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The European Convention on Human Rights and Immigration Control in the UK: Informing the Public Debate

Victoria Adelmant, Alice Donald and Başak Çalı

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Bonavero Institute of Human Rights

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Executive **Summary**

Debate about the role of the European Convention on Human Rights (ECHR) in the context of immigration has intensified in the UK in recent months. This report identifies and addresses misconceptions widely reported in the media concerning the application of the ECHR to immigration control.

The report is based on a systematic review of media coverage about the ECHR between January and June 2025, wherein it was found that over 75% of the 379 media reports reviewed which mentioned the ECHR focused on the application of the Convention in immigration control, and in particular on the issue of human rights-based appeals against deportation by foreign national offenders.

When subjected to rigorous analysis, fact-checking, and scrutiny of claims made about legal frameworks and cases, the review found that many news reports and opinion pieces about immigration and the ECHR were based on misconceptions, often mischaracterising UK immigration law, the UK's appeals system, and the role played by the ECHR and the European Court of Human Rights in this context.

The report finds that:

- Some reporting and political commentary on deportation cases has been misleading. For instance, there was widespread reporting that Article 8 ECHR, the right to respect for private and family life, prevented the deportation of a foreign national offender because his son disliked foreign chicken nuggets. These reports rarely clarified (i) that this was not the reason for the initial decision stopping deportation, and (ii) that the decision had been overturned (and therefore reversed) at the time of reporting.

- Reporting indicates a general misunderstanding of the role of the ECHR in relation to immigration policy. The ECHR does not give anyone a right to live in a country of which they are not a national, and does not provide a right to asylum or to become a citizen.

- Under the ECHR, deportations can generally only be stopped under two grounds: where an individual faces a serious risk of torture or inhuman treatment (Article 3 ECHR) or death (Article 2 ECHR) if deported; or it would be "unduly harsh" for their families (Article 8 ECHR), and where these consequences outweigh the public interest. When making decisions in human rights-based appeals against deportation of foreign national offenders, judges rely on a detailed statutory code set out by Parliament which restricts the application of the ECHR to such narrow circumstances.

- Focus on, and so public awareness of, a relatively small number of deportation cases obfuscates how exceptional successful claims based on the ECHR are in practice. According

to the latest available Home Office statistics running to June 2021, the number of foreign national offenders who successfully appealed against deportation on human rights grounds alone is very small compared to the number of foreign national offenders overall: around 0.73%. The number of human rights-based appeals allowed is also small as a proportion of the number of foreign national offenders who are deported from the UK each year: around 3.5%. Taking successful appeals based solely on the right to private and family life, the proportion is around 2.5%.

- The report finds that an exacerbating issue is the lack of publicly available data on the numbers of foreign national offenders, or other classes of individuals subject to deportation orders, that have made successful ECHR claims. The Home Office does not currently publish regular data on the number or outcome of appeals against deportation of foreign national offenders on human rights grounds. Such publication in future would significantly support evidence-driven policy development and public confidence in the immigration system.

- There is also a mistaken perception about UK cases before the European Court of Human Rights. Judgments against the UK are rare. Since 1980, the Court has found that a UK government decision to extradite or deport someone would violate the Convention 13 times. Four of these 13 cases concerned the right to family life. In respect of the UK's immigration rules generally, the Court has ruled against the UK only three times in the past 45 years, in cases related to discrimination.

- Misreporting and inaccurate or incomplete information in public discourse undermines public confidence in the legal system and legal processes, and can lead to an erosion of trust in the rule of law. Far-reaching changes, up to and including UK withdrawal from the ECHR, are presently being proposed by some commentators and politicians based upon a misconceived representation of human rights law and its application in specific cases. While commentators may hold different views on matters of human rights and immigration, it is vital that public debate is based upon accurate data and a sound understanding of legal frameworks and cases.

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Introduction

Criticism of the role of the European Convention on Human Rights (ECHR) in the context of immigration has been intensifying in recent months. The first half of 2025 has seen an outpouring of news stories in the UK media, focusing in particular on immigration tribunal cases in which foreign national offenders have invoked human rights grounds to appeal against their deportation,[1] as well as a proliferation of op-eds and commentary arguing that the UK should leave the ECHR because it hinders immigration control.[2] Conservative Party leader Kemi Badenoch and Shadow Home Secretary Chris Philp have suggested that immigration judges "are inventing new and comically ludicrous interpretations of vague [Convention] articles in order to allow foreign criminals and illegal immigrants to stay in the country,"[3] and as the Border Security, Asylum and Immigration Bill passed through Parliament in early 2025, the Conservative Party sought to introduce an amendment disapplying the Human Rights Act in immigration cases.[4] Government ministers have also criticised decisions concerning foreign national offenders contesting deportation on human rights grounds,[5] and the Prime Minister, Home Secretary, and Justice Secretary have suggested that the ECHR is being interpreted too broadly in the immigration context.[6]

From 1 January to 30 June 2025, we systematically monitored media reports in the UK that mentioned the ECHR, finding that over 75% of news and commentary that we reviewed focused on its relationship with immigration control, in particular the issue of human rights-based appeals against deportation by foreign national offenders. The review included monitoring of the websites of: BBC News, The Daily Mail, The Daily Express, The Financial Times, GB News, The Guardian, The Independent, ITV News, LBC, The Mirror, Politico UK, Reuters, The Spectator, Sky News, The Sun, The Telegraph, and The Times. Searches for keywords were undertaken on these websites, and we also relied on Feedly and several Google Alerts monitoring mentions of the ECHR. Our review

1 Note that the term "deportation" refers to the legal process by which the Home Office removes a foreign individual convicted of a criminal offence. The Home Office can also effect "removals" of any foreign national who does not have the right to remain in the UK, including any person whose leave to remain has expired or anyone whose asylum application has been refused.

