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Agreement

between the Government of the
of Great Britain and Northern Ire
the Government of Ireland

The Belfast/ Good Friday Agreement 1998 & European Convention on Human Rights: Explainer

September 2025

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entered into force on 2 Dec

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CAJ, 1st Floor Community House, Citylink Business Park, 6A Albert Street, Belfast, BT12 4HQ. www.caj.org.uk

Authors

Colin Murray, Professor of Law and Democracy (Newcastle University)

Colin Murray is Professor of Law and Democracy at Newcastle University. He teaches Constitutional Law and Counter-Terrorism law at Newcastle Law School. His research spans challenges to a democratic constitutional order, taking in prisoner disenfranchisement and the right to vote, the UK's treatment of the Chagos Islanders, the human rights implications of special counter-terrorism powers and the implications of Brexit for Northern Ireland. He has appeared as an expert witness before multiple parliamentary committees and served as a Specialist Adviser to the Select Committee on the Draft Prisoner Voting Bill in 2013. Colin serves on the Board of Mediation NI and the Committee for the Administration of Justice.

Aoife O'Donoghue, Professor (Queen's University Belfast)

Aoife O'Donoghue is Professor of Law at Queen's University, Belfast. She has extensive knowledge of the particular international legal and Irish constitutional issues that arise from Brexit. She has published directly on these questions bringing together the international legal obligations of the Good Friday Agreement, the impact on human rights provision in Northern Ireland and Ireland and the constitutional ramifications of these changes. She has given policy advice to several political parties and to NGOs on these topics.

Anurag Deb and **George Peretz KC** were instrumental in bringing this Explainer together and providing advice and editorial input on the draft.

Foreword

Peter Hain

Secretary of State for Northern Ireland 2005-2007 | Labour Peer

Seeking to renege on Britain's endorsement of an International Treaty like the ECHR would send a terrible signal to the rest of the world about our commitment to both human rights and our Treaty obligations as a founding signatory.

Alternatively, those advocating amending the ECHR need to explain both how they would get the necessary agreement of other signatory countries and, in any case, where that would leave our peace-keeping obligations under the 1998 Good Friday Agreement. As this pamphlet bluntly and compellingly argues: *'For as long as Northern Ireland is part of the UK, this is not possible without the UK remaining party to the ECHR.'*

It is one thing to propose reforms to international agreements to help address the serious and politically destabilising consequences of massive migration in European nations. But ending decades of bombing, shooting and rioting in Northern Ireland during The Troubles was not easily achieved, and it could be easily reversed without the utmost care over meddling with the ECHR.



Claire Hanna

Leader of Social Democratic and Labour Party (SDLP) | MP for Belfast South & Mid Down

For more than 25 years, the Good Friday Agreement has been the foundation of peace and power-sharing in Northern Ireland. It is an agreement built on consent, on mutual respect, and on the principle that rights and equality must be guaranteed for everyone here.

The European Convention on Human Rights underpins this Agreement. The focus on rights commitments was not an afterthought, nor an optional extra, the commitment was enshrined in an international treaty between the British and Irish Governments, endorsed overwhelmingly by the people of this island in a referendum.

Recent attempts to diminish or dismiss the binding role of the ECHR within the Good Friday Agreement are legally flawed and politically reckless. The Good Friday Agreement belongs to the people of this island and is not for any party or politician to unilaterally tear up for their own political gain. It remains, as set out in the agreement, for the people of this island to decide on its constitutional future.

Arguments for ECHR withdrawal are baseless and empty. This explainer is important reading for anyone who cares about protecting our peace and preserving the integrity of an agreement that remains a mandate for reconciliation and progress.

The SDLP is clear that the rights commitments in the Good Friday Agreement are non-negotiable and cannot be rolled back or diluted. They must be defended with the same determination that secured peace in 1998.



Introduction

The idea that the UK leaving the European Convention on Human Rights (ECHR) does not have implications for the UK's commitments under the 1998 Belfast/Good Friday Agreement (B/GFA) has gained considerable media attention. This marks an acceleration of a campaign to chip away at the connections between the UK and the ECHR, to prepare the groundwork for withdrawal.

