2014].

15 See T Bingham, *The Rule of Law* (Penguin 2010) 54.

# The UK and the ECHR: Other Reform Options

Three key points of controversy mark the UK's relationship to the ECHR. These are likely to remain unchanged irrespective of the outcome of the Bill of Rights debate – indeed they are the primary causes of this debate:

- a The Convention as a 'living instrument'
- b The use of the 'margin of appreciation doctrine'
- c The operation of the Strasbourg Court

## a The Convention as a 'living instrument'

The ECtHR has been criticized for micromanaging questions of public policy that should rather rest with democratically elected national governments.<sup>16</sup> These include the length of criminal sentences, extraditions and deportations and prisoners' voting rights. Effectively, the Strasbourg Court interprets the Convention as a 'living instrument', giving meaning to its provisions in line with contemporary developments.<sup>17</sup>

This is inherently controversial. On the one hand, governments wish to know what they have signed up to in advance. On the other hand, perceptions of what constitutes a human right change over time and, if the 1950 Convention is to be administered meaningfully in the 21st century, the Court must be able to interpret it with a degree of flexibility. Furthermore, many human rights questions require the existence of an external arbiter. Minorities in particular would be at a serious disadvantage if left to be decided solely by governments whose re-election depends on majority opinion.<sup>18</sup>

Suggestions for possible improvements:

- 1 The political 'costs' of applying human rights should be always be weighed against the important role of the rule of law in constraining the actions of government (see textbox on parliamentary sovereignty and the rule of law). The current UK debate tends to neglect this. Instead, it tends to be portrayed as a left vs right issue, with the position of the media often depending on the respective outlet's political inclinations.<sup>19</sup>
- 2 Council of Europe signatories and the Court should hold more regular consultative meetings, on the model of the Brighton Conference<sup>20</sup>, where several amendments to and the broader direction of the ECHR were discussed. This would reinforce political input. Importantly, it could raise awareness of the human rights implications of key policies before an adverse judgment by the ECtHR is rendered.

## UNDERSTANDING THE CONTROVERSY: PRISONERS' VOTING RIGHTS IN THE UNITED KINGDOM

Whether or not prisoners should be allowed to vote has been the most controversial issue surrounding the Convention in the UK in recent years. Several rulings by the Strasbourg Court effectively conflict with the UK's blanket prohibition of the right to vote for incarcerated persons (section 3 of the Representation of the People Act 1983). The first of these judgments was *Hirst v UK (No 2)*<sup>21</sup>. Unanimously, the ECtHR found that Mr. Hirst, disenfranchised when convicted of manslaughter, had suffered a violation of his right to free elections (Article 3 of Protocol 1 to the Convention). The Court's reasoning was not ends-oriented (i.e. requiring that convicted prisoners should necessarily be allowed to vote, as has been suggested at times). Rather, the Court found a violation on account of the fact that disenfranchisement in the UK was designed as an absolute and automatic rule and was applied indiscriminately, with no consideration for individual circumstances, such as the gravity of the offence or the prisoner's personal conduct.<sup>22</sup> After the ruling, the government initiated a bill seeking to change the existing legislation. However, Parliament rejected this bill, and the existing legislation has remained in place. Other cases have followed Hirst in 2010<sup>23</sup>, 2014<sup>24</sup> and 2015<sup>25</sup>, with the Court finding that the UK's continued failure to amend legislation was in breach of the Convention, both in respect of participation in free elections (Art. 3, Protocol 1) and the binding force of ECtHR judgments (Art. 46).