2 See Sebastian Payne, 'Leaving the ECHR can become Badenoch's big cause' *The Times*, 15 May 2025; 'THE SUN SAYS Labour must fix broken ECHR law or expect major backlash at the next election' *The Sun*, 18 April 2025; Matt Goodwin, 'I'm utterly frustrated and fed up about the state of our country its time to leave the ECHR, says Matt Goodwin' *GB News*, 14 February 2025. See also the media reporting on tribunal cases listed in footnotes 6, 7, 8 and 9.

3 Quoted in Charles Hymas, Sam Ashworth-Hayes and Tim Sigsworth, 'Failed asylum seeker can stay in UK – because she joined terror group' *The Telegraph,* 12 February 2025.

4 Francesca Gillett and Iain Watson, 'Tories say rights act should not apply to deportations' *BBC News*, 9 March 2025.

5 See David Lynch, 'Government reviewing use of human rights law to halt deportations – Cooper' *The Independent,* 30 March 2025; Annabelle Dickson and Dan Bloom, 'Britain's lawmakers are obsessing about European courts … again' *Politico*, 10 April 2025.

6 Rajeev Syal, 'Judge who granted Palestinian family right to live in UK made wrong call, says Keir Starmer' *The Guardian*, 13 February 2025; Dickson and Bloom (ibid); Kiran Stacey, 'Yvette Cooper reviews right to family life for people who enter UK irregularly' *The Guardian,* 30 March 2025; Jessica Elgot, 'Shabana Mahmood says UK will seek reform of human rights convention' *The Guardian,* 18 June 2025.

did not include monitoring of social media or live broadcasting and therefore we were unable to capture the extent to which the sources we monitored were disseminated or discussed more broadly. We recorded instances of reporting and commentary that mentioned the ECHR and the European Court of Human Rights (ECtHR) in a database, compiling 379 items of news stories and commentary. We qualitatively analysed these reports and the claims made about the role of the ECHR or the ECtHR. Where reporting focused on specific immigration tribunal cases, we analysed these cases.

We found that, when subjected to rigorous analysis, fact-checking, and scrutiny of claims made about legal frameworks and cases, many news reports and opinion pieces about immigration and the ECHR or the ECtHR were misleading and based on misconceptions, often mischaracterising UK immigration law, the UK's appeals system, and the role played by the ECHR and ECtHR.

In section 1 of this report, we typologise and provide examples of the most common types of misreporting. Section 2 provides an overview of the UK's system of immigration appeals, situating human rights and the ECHR within this system. It explains how UK courts apply the ECHR in decisions about the deportation of foreign national offenders and provides such analysis of the numbers of successful human rights-based appeals against deportation as is possible on the basis of the limited Home Office data available. Section 3 explains the relationship between the UK and the ECtHR in respect of decisions to deport or extradite a person from the UK, while section 4 considers the role of the ECHR and the ECtHR in relation to the UK's immigration rules generally.

1 How has the media reported on the European Convention on Human Rights and immigration?

SUMMARY

- Over 75% of the news and commentary that related to the ECHR in the UK that was published in the first half of 2025 and included in our review centred on the issue of immigration control. Much of this reporting, and the public debate that followed, primarily focused on a number of highly-publicised cases decided by judges in the lowest tier of the immigration tribunals.
- Three forms of misreporting of immigration tribunal cases emerged:
  1. Reporting of tribunal cases that, at the time of reporting, were no longer valid because they had already been overturned on appeal by a higher court.
  2. Reporting about the arguments made by lawyers representing those challenging their deportation, implying that those arguments were decisive to the outcome of the case when in fact they were not accepted by the judges.
  3. Presenting misleading accounts of judges' assessment of evidence, reporting a specific aspect as if it were decisive to the outcome of the case, when this was not in fact the reason for which the case was decided.
- None of the media reports we reviewed attempted to contextualise specific immigration tribunal cases by providing data on the number and outcome of human rights-based deportation appeals. This may reflect the fact that the Home Office does not systematically publish data on human rights-based appeals in deportation cases.
- The misreporting of the application of the ECHR identified within this report is dangerous. It undermines public confidence in our legal system and legal processes, leading to an erosion of trust in the rule of law. It sows division, fosters increased public antipathy towards human rights and polarises public discourse, creating the conditions in which immigration judges are vilified and threatened. It also leads to calls to leave the ECHR based upon inaccurate understandings of the role of the Convention and the Court.