In July 2025, the former Home Secretary Suella Braverman issued a report for the Prosperity Institute which suggested 'rewriting' the B/GFA to enable the UK to withdraw. A month later, Policy Exchange went further, releasing a report, authored by Dr Conor Casey, Prof Richard Ekins and Sir Stephen Laws, which claimed that the UK can withdraw from the ECHR without undercutting and/or breaching the B/GFA. These reports inaccurately suggest that there is a weight of legal opinion behind them.

These claims are not credible. This Explainer document unpacks the relevant texts, outlines the law in the area, and clearly rebuts the claims made in these reports.

The B/GFA's Rights Commitments

Claim: "Having regard to the text, structure, and context of the Multi-Party Agreement and its references to the ECHR, it is abundantly clear that it would not be a breach of the Agreement for the UK to leave the ECHR. The Belfast Agreement does not require ongoing ECHR membership by the UK (or Ireland) or give the parties or Ireland a veto on UK withdrawal." (*Policy Exchange*, p40)

The B/GFA is the treaty that concluded the multi-party talks that brought the conflict in Northern Ireland to a close. The B/GFA was signed and ratified as a treaty by both the UK and Irish Governments. The multi-party agreement was signed by all the parties to the final negotiations. A referendum was held on 22 May 1998 on the Agreement in Northern Ireland, and 71.1% of the population of Northern Ireland voted in favour of the Agreement. With the consent and involvement of both Governments, the Agreement was put into effect.

The ECHR is embedded within the B/GFA. As the foundation of a post-conflict society in Northern Ireland, a full section of the multi-party element of the Agreement is devoted to rights protections. The UK's headline commitment within this section is:

"The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency."

This is an express legislative commitment by the UK, building on the UK's existing status as a party to the ECHR. Under Article 2 of the British-Irish Agreement it is a "provision" to be implemented and maintained on an ongoing basis.

This is not the only mention of the ECHR within the multi-party agreement. There are multiple references, illustrating the significance of the ECHR to the B/GFA and over the course of the Agreement they build into a more complete picture of the commitment the UK was making. Within Strand 1 of the Multi-Party Agreement:

"There will be safeguards to ensure that all sections of the community can participate and work together successfully in the operation of these institutions and that all sections of the community are protected, including: [...]"

"(b) the European Convention on Human Rights (ECHR) and any Bill of Rights for Northern Ireland supplementing it, which neither the Assembly nor public bodies can infringe, together with a Human Rights Commission;"

(c) arrangements to provide that key decisions and legislation are proofed to ensure that they do not infringe the ECHR and any Bill of Rights for Northern Ireland;"

Also within Strand 1:

"The Assembly will have authority to pass primary legislation for Northern Ireland in devolved areas, subject to: (a) the ECHR ... which, if the courts found to be breached, would render the relevant legislation null and void"

The Strand 1 statements do not narrow the commitments; they elaborate upon it in the context of the devolved institutions. Indeed, in referring to public bodies generally, they apply to a range of UK-level bodies with functions applicable to Northern Ireland jurisdictions, not just those subject to the devolved institutions.

These provisions underline that it is the ECHR which the UK is committing to make operative in Northern Ireland as a jurisdiction, not an alternative set of rights commitments that are removed from the ECHR's judicial structures.

UK Government statements during the implementation of the 1998 Agreement illustrate how the ECHR was presented as a baseline commitment to be built upon:

"The agreement also includes a range of measures to enhance the proper protection of basic human rights. It will include a new independent human rights commission in Northern Ireland, which is there to consult and advise on the scope for defining rights supplementary to those in the European convention on human rights, which the Government are in the process of incorporating into United Kingdom law."

Decades later ministers continued to insist that, when rights are at issue, the UK Government "will fully engage with the devolved Administrations and the Republic of Ireland in view of the relevant provisions of the ... Good Friday ... Agreement". This was in the context of proposals under David Cameron's Government not to leave the ECHR, but to take the far more limited step of repealing and replacing the Human Rights Act 1998. It is at variance with the settled position of successive UK Governments to suggest that the those "relevant provisions" now have no bearing on UK policy.