## b The principle of subsidiarity and the margin of appreciation

If the scope of the Convention as a 'living instrument' remains subject to debate, so does that of another interpretive tool: the 'margin of appreciation'. Even though it is a central feature of the ECtHR's adjudication of human rights, the margin of appreciation is difficult to define in precise terms.<sup>27</sup> As discussed in a separate policy briefing recently<sup>28</sup>, the margin of appreciation broadly denotes the degree of leeway allowed to national authorities in the administration of Convention rights. Its actual application by the Court has varied substantially though, depending on the right being invoked, as well as on case-specific considerations such as the vulnerability of the applicant, which are difficult to predict in advance. This lack of clarity, as well as substantive disagreements about the nature of the margin of appreciation, have given rise to concerns both on the part of the British government and on the part of British courts. It is clear from the recent reform proposals that the government believes that the ECtHR has construed the margin of appreciation too narrowly on key issues (such as deportations and prisoners' voting). In turn, the government is in favour of establishing a broad margin of appreciation in respect of all Convention rights, so as to minimize the risk of having sensitive public policy decisions judicially scrutinised. As far as British courts are concerned, the margin of appreciation poses problems, to the extent that there is uncertainty as to where its limits are located. Guidance on this is central so that British courts can effectively administer ECHR rights in the UK before an application to Strasbourg is made.

<sup>16</sup> For a more detailed discussion of this critique see: G Letsas, 'Lord Sumption's attack on Strasbourg: More than Political Rhetoric?' UCL European Institute Comment, December 2013, available at: <http://www.ucl.ac.uk/european-institute/highlights/2013-14/sumption>, [accessed 17.04.2014].

<sup>17</sup> *Tyler v United Kingdom*, App no 5856/72, 25 April 1978, para 31.

<sup>18</sup> See further UCL Policy Briefing, 'Your Power to Veto EU Changes? Implications of the referendum provisions of the European Union Act 2011', October 2014, available at: <https://www.ucl.ac.uk/european-institute/analysis-publications/britain-europe/referendum>, [accessed 09.03.2014].

<sup>19</sup> R Greenslade, 'Right rights vs Left rights - how the newspapers line

up on ECHR', The Guardian, 3 October 2014, available at: <http://www.theguardian.com/media/greenslade/2014/oct/03/uk-bill-of-rights-national-newspapers>, [accessed 09.03.2014].

<sup>20</sup> This is further discussed in, UCL Policy Briefing, 'The margin of appreciation doctrine in European human rights law', October 2014, available at: [https://www.ucl.ac.uk/european-institute/analysis-publications/britain-europe/policybriefs/edit/Margin\\_briefing\\_FINAL.pdf](https://www.ucl.ac.uk/european-institute/analysis-publications/britain-europe/policybriefs/edit/Margin_briefing_FINAL.pdf), [accessed 09.03.2014].

<sup>21</sup> *Hirst v United Kingdom* (no. 2), App no 74025/01, 6 October 2005.

<sup>22</sup> *Ibid*, para 82.

<sup>23</sup> *Greens and M.T. v United Kingdom*, App nos 60041/08 and 60054/08, 23 November 2010.

<sup>24</sup> *Frith and others v United Kingdom*, App no 47784/09, 12 August 2014.

<sup>25</sup> *McHugh and Others v United Kingdom*, App no 51987/08, 10 February 2015. For a concise overview of all cases see: European Court of Human Rights Press Unit, 'Factsheet – Prisoners' Right to Vote', February 2015, available at: [http://www.echr.coe.int/Documents/FS\\_Prisoners\\_vote\\_ENG.pdf](http://www.echr.coe.int/Documents/FS_Prisoners_vote_ENG.pdf), [accessed 09.03.2014].

<sup>27</sup> For a thorough discussion of the different functions of the margin of appreciation within the European Convention framework see: G Letsas, 'Two Concepts of the Margin of Appreciation' (2006) 26 (4) Oxford Journal of Legal Studies 705.

<sup>28</sup> Margin of appreciation briefing (n 19).

On these grounds, reforms could comprise:

## 1 Codification

A clearer test for assessing the human rights compatibility of national legislation on the part of the Strasbourg Court, such as one that looked at the existence of less human-rights-restrictive means for achieving a particular policy outcome, would reduce some of the uncertainty surrounding the margin of appreciation. However, while this would have short-term benefits for government in that it would limit the potential for judicial activism, it would also substantially reduce the level of protection of human rights and the ability of the Strasbourg Court to interpret the Convention dynamically. Alternative means, such as the recent introduction of Protocol 15 to the Convention, are preferable. This protocol codifies the margin of appreciation itself, by referencing the principle of subsidiarity. While not providing a specific formula, it gives the margin of appreciation a presence in the text of the Convention and therefore renders it a formal part of the adjudication process. Most countries, including the UK, have now signed this protocol (but ratification is still pending).