Of the 379 items of news and commentary relating to the ECHR in the UK that we analysed, over 75% centred on the issue of immigration control. We found that much of this reporting and the public debate that has followed primarily focused on specific cases decided by judges in the lowest tier of the immigration tribunals. This included cases on family reunification decision-making, asylum decisions, and deportation decisions. The cases that generated the most attention – and the most severe criticism from media and politicians alike – concerned foreign nationals convicted of a criminal offence who have

successfully appealed (or were reported as having successfully appealed) a deportation order.[7] In the first few months of 2025, news stories were published every week about foreign national offenders avoiding deportation—in April alone, the Telegraph published fourteen pieces relating to immigration tribunal cases in which a foreign national offender appealed against deportation on the basis of human rights;[8] over a dozen similar stories and opinion pieces were published on this topic in other media outlets that month.[9]

As media reporting has focused on specific instances in which foreign national offenders have challenged their deportation on human rights grounds, or where the Home Office's decision not to grant an individual leave to remain in the UK has been challenged on human rights grounds, many have argued that human rights law thwarts the government's attempts to control immigration.[10] Increasing discussion about immigration tribunal cases has led some politicians and commentators to argue that the ECHR is no longer fit for purpose, and that the UK should leave the ECHR.[11] But our analysis shows that news and commentary relating to the ECHR and the deportation of foreign national offenders has often engaged in misleading reporting of immigration tribunal cases – including by repeatedly referring to cases that have already been overturned

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7 See, for example, Charles Hymas, 'Albanian criminal's deportation halted over son's distaste for chicken nuggets' *The Telegraph,* 9 February 2025; Nicholas Cecil, 'Minister "astonished" Albanian criminal wasn't deported partly due to son not liking foreign chicken nuggets' *The Standard*, 10 February 2025; Danielle de Wolffe, 'Nigel Farage "reduced to tears" over ECHR rule which saw Albanian criminal's deportation "halted over chicken nuggets"' *LBC,* 10 February 2025; Emily Jane Davis, 'Albanian criminal's deportation from the UK is halted amid judge's concerns for his son... after 10-year-old said he didn't like chicken nuggets from outside Britain' *The Daily Mail,* 10 February 2025; Jessica Coates, 'Criminal's deportation case halted over son's dislike for chicken nuggets' *The Independent,* 10 February 2025. See also Charles Hymas, 'Albanian criminal allowed to stay in UK because video calls would be "harsh" on stepson' *The Telegraph,* 17 March 2025; Max Parry, 'Pakistani drug dealer can stay in UK "to teach son about Islam"' *The Daily Express*, 29 May 2025.

8 Charles Hymas, 'Cocaine dealer claimed she'd be persecuted for being a "witch" if deported' *The Telegraph*, 1 April 2025; Charles Hymas, 'Ex-BBC journalist helped asylum seeker avoid deportation over harsh prison conditions' *The Telegraph*, 2 April 2025; Charles Hymas, 'Convicted Syrian terrorist allowed to stay in UK after police back asylum claim' *The Telegraph,* 2 April 2025; Charles Hymas, 'Afghan woman can't be deported because she has back pain, judge rules' *The Telegraph*, 4 April 2025; Charles Hymas, 'Migrant who offended 27 times to fund drink and drugs can stay in UK' *The Telegraph,* 8 April 2025; Charles Hymas, 'Covid made me commit crime, claims drug dealer spared deportation' *The Telegraph,* 9 April 2025; Charles Hymas, 'Deporting migrant would "stress" him out, judge rules' *The Telegraph,* 11 April 2025; Charles Hymas, 'Auction specialist caught working illegally in nail bar can stay in UK' *The Telegraph,* 15 April 2025; Charles Hymas, 'Lesbian couple win asylum claim because Albania is "homophobic" *The Telegraph,* 15 April 2025; Albert Tait, 'Nigerian fraudster avoids deportation because he has two autistic children' *The Telegraph,* 16 April 2025; Charles Hymas, 'Migrant avoids deportation over right to life with estranged son' *The Telegraph,* 22 April 2025; Charles Hymas, 'Drug dealer can stay in Britain because son has rare disease' *The Telegraph*, 24 April 2025; Charles Hymas, 'Afghan drug user allowed to stay in UK because Taliban is harsh on addicts' *The Telegraph,* 29 April 2025; Charles Hymas, 'Migrant will not be deported because of his "Covid trauma"' *The Telegraph*, 30 April 2025.

9 See, for example, Michael Knowles, 'Convicted rapist spared deportation because "he can't get witness protection" in Jamaica' *The Daily Express,* 3 April 2025; Tom Cotterill, 'Colombian career criminal with 12 convictions for 27 offences is "too fragile" to be deported from the UK, judge rules' *Mail Online*, 8 April 2025; Tom Lawrence, 'Congolese drug dealer wins legal fight to remain in UK after he is released from prison because his son has rare blood disease' *Mail Online*, 24 April 2025; Lauran O'Toole, 'Asylum seeker allowed to stay in UK because he's "scared of getting Covid" back home' *The Daily Express*, 30 April 2025.

10 See, for example, Francesca Gillett and Iain Watson, 'Tories say rights act should not apply to deportations,' *BBC News,* 9 March 2025; The Telegraph View, 'Britain Must Stop Self-Harming in Immigration Tribunals,' *The Telegraph*, 18 February 2025; John Rentoul, 'The tide has turned against the European Convention on Human Rights' *The Independent*, 17 June 2025. See also Jessica Elgot, 'Echoes of Brexit as Starmer is pressed to seize initiative on human rights' *The Guardian*, 18 June 2025.