Treaties and their interpretation

Claim: "[B]oth Agreements are standardly referred to together as the Belfast Agreement. But strictly speaking it is the British-Irish Agreement that is a treaty between two sovereign states and is binding in international law. The Multi-Party Agreement is a political agreement that is intended to form the basis for an ongoing peace process and may be expected to develop over time." (*Policy Exchange, p16*)

Both the B/GFA and the ECHR are treaties. Notably, under ECHR Article 1, the UK is under an obligation to secure the Convention rights of "everyone within their jurisdiction". Moreover, the ECHR requires the compulsory jurisdiction of the European Court of Human Rights, a body which provides authoritative interpretation and enforcement of ECHR obligations. Both agreements were properly signed, ratified and registered with the United Nations. The definition of a treaty, its interpretation, enforcement and how it is terminated are contained in the Vienna Convention on the Law of Treaties 1969 (VCLT). All treaties are bound by good faith obligations, including in interpretation and enforcement (Art 26, VCLT). Under Article 31.1 VCLT, interpretation must be undertaken in good faith, in line with the ordinary meaning of the text and considering its object and purpose. Article 31.2 VCLT states that a treaty's texts, preamble and annexes, alongside related agreements, interpretations and practices between or agreed to by the parties informs interpretation.

Treaties can be terminated under articles 54-61 VCLT based on their own provisions or by parties' consent. One side can withdraw, but unless specific rules are set out in a treaty, a 12-month notice period is required. A material breach may also end a treaty, but the right of withdrawal is only available to the state that maintains its obligations. A supervening impossibility may also occur (Art 61) or a fundamental change in

circumstances (Art 62) but the standard for both is extremely high. The collapse of communism was not recognised as meeting them (Gabcíkovo-Nagymaros Project Case (Hungary/Slovakia), 116 ILR 1; ICJ Rep. 1997, para. 104).

The form that the 1998 Agreement takes, a short inter-state treaty combined with a long annex setting out the details is common in international law. Annexes of this kind are as binding on parties as the rest of the text (Article 31.2 VCLT). The inter-state element of the 1998 Treaty also states (Article 2) that both Governments will implement the obligations set out in the Annexes, which includes all the references to the ECHR and in particular the UK's obligation to incorporate the ECHR into Northern Ireland law. Both international law and the treaty text treats the Annexes as binding.

Parliamentary sovereignty means that UK Parliament's statutes are the highest form of law within UK's jurisdictions. But this does not alter the UK's international legal commitments, including commitments to how the UK's domestic legal order functions and the laws it must pass to remain in compliance.

The UK-EU Post-Brexit Treaties

Claim: "[T]here would be no basis for the courts to rely on Article 2 Windsor Framework to disapply legislation that sought to (i) authorise the government to denounce the ECHR, or (ii) to repeal the whole or any part of the HRA 1998" (*Policy Exchange*, p47-48)

The UK's withdrawal from the EU did not bring an end to its ECHR commitments. The Withdrawal Agreement recognises the significance of the B/GFA's rights commitments and the extent to which the ECHR marked only part of the UK's obligations. Under Article 2(1) of the Windsor Framework:

"The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms."

This acknowledges that the B/GFA prevents any diminution of rights protections in Northern Ireland, here, because of Brexit. Diminution is distinct from regression, as it allows for no circumstances in which the obligations could be lessened. Article 2 recognises that EU rights and equality protections complement the UK's ECHR commitments, and that diminution would imperil its B/GFA commitments. The Policy Exchange paper treats this only as authority for the proposition that because the ECHR is not EU law and that UK withdrawal could not be successfully challenged under Article 2.