## 2 Judicial dialogue

A longer-term solution to address the UK's relationship with the ECHR would depend on greater dialogue between the UK and Strasbourg courts. This could comprise educating national judges about how the Convention system functions<sup>29</sup>, or through other means aiming at enhancing comity across the national and international levels, and achieving a more integrated approach towards the interpretation of human rights within the European legal space.<sup>30</sup> The seeds for this have already been sown in the negotiation of Protocol 16, which, upon ratification, will allow national courts to refer questions to Strasbourg without a direct application being lodged. The ECtHR will respond through a merely advisory opinion and final judgment will remain with the national court. Thus, despite in principle extending the jurisdiction of the ECtHR, the protocol in fact addresses the concerns of both the courts and the government particularly well. The UK, however, has neither signed nor ratified it to date.<sup>32</sup>

## c Delays and other operational questions

Delays and other operational questions in the rendering of judgments at the ECtHR level continue to be further key concerns. This is a concrete issue, and one that can be (and is being) resolved more promptly than the ones discussed earlier. The ECtHR suffers from a substantial backlog, which results in important delays in its judgments. The Court endeavours to deal with all cases within three years.<sup>33</sup> This is already a long time, even if arguably necessary in view of the delicate nature and complexity of the cases it handles.<sup>34</sup> However, receiving

over 50,000 applications every year<sup>35</sup>, the ECtHR often does not meet this target. For example, a note prepared by the Court's Registry indicated that, while the average waiting time in 2011 was just over three years<sup>36</sup>, cases lodged over three years earlier still amounted to more than 30% of the backlog for many countries with a large number of pending cases, including the UK<sup>37</sup>. In order to tackle this problem, the ECtHR has now changed its rules concerning admissibility, and this has already shown results, with the backlog dropping from 160,000 cases in 2011, when the reforms came into effect, to 99,900 cases in November 2014<sup>38</sup>. It is to be hoped that this will continue in the future.

Protocol 15 addresses a further operational question, which concerns the Court's functioning and composition. By abolishing the compulsory retirement age of 70 years for ECtHR judges, but at the same time restricting the appointment age to 65 years at most<sup>39</sup>, it addresses concerns regarding competence. It also ensures continuity within the Court, as all judges can now complete, but for unforeseen circumstances, their 9-year mandate.

## Conclusion

This note has provided an overview of the main debates on the relationship between the UK and the ECHR, and has discussed a series of reform proposals. By way of conclusion, it is also important to note that the current framework may not be as deficient as currently portrayed in the UK debate. Reform is no doubt necessary, but in an international setting with 47 Member States, disagreements are bound to exist. Similarly, the extent to which the Strasbourg Court's judgments actually 'dictate' UK public policy must not be exaggerated. Only approximately 2-3% of Strasbourg cases originating in the UK actually result in a judgment, while most are struck out as inadmissible.<sup>40</sup>

Last but not least, the relationship between democratic and accountable politics and human rights is one of interdependence: human rights institutionalize the conditions under which populations can reasonably engage in political deliberation, within an inclusive public sphere that nurtures respect for others.<sup>41</sup> At the most basic level, this requires that rights be administered by an independent authority, the courts. This does not just mean international courts: national courts play a crucial role in this exercise. As the Strasbourg Court's President, Dean Spielmann, has recently noted, subsidiarity could indeed be considered the "next step" in the protection of human rights.<sup>42</sup> The idea of subsidiarity presupposes the existence of a broad framework of rights protection, such as the Convention, but also recognises that the pressing human needs that its provisions accommodate can – and should – be tackled at the closest possible level to individual claimants.