11 Lewis Denison, 'Nigel Farage says first thing he would do as PM is leave the European Convention on Human Rights' *ITV News*, 16 April 2025; Faye Brown, 'Kemi Badenoch to launch review into ECHR exit' *Sky News*, 5 June 2025; Matt Goodwin, 'I'm utterly frustrated and fed up about the state of our country its time to leave the ECHR, says Matt Goodwin' *GB News*, 14 February 2025.

on appeal – and has often misrepresented the role and operation of the ECHR and of the ECtHR in the context of UK immigration.

To provide a firm basis for discussing specific cases, it is important to understand how the UK's system of immigration appeals functions and the role of the ECHR within this structure.

EXPLANATION: THE UK'S IMMIGRATION APPEALS SYSTEM IN BRIEF

The Home Office makes many kinds of immigration decisions. Some of these can be appealed through a system of immigration tribunals and subsequently through the courts. Where the Home Office issues a deportation order against any foreign national, for example, the individual can appeal this decision to the First-tier Immigration Tribunal. This is a specialised independent tribunal which is the first port of call for "first-instance" appeals against immigration-related decisions made by the Home Office.[12]

The individual could advance a claim that deportation would breach their human rights. They may be able to invoke the right to respect for private and family life. This right is protected by Article 8 ECHR and was incorporated into UK law as a right that is enforceable in UK courts when Parliament passed the Human Rights Act 1998. This right is engaged where the suffering caused by separating family members outweighs the public interest in deportation in the individual's specific circumstances – such as where a parent's separation from their dependent child who has serious medical needs would be "unduly harsh" in the concrete circumstances of a given case.

The person may be able to invoke the right not to be subjected to torture or inhuman and degrading treatment. This right is protected under Article 3 ECHR and in many other human rights treaties. It prohibits governments from removing individuals to countries in which they face a substantial risk of being tortured or treated in an inhuman way.[13]

Human rights grounds used in appeals against deportation in UK courts can also include: a real risk that the deportee would be tried using evidence obtained through torture (Article 6 ECHR, the right to a fair trial).

If an individual appeals against a deportation order in the First-tier Tribunal and the judge finds that deportation should not go ahead because it would breach the individual's human rights, the Home Office may appeal to the Upper Tribunal.[14]

12 See generally: https://www.judiciary.uk/courts-and-tribunals/tribunals/First-tier-tribunal/First-tier-tribunal-immigration-and-asylum-chamber/.

13 The specifics of claiming Article 3 and Article 8 ECHR in the context of immigration decisions is explained in more detail in the next sections.

14 See generally: https://www.judiciary.uk/courts-and-tribunals/tribunals/upper-tribunal/upper-tribunal-immigration-and-asylum-chamber/.

The Upper Tribunal is a second-tier tribunal which reviews the First-tier judge's decision and can make a finding that the First-tier judge decided the case wrongly. Where a First-tier Tribunal finds that a foreign national offender's human rights would be violated if they are deported, and the Home Office appeals the decision, the Upper Tribunal might find in favour of the Home Office by holding that the First-tier Tribunal incorrectly decided the case. The case will then be sent back to the First-tier Tribunal to decide the case again.

If the Upper Tribunal dismisses the Home Office's appeal and finds in favour of the individual, the Home Office is able to further appeal the decision. It can apply to appeal this decision to the Court of Appeal. After that, a decision can be appealed to the Supreme Court.

The media reporting that we monitored in the first half of 2025, however, did not explain this system and the opportunity it provides to appeal First-tier decisions, or failed to clarify the status of the decision upon which the news story centred. Our monitoring makes clear that the media was generally less interested in publishing stories and information about cases in which tribunals and courts found in favour of the Home Office and rejected human rights-based appeals against deportations. In addition, a majority of the news stories about immigration tribunal decisions focused upon cases in which a foreign national offender appealed against a deportation order by invoking the right to respect for private and family life.[15] Looking beyond the selection of stories, however, our review found three distinct trends which combine to create an erroneous picture of the basis for, and frequency of, decisions in which deportations are successfully challenged on human rights grounds.

1.1 THREE TYPES OF MISREPORTING

We identified three distinct types of misreporting in our review: 1) reporting on First-tier Immigration Tribunal decisions that have already been overturned on appeal (and therefore no longer stand) at the time of reporting; 2) reporting on arguments made by appellants or their lawyers that were not accepted by judges; and 3) misreporting on the reasons for which cases were decided.

1.1.1 Reporting First-tier Tribunal decisions although they have already been overturned

Many news articles were published about First-tier Immigration Tribunal decisions that had already been overturned on appeal before the article was published, without making it clear that the First-tier decision no longer stood at the time of reporting. News

15 See, for example, Isaac Crowson, 'Drug-addled migrant can stay in UK after judge rules he would "struggle mentally"' *The Telegraph,* 15 June 2025; Charles Hymas, 'Albanian criminal allowed to stay in UK because video calls would be "harsh" on stepson' *The Telegraph,* 17 March 2025; see also all references in footnote 7.

outlets often published stories discussing at length a case in which a foreign national offender was "spared deportation", when at the time of reporting that decision had in fact already been overturned on appeal. In some instances, the foreign national offender had already been deported at the time the article about how the offender was "allowed to stay on human rights grounds" was published.

Iranian criminal spared deportation so he can cut his son's hair

The Telegraph, 16 MAY 2025[16]

This article centred around a case in which the First-tier Immigration Tribunal found that the deportation of the applicant would be too harsh on his three-year-old child "because of his close involvement in raising him" and therefore held that the deportation order should be revoked—a decision that was later reversed by the Upper Tribunal.[17]

The article quotes several lines from the First-tier decision and discusses at length the judge's findings that the man's contributions to raising the child, which included "cutting his hair and playing with him", meant that deportation would be "unduly harsh" on the child and would therefore breach the man's right to family life under Article 8 ECHR.