Article 2(1) of the Windsor Framework should be read as informing our understanding of what the UK accepts as its B/GFA commitments. EU law is not explicitly referenced in the B/GFA's text but in negotiating Article 2(1) the UK agreed that "non-diminution" is necessary due to its B/GFA commitments and their connections to EU law human rights obligations. Article 2(1) shows the interrelationships between the UK's binding human rights obligations under the B/GFA.

Article 2 amounts to "a clear and unconditional obligation of result" (In re Dillon [2024] NICA 59, [85] (Keegan LCJ)). This means that the UK has to secure the outcome of non-diminution of EU rights protections following Brexit. As such, if withdrawal from the ECHR could not itself be challenged by this mechanism, any subsequent legal development which diminished rights and equality protections derived from EU law (which often overlap with ECHR rights) could be.

Claim: “Article 692 [of the UK-EU Trade and Cooperation Agreement] implies that neither the UK nor the EU (including Ireland) consider UK withdrawal from the ECHR to constitute a breach of the Belfast Agreement” (*Policy Exchange*, p52)

This claim makes connections between two treaties which have no direct relationship. The significance of the UK’s ECHR commitments is buttressed, not diminished by the UK-EU Trade and Cooperation Agreement (TCA). It recognises, under Article 524(1), that policing and justice cooperation after Brexit depends upon ECHR membership:

“The cooperation provided for in this Part is based on the Parties’ and Member States’ long standing respect for democracy, the rule of law and the protection of fundamental rights and freedoms of individuals, including as set out in the Universal Declaration of Human Rights and in the European Convention on Human Rights, and on the importance of giving effect to the rights and freedoms in that Convention domestically.”

The Policy Exchange paper treats this TCA provision as a confirmation “that neither the UK nor the EU (including Ireland) take ECHR withdrawal to be incompatible with the Belfast Agreement and peace in Northern Ireland” (p14).

The TCA commitment does not acknowledge the B/GFA’s constraints on UK withdrawal from the ECHR. But doing so would be highly unusual. Unlike the Withdrawal Agreement, the TCA’s object and purpose does not include protecting the B/GFA. Article 692 enables the EU to use the UK’s ECHR withdrawal as a basis to terminate this part of the Agreement. What these provisions recognise, separate to the UK’s B/GFA obligations, and additional to their breach, is that the UK’s withdrawal from the ECHR would have serious consequences for the EU-UK post-Brexit policing and criminal justice cooperation arrangements.

Unpicking the B/GFA Commitments?

Claim: “Perhaps the most important, and frequently invoked, objection that is raised to the prospect of ECHR withdrawal is the claim that it would place the UK in breach of the 1998 Belfast Multi-Party Agreement and British Irish Agreement ... and would thus put the Northern Ireland peace process in jeopardy. This claim has been made by a host of parliamentarians and commentators, but not by the Irish Government..” (*Policy Exchange*, p12)

The Policy Exchange Report asserts that the notion of an ECHR commitment under the B/GFA amounts to an inaccurate claim, one “not by the Irish Government”. This makes it sound as if such arguments were only wishful thinking.

The Irish Government responded to the report stating that the UK leaving the ECHR would strike at the B/GFA foundations. This is not a new observation, but an example of consistent interpretation Ireland’s account of the UK’s commitment. As a minister informed the Dáil in 2001 “[i]n the area of Human Rights, the British Government undertook to complete incorporation of the European Convention on Human Rights. This was achieved through the Human Rights Act, 1998.” This is significant as under the VCLT the contracting parties’ statements as to obligations informs interpretation and the Irish Government’s interpretation matches statements made by the UK Government at the time of its implementation.

We specifically examine some claims made to support the proposition that the UK would not be in breach of its B/GFA obligations if it withdrew from the ECHR. Under the B/GFA’s terms, these suggestions are untenable.