29 D Spielmann, 'Whither the Margin of Appreciation?', UCL Current Legal Problems lecture, 20 March 2014, available at: [http://www.echr.coe.int/Documents/Speech\\_20140320\\_London\\_ENG.pdf](http://www.echr.coe.int/Documents/Speech_20140320_London_ENG.pdf), [accessed 09.03.2014], 12-13.

30 V Maniouralou, 'Labour Rights in the European Convention on Human Rights' (2013) 13 Human Rights Law Review 529, particularly 538-9; P Eeckhout, 'Human Rights and the Autonomy of EU Law: Pluralism or Integration?' (2013) Current Legal Problems 1, 31-32.

32 J Rozenberg, 'Protocol 15 gives Tories what they want on European court of human rights - so why leave?', The Guardian, 3 June 2013, available at: <http://www.theguardian.com/law/2013/jun/03/european-human-rights-protocol-15>, [accessed 09.03.2014].

33 European Court of Human Rights, 'The ECHR in 50 Questions', February 2013, p 8, available at: <http://www.echr.coe.int/>

Documents/50Questions\_ENG.pdf, [accessed 18.03.2014].

34 See further on this issue: UCL Policy Briefing, 'Human Rights and British Values: The Role of the European Convention on Human Rights in the UK Today', December 2014, available at: [http://www.ucl.ac.uk/european-institute/analysis-publications/britain-europe/ECHR\\_briefing\\_FINAL.pdf](http://www.ucl.ac.uk/european-institute/analysis-publications/britain-europe/ECHR_briefing_FINAL.pdf), [accessed 18.03.2014].

35 The ECHR in 50 questions (n 27), p 8.

36 Registry of the European Court of Human Rights, 'Information on Cases Pending before the ECHR' (2011) DH\_GDR(2012)005, p 3, available at: [http://www.coe.int/t/dghl/standards/cdhr/reformehr/DH\\_GDR/DH\\_GDR%282012%29005%20Information%20on%20Cases%20Pending%20before%20the%20ECHR\\_EN.pdf](http://www.coe.int/t/dghl/standards/cdhr/reformehr/DH_GDR/DH_GDR%282012%29005%20Information%20on%20Cases%20Pending%20before%20the%20ECHR_EN.pdf), [accessed 18.03.2014].

37 Ibid, p 12.

38 O Bowcott, 'Backlog at European court of human rights falls below 100,000 cases', The Guardian, 30 January 2014, available at: <http://www.theguardian.com/law/2014/jan/30/european-court-human-rights-case-backlog-falls>, [accessed 09.03.2014].

39 Protocol 15, Article 2.

40 N Bratza, 'The Relationship Between the UK Courts and Strasbourg' (2011) 5 European Human Rights Law Review 505, 505.

41 See J Habermas, 'Remarks on Legitimation through Human Rights' in J Habermas, The Postnational Constellation (Max Pensky tr, Polity 2001) 113, 117.

42 A Diggins, 'Word from Strasbourg: An Interview with Dean Spielmann, President of the European Court of Human Rights' (Summer 2015) *Silk v Brief* 6, available at [http://issuu.com/silkvbrief/docs/summer\\_2015\\_sb\\_final\\_mc/?e=13146637/12002428](http://issuu.com/silkvbrief/docs/summer_2015_sb_final_mc/?e=13146637/12002428).

## Resource Area

For a collection of key documents and analysis on Britain and the Convention on Human Rights, including legislation, reports, case law, political speeches, news articles and comments, and academic books, see the Resource Area on our UCL European Institute and Britain and Europe websites.

<https://www.ucl.ac.uk/european-institute/projects/britain-europe/resourcearea/resource-area-subpages/bibliographies-resources/echr>

<http://britain-europe.com/resource-area/bibliographies-and-resources/>

### BACKGROUND

This EINote has been produced as part of a 2-year series on [Britain & Europe](#) hosted by the UCL European Institute and co-funded by the EU's Erasmus+ Programme. For further background on the topic of the briefing, see our [Online Resource Area](#). Further comments and resources are available on our blog [britain-europe.com](http://britain-europe.com).

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