Only after several paragraphs is there any indication that the Upper Tribunal had already overturned the First-tier judgment and remanded the case to be reheard. The article focuses overwhelmingly on the First-tier decision, and the tone of the reporting, and especially the headline, gives the impression that the First-tier decision holds, even though it no longer stood at the time of reporting.

There are many similar instances of articles reporting on cases that had already been overturned on appeal at the time of reporting. One case, concerning a Pakistani father jailed for child sex offences whose appeal succeeded at first instance but was then overturned by the Upper Tribunal, has similarly been referred to repeatedly across the media.[18] Probably the best known of such cases concerns an Albanian man whose appeal against deportation mentioned his son's aversion to foreign chicken nuggets.

16 Charles Hymas, 'Iranian criminal spared deportation so he can cut his son's hair' *The Telegraph,* 16 May 2025. This case was also covered in the Daily Mail: Andy Dolan, 'Iranian criminal who wouldn't be able to cut son's hair "remotely" if deported was allowed to stay in UK' *The Daily Mail*, 16 May 2025.

17 The Upper Tribunal's decision is available at: https://tribunalsdecisions.service.gov.uk/utiac/ui-2023-004411 .

18 See Jacob Paul, 'Judge blocked paedophile's deportation to Pakistan because he "could be persecuted as an alcoholic"' *LBC*, 26 March 2025; Kelvin MacKenzie, 'You couldn't make it up! Pakistani paedophile can't be deported as he's alcoholic' *GB News*, 26 March 2025.

This case was repeatedly referred to in the media and was invoked as a key example by multiple politicians in the Spring of 2025.[19]

Albanian criminal's deportation halted over son's distaste for chicken nuggets

The Telegraph, 9 FEBRUARY 2025[20]

This was one of the earliest media articles to be published about the immigration tribunal case that mentioned chicken nuggets. The case concerned the deportation of an Albanian man, who appealed against deportation on "family life" grounds. The First-tier judge had assessed evidence surrounding the father's involvement with his son and the son's special needs, which included emotional deregulation and sensory difficulties—and in this context mentioned the fact that the son disliked chicken nuggets from abroad, among many other details. On the evidence, the First-tier Tribunal found that the father's deportation would be "unduly harsh" upon the son and would thereby breach Article 8 ECHR.

The Upper Tribunal found the lower-tier decision to be irrational and reversed it.[21] The First-tier Tribunal decision was issued on 12 August 2024, and the Upper Tribunal's decision overturning the lower judge's decision was published online on 27 January 2025. Media reporting, including this article, and commentary on the "chicken nuggets case" began in early February 2025.[22]

Thus, by the time any media articles were published and politicians began commenting on the case, the tribunal decision had already been reversed. Reporting and commentary, however, rarely clarified that the decision had been overturned. Kemi Badenoch cited it as an example of how the ECHR "is weaponised by those who wish to erode our national identity and border security",[23] while Reform UK leader Nigel Farage said of the case, "you read this stuff and you just want to cry".[24]

19 See, for example, Kemi Badenoch, *Speech at the Alliance for Responsible Citizenship Conference*, 17 February 2025, https://www.conservatives.com/news/kemi-alliance-for-responsible-citizenship-speech; Nicholas Cecil, 'Minister "astonished" Albanian criminal wasn't deported partly due to son not liking foreign chicken nuggets' *The Standard*, 10 February 2025; Danielle de Wolffe, 'Nigel Farage "reduced to tears" over ECHR rule which saw Albanian criminal's deportation "halted over chicken nuggets"' *LBC,* 10 February 2025; Natasha Leake, 'Badenoch: Chicken nugget case shows migrants have weaponised ECHR' *The Telegraph*, 17 February 2025.

20 Charles Hymas, 'Albanian criminal's deportation halted over son's distaste for chicken nuggets' *The Telegraph,* 9 February 2025.

21 The Upper Tribunal's decision is available at: https://tribunalsdecisions.service.gov.uk/utiac/ui-2024-004546.

22 It should be noted that this is partly explained by the fact that First-tier Tribunal decisions are generally not published and Upper Tribunal decisions are published—information about the lower judge's decision is therefore generally only easily and publicly available once the Upper Tribunal has decided the appeal.

23 Badenoch (n19).

24 de Wolffe (n19).

In the Telegraph article, the first mention of the Upper Tribunal's decision comes in the 28th paragraph. Until that point, the entire article is about the First-tier decision, and readers must read to the end before learning that the case no longer stands. The headline gives no indication that the First-tier judge's decision had already been overturned and no longer stood at the time the article was published. This case (and commentary surrounding it) were also covered in *The Independent*, *The Daily Mail*, *LBC*, *The London Evening Standard*, *The Daily Express*, and *GB News.*[25]

As Attorney General Lord Hermer said in evidence to the Joint Committee on Human Rights in April, the First-tier judgment was being repeatedly referred to in the media, but

> *"What is not doing the rounds is that that case went to the Upper Tribunal, who categorically rejected that as an Article 8 argument. They rejected the claim. Courts are always going to make mistakes. That's why we have appeal courts, and that's what's happened here."*[26]

The fact that the First-tier decisions upon which these articles are focusing have since been overruled is not merely a minor detail. As Adam Wagner KC has put it, incomplete reporting practices such as these are "a bit like reporting that Arsenal lost a match 0-1 because that was the score at half time, but neglecting to report that at full time the score was 2-1 to Arsenal."[27]

REPORTING CASES INCOMPLETELY IS "A BIT LIKE REPORTING THAT ARSENAL LOST A MATCH 0-1 BECAUSE THAT WAS THE SCORE AT HALF TIME, BUT NEGLECTING TO REPORT THAT AT FULL TIME THE SCORE WAS 2-1 TO ARSENAL."