1. Denying binding status to commitments in the Multi-Party Agreement

Claim: “The Multi-Party Agreement, which the UK has agreed to support, does refer to the ECHR, but these references all concern the domestic law of Northern Ireland and the need to provide assurances to the different parties that they will be secure from the abuse of devolved power.” (*Policy Exchange*, p13)

The short British-Irish Agreement does not mention the ECHR, but this is irrelevant as the treaty includes its annexes and these must be read together. Further, the state parties ‘affirm their solemn commitment to support, and where appropriate implement, the provisions of the Multi-Party Agreement’. This includes that the UK “will complete incorporation into Northern Ireland law of the European Convention on Human Rights” and this can be assessed in terms of the substance of the rights protections within Northern Ireland as a jurisdiction.

The commitment to secure the ECHR rights, including incorporating these into domestic law, is the baseline provided for by the B/GFA. The Policy Exchange paper’s claims therefore stand or fall on whether it is acceptable under the B/GFA for an alternative arrangement to be substituted for the UK’s adherence to the ECHR.

2. Proposing Reformulated Rights restricted to Northern Ireland

Claim: “It is certainly open to the UK to denounce the Convention pursuant to Article 58 of the ECHR while maintaining for Northern Ireland the substance of the statutory restrictions imposed on the devolved institutions by the Northern Ireland Act 1998 and the Human Rights Act 1998, so far as they are necessary to meet the UK’s obligations under the British Irish Agreement.” (*Policy Exchange*, p40)

The 1998 Agreement commitment does not allow the UK Government to formulate its own version of “ECHR-equivalent” rights protections. Rather it requires that rights protections of the ECHR specifically operate in Northern Ireland law. At the margins, this might allow for a reworking, but not the diminution, of the terms of the Human Rights Act 1998. But, at a minimum, the B/GFA requires the same level of ECHR commitment by the UK, including incorporation into Northern Ireland as a jurisdiction, as currently exists.

The B/GFA commitment, moreover, applies to devolved bodies and to the activities of the UK Government and public bodies generally under Northern Ireland law. The plain language of the commitment, as set out in full at page 1 above, provides for “direct access to the courts ... including power for the courts to overrule Assembly legislation on grounds of inconsistency”. The commitment does not restrict to the operation of the devolved institutions. In “including” them, it plainly extends beyond them into the general activity of public bodies within Northern Ireland law. Northern Ireland law is made by the UK Parliament as well as by the Northern Ireland Assembly and is administered and enforced by UK public bodies as well as by devolved bodies. There is simply no textual basis for the Policy Exchange paper’s assertion that that obligation is limited only to Northern Ireland law as created and administered by devolved bodies.

Moreover, it is implausible that such a limitation could have been intended: prior to the agreement of the B/GFA Northern Ireland had been subject to direct rule for most of the period of the conflict and the object and purpose of the B/GFA human rights commitments were thus aimed at all levels of the UK as a state. In addition, as some aspects of Northern Ireland law are “excepted matters”, the UK Government must also be bound to fulfil its obligations within the jurisdiction in those areas for which it retains responsibility. It is not sufficient to meet the B/GFA obligation to reformulate a narrow version of the current rights as applicable to devolved administration in Northern Ireland; this would necessarily diminish rights protections and oversight safeguards through the role of the European Court of Human Rights.

3. Muddying the Waters

Claim: “At a minimum any limitation on the UK’s express right to withdraw under the ECHR ... would have had to have been provided for in clear, express and unambiguous terms in the British-Irish Agreement.” (*Policy Exchange*, p30)

The Policy Exchange report relies on the vague drafting of some of the 1998 Agreement’s terms to assert that the rights commitments are equally unclear. Some elements of this peace agreement were couched in ambiguous language. But the commitments on the ECHR are not. Ordinary meaning in good faith is the first rule of treaty interpretation and the commitments to the ECHR are evident on the plain text of the Agreement. The object and purpose of the treaty, moreover, was to enshrine the ECHR and the drafters’ position was that a baseline for rights protection in Northern Ireland grounded in the ECHR was necessary.

Given the long history of concerns, particularly within the nationalist community, over human rights violations in Northern Ireland by the UK authorities, and the nationalist community’s lack of confidence in UK institutions, an interpretation of the B/GFA that allows the UK to replace the protections offered by incorporation of the ECHR into Northern Ireland law with a set of rights which UK institutions unilaterally assert to be equivalent to the ECHR is simply not plausible and would not meet the good faith requirements which underpin the implementation of international commitments.