— ADAM WAGNER KC

25 Emily Jane Davis, 'Albanian criminal's deportation from the UK is halted amid judge's concerns for his son... after 10-year-old said he didn't like chicken nuggets from outside Britain' *The Daily Mail,* 10 February 2025; Jessica Coates, 'Criminal's deportation case halted over son's dislike for chicken nuggets' *The Independent,* 10 February 2025; Nicholas Cecil, 'Minister "astonished" Albanian criminal wasn't deported partly due to son not liking foreign chicken nuggets' *The Standard*, 10 February 2025; Henry Moore, 'Albanian criminal's deportation halted because son doesn't like foreign chicken nuggets,' *LBC*, 10 February 2025; George Bunn, '"Mind-boggling!" Albanian criminal allowed to stay in Britain due to son's dislike of "foreign" chicken nuggets' *GB News*, 10 February 2025; Ciaran McGrath, 'Keir Starmer backs call to deport Albanian criminal at centre of chicken nugget row' *The Daily Express,* 12 February 2025; Charles Hymas, 'Starmer backs deportation of "chicken nugget migrant"' *The Telegraph*, 10 February 2025; Aidan Radnedge, 'Keir Starmer backs deportation of Albanian migrant allowed to stay in Britain because his son "doesn't like foreign chicken nuggets"' *The Daily Mail*, 11 February 2025.

26 Joint Committee on Human Rights, *15th meeting of the Joint Committee on Human Rights: Examination of the Witnesses, Uncorrected oral evidence: Attorney-General* (HC 817), 2 April 2025, https://committees.parliament.uk/oralevidence/15699/pdf

27 Adam Wagner, 'The Sun's aggressive, then submissive, response to my complaint on its human rights reporting' *UK Human Rights Blog*, 17 September 2014, https://ukhumanrightsblog.com/2014/09/17/the-suns-aggressive-then-submissive-response-to-my-complaint-on-its-human-rights-reporting/.

1.1.2 Reporting arguments that were not accepted as if they were the basis for judicial decisions

Several media reports have published the arguments made by appellants or their lawyers as if they were the basis of the judge's decision, when in fact the judge had not accepted them. Appellants are free to put forward any arguments and details that they think may be relevant for their case. Unsurprisingly, not all will be sound legal arguments. However, certain media outlets have reported these arguments as if they formed the basis for the tribunal's decision.

Afghan migrant accused of people smuggling thousands into UK can't be extradited to Belgium 'because of mosquitos'

GB News, 1 APRIL 2025[28]

This article begins with the sentence "An Afghan migrant who was accused of smuggling thousands of people into Britain cannot be extradited to Belgium due to the prison's mosquitos" and outlines the arguments made by the man's lawyer about poor prison conditions. These claims had simply been argued before the court, but the misleading suggestion is that the extradition has been blocked because of them, creating the impression that the ECHR is preventing the government from extraditing foreign national offenders. The article and headline state that he "cannot be extradited" but this is inaccurate: whether or not he could be extradited had not been decided at the time of reporting. The same story was reported in *The Telegraph*, *The Sun* and *The Daily Express*, each with a very similar headline.[29]

28 Susanna Siddell, 'Afghan migrant accused of people smuggling thousands into UK can't be extradited to Belgium "because of mosquitos"', *GB News*, 1 April 2025.

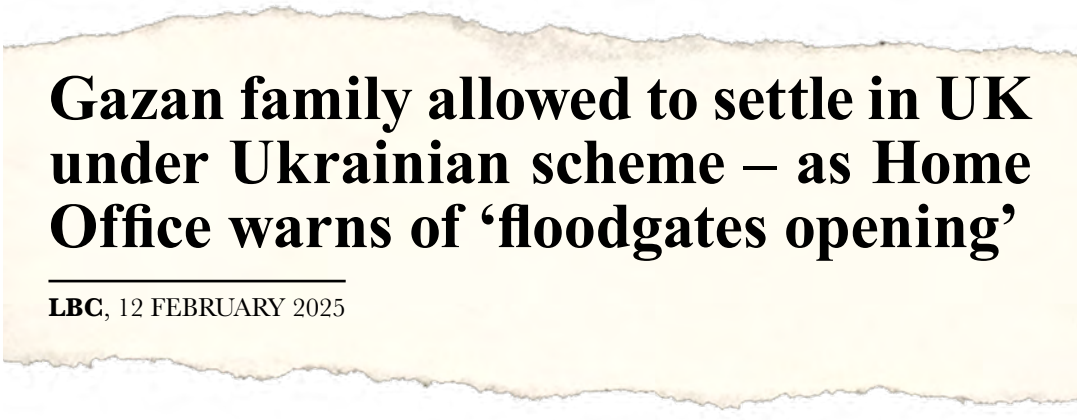
29 Charles Hymas, 'Alleged people smuggler can't be sent to Belgium "because of mosquitos in prison there"' *The Telegraph*, 31 March 2025; James Knuckey, 'Alleged Afghan people smuggler in UK can't be sent to Belgium jail "due to mosquitoes"' *The Express*, 1 April 2025; Andy Robinson, 'BUZZ OFF: Afghan people smuggler should not be extradited to Belgium due to mosquitoes, court hears' *The Sun*, 31 March 2025.

A number of other articles have similarly published the human rights-related arguments made by individuals appealing against deportation orders, even when the cases have been decided and these claims have not been accepted by judges. Media outlets have written entire stories about arguments that were repeatedly rejected by tribunals, but have framed their stories in ways that suggest that the ECHR is preventing removal and therefore thwarting immigration control.[30]

1.1.3 Misreporting the basis on which cases were decided

Several media reports about immigration tribunal cases have presented misleading accounts of judges' assessment of the evidence. Multiple stories presented a specific detail as if it were decisive to the outcome of the case, when this was not in fact the reason for which the case was decided. Once a case is misreported in this way, unless corrected the mischaracterisation quickly becomes part of the public narrative.

One human rights-related case on family reunification attracted significant criticism, including from the Prime Minister, but was consistently misreported in the media.



Gazan family allowed to settle in UK under Ukrainian scheme – as Home Office warns of 'floodgates opening'

LBC, 12 FEBRUARY 2025

A Palestinian man who came to the UK in 2007 and is now a British citizen sought to bring his brother, sister-in-law, and their children to the UK from Gaza in January 2024. The family made an application using the Ukraine Family Scheme form, not because they were trying to pass themselves off as Ukrainian but because there was no form that applied to them and Home Office guidance advises applicants to use the application form for the route which most closely matches their circumstances.[31] Their application was rejected by the Home Office. Their appeal to the First-tier Tribunal was unsuccessful.

30 See, for example, Susanna Siddell, 'Illegal migrant claims she can't be deported to Grenada as her husband won't be able to cope with the spicy food' GB News, 15 February 2025; Charles Hymas, 'Cocaine dealer claimed she'd be persecuted for being a "witch" if deported' *The Telegraph*, 1 April 2025; Conor Wilson, 'Albanian "terrorist" who plotted stadium bombing begs not to be deported over safety fears' *The Daily Express*, 1 April 2025. See also Jon King, 'Migrant children, 6 and 9, crossed Channel alone – now parents want asylum in UK too' *The Daily Express*, 19 February 2025.

31 See Home Office, *Guidance: Leave outside the Immigration Rules (Version 3.0)* (August 2023) [accessed 8 July 2025], https://assets.publishing.service.gov.uk/media/64eef28f13ae1500116e3013/Leave_outside_the_Immigration_Rules.pdf.

However, in January 2025 the Upper Tribunal allowed the family's appeal, finding that the rejection of their application violated Article 8 ECHR. The Upper Tribunal held that, given the extreme risk that the family faced in Gaza, not only due to the risk to their lives from indiscriminate violence and the humanitarian crisis, but also because the family was anti-Hamas and had ties to rival party Fatah, there were therefore "very compelling or exceptional circumstances" whereby the applicants' rights to family life under the ECHR outweighed the public interest.[32]

In February, when asked about this case in Parliament, the Prime Minister stated that he did not agree with the immigration tribunal's decision. He said: "it is the wrong decision," noting it "should be Parliament that makes the rules on immigration, it should be the government that makes the policy, that is the principle and the home secretary is already looking at the legal loophole which we need to close in this particular case".[33]

This case has been consistently misrepresented in the media, with many reports suggesting that the judge held that the family members from Gaza were allowed to settle in the UK through the Ukraine Family Scheme.[34] But the case was *not* decided in relation to the Ukraine Family Scheme at all, rather it was decided on the basis of Article 8 ECHR and the family's "very compelling circumstances".

Shortly after this case was criticised in the media and in Parliament, Lady Chief Justice Carr, the head of the judiciary in England and Wales, condemned the misreporting of the case, arguing that it is "dangerous to make any criticism of a judgment without a full understanding of the facts and the law. The judgment is the only accurate source of information."[35]

There are other examples where reasoning in a tribunal decision has been misrepresented and the inaccuracy has soon become baked into the public narrative. In some instances, an irrelevant detail from a tribunal case has been presented in a news article as if this detail were decisive, and many other media reports have then also reported on this detail in the same way. The case mentioning chicken nuggets, discussed above, is an important example of this: the issue of chicken nuggets was not decisive to the First-tier Tribunal's decision, yet this detail dominated commentary and criticism.[36]

This is a long-standing trend: for example, in 2011, then-Home Secretary Theresa May claimed that the Home Office could not deport someone because he had a pet cat,

32 *UI-2024-005295 & Ors*, 28 Jan 2025, https://tribunalsdecisions.service.gov.uk/utiac/ui-2024-005295-ors.

33 Rajeev Syal, 'Judge who granted Palestinian family right to live in UK made wrong call' (n6).

34 See, for example, Kit Heren, 'Gazan family allowed to settle in UK under Ukrainian scheme – as Home Office warns of "floodgates opening"' *LBC*, 12 February 2025.