A New Agreement?

Claim: “the 1998 framework can be amended, and ... doing so is consistent with the broader peace process and democratic consent” (*Prosperity Institute, p26*)

Side-stepping commitments or altering the B/GFA without a new international agreement between the UK and Ireland, is not possible. In marked contrast to the Policy Exchange Report, The Prosperity Institute Report acknowledges that the UK should seek to renegotiate its B/GFA rights commitments with Ireland. While this does not directly deny the UK’s commitments, it is highly unlikely to achieve its stated policy goals when Ireland has reaffirmed the importance it places in this commitment. Moreover, the Prosperity Institute Report suggests that if agreement from Ireland is not forthcoming, “Ireland would ... be required ... to recognise the U.K.’s sovereign choice and the adequacy of its rights regime” (p33). It is not clear how Ireland - a sovereign state party to the B/GFA commitments at issue - would be “required” to do any such thing.

When the advocates of ECHR withdrawal discuss the challenge posed by the B/GFA commitments their language sometimes slips to discussing whether withdrawal would threaten peace in Northern Ireland. This is a sleight of hand, downplaying the B/GFA’s plain text by suggesting either that the human rights elements of the 1998 Agreement are not sufficiently important to undermine the peace process or that the peace process is sufficiently developed that the UK can resile from its commitments without consequence. Neither suggestion can be sustained.

It was only when repeated cases about the conduct of security policy were heard by the European Court of Human Rights in Strasbourg that the human rights consequences of security policy were addressed in detail, with the UK losing a series of high-profile cases during the Northern Ireland conflict. Some form of domestic rights protections cannot, therefore, simply be inserted to make up for withdrawal from the ECHR. For the UK to resile from these commitments would upend decades of policy on Northern Ireland. The Irish Government meanwhile, has categorically rejected the idea of ECHR withdrawal as being compliant with the B/GFA.

Expecting Ireland, and the people of Northern Ireland, to accept and rely on human rights protections which are not grounded in international standards and subject to international oversight is unrealistic. After the conduct of the Northern Ireland conflict there is no evidence to suggest that there is general acceptance in Northern Ireland of the robustness of promises by the UK authorities to uphold fundamental human rights, if these protections are not supported by international oversight.

Conclusion

The B/GFA sought to end a protracted and destructive conflict. To do so, it held out the promise of a new Northern Ireland, which would be based on ‘the mutual respect, the civil rights and the religious liberties of everyone in the community’. Withdrawal from the ECHR would inevitably diminish rights protections and have a profoundly destabilising impact on Northern Ireland’s current constitutional arrangements. It would not only be a breach of the UK’s international commitments under the B/GFA, but it would also be an act of gross irresponsibility.

It is true that the B/GFA does not include an explicit statement that the UK cannot withdraw from the ECHR without breaching the B/GFA. But expecting to see such text within a peace agreement, the drafters of which had to be consistently alive to the sensitivities of multiple parties, would amount to a bad faith imposition. The B/GFA is unambiguous in terms of the ends that it requires. The UK must provide for the full operation of the ECHR within Northern Ireland law. For as long as Northern Ireland is part of the UK, this is not possible without the UK remaining party to the ECHR.

This explainer sets out why the European Convention on Human Rights (ECHR) is inseparable from the 1998 Belfast/Good Friday Agreement (B/GFA). Contrary to recent claims, the UK cannot withdraw from the ECHR without undermining its international commitments under the Agreement. The report traces the ECHR's central role in the B/GFA's rights protections, examines how treaty law secures these obligations, and shows why alternative "equivalent" arrangements cannot meet the Agreement's requirements. It also highlights how post-Brexit treaties, including the Windsor Framework, reinforce the UK's duty to maintain rights protections in Northern Ireland. The conclusion is clear: withdrawal from the ECHR would breach the B/GFA, destabilise Northern Ireland's constitutional settlement, and jeopardise hard-won peace.