35 *Press Conference: The Lady Chief Justice of England and Wales (Sue Carr, Baroness Carr of Walton-on-the-Hill) on Tuesday, 18th February 2025*, at: https://www.judiciary.uk/wp-content/uploads/2025/02/LCJ-press-conference-transcript-18.02.24.pdf.

36 The Upper Tribunal's decision, available at: https://tribunalsdecisions.service.gov.uk/utiac/ui-2024-004546, makes it clear that the first-tier judge did not decide the case on the basis of the detail about chicken nuggets. Many media reports, however, presented this detail as if it were decisive and mentioned "chicken nuggets" in the headline: see the reports in footnotes 20 and 25.

leading to a finding that deportation would violate his right to family life.[37] But on closer scrutiny of the decision in question, the pet cat was not at all decisive in the judge's reasoning. This was made clear by the then-Justice Secretary, who called this a "complete nonsense example" that made a "parody" of court judgments.[38] This detail was merely included in court records as part of a comprehensive description of the life the foreign individual had built with his partner, including not only a pet cat but also a joint bank account, among other things.[39] The Upper Tribunal made it clear that the cat had had nothing to do with the outcome of the case (the detail was "immaterial"), but the decision was consistently misrepresented.[40] Only a few months earlier, then-President of the Supreme Court Lord Neuberger had highlighted that press coverage of human rights cases often "misstate[d] what was said in a judgment".[41]

By 2014, human rights barrister Adam Wagner KC argued that misinformation was becoming a constant feature of public debates surrounding human rights[42] and published a series of examples of misleading claims about the UK human rights system from across the British press.[43]

1.2 THE DANGERS OF MISREPORTING AND MISREPRESENTATIONS

The misreporting of cases concerning human rights in the immigration context is not a new phenomenon. But our review of recent reporting suggests it is growing. There has been a notable proliferation of inaccurate statements, particularly regarding deportation cases, compounded by a failure to explain the UK's system of immigration tribunals and appeals.[44] This type of misreporting is dangerous as it fosters increased public antipathy towards human rights as standards of treatment of individuals and good governance. Moreover, misrepresentations of how our system of appeals functions – and a failure to explain the basics about tribunals and the different

> "UNFAIR OR SENSATIONAL NEGATIVE REPORTING CREATES REAL, EVERYDAY RISKS TO THE SAFETY AND LIVES OF JUDGES AND THEIR FAMILIES"
>
> — LADY CHIEF JUSTICE CARR

37 Guardian Legal Network, 'Catgate: another myth used to trash human rights' *The Guardian*, 4 October 2011.

38 Helen Warrell, 'Clarke stokes human rights row with May' *Financial Times*, 6 October 2011.

39 The BBC reported at the time that the case had been "repeatedly misrepresented in the press" – see Dominic Casciani, 'The case of the cat deportation tale' *BBC News*, 6 October 2011. See also 'Catgate: the Mail wrong to claim cat was "key reason" in judgement,' *FullFact*, 6 October 2011.

40 Casciani, ibid.

41 Lord Neuberger of Abbotsbury, *Open Justice Unbound? Judicial Studies Board Annual Lecture 2011*, 16 March 2011, at: https://netk.net.au/judges/neuberger2.pdf.

42 Adam Wagner, 'The Monstering of Human Rights' *UK Human Rights Blog*, 22 September 2014.

43 See Adam Wagner, 'No, The Sun, "Euro judges" do not "go against UK in 3 out of 5 cases". More like 1 in 100' *UK Human Rights Blog*, 27 August 2014; Adam Wagner, 'Another hall of mirrors human rights story from the Telegraph' *UK Human Rights Blog*, 27 October 2013. See also generally Wagner's compilation of blogs about misleading reporting, 'Poor Reporting Archives,' *UK Human Rights Blog*, at: https://ukhumanrightsblog.com/category/blog-posts/poor-reporting/ and Alice Donald, Jane Gordon, and Philip Leach, 'The UK and the European Court of Human Rights' *Equality and Human Rights Commission Research Report 83* (2012), at p.95.

44 Joint Committee on Human Rights (n26).

tiers of appeals – erodes public confidence in the legal process. This undermines trust in our judiciary on the basis of misleading claims, and in the age of social media puts their personal safety at risk. As Lady Chief Justice Carr has noted, "Unfair or sensational negative reporting creates real, everyday risks to the safety and lives of judges and their families."[45]

In addition, misrepresentations in the press of the ECHR's role in these tribunal cases are intensifying calls to leave the Convention, seemingly based upon myths and misconceptions rather than an accurate assessment of the Convention's role.[46] News reports about tribunal cases included in our review rarely clarified that judges decide cases on the basis of rules and exceptions formulated by Parliament. The following sections examine how the ECHR is applied in the immigration context by UK courts and tribunals and by the ECtHR, with a focus on human rights-based appeals against deportation by foreign national offenders.

45 Lady Chief Justice (n35).

46 Wagner, 'The Monstering of Human Rights' (n42).

2 How do UK courts apply the European Convention on Human Rights in decisions on the deportation of foreign national offenders?

SUMMARY

- The text of the ECHR contains no explicit provision which prohibits deportation. Deportation will only breach the Convention in very exceptional circumstances.
- When making decisions in human rights-based appeals against deportation, judges rely on a detailed statutory code set out by Parliament. This legal framework states that the deportation of foreign national offenders is in the public interest, and that the public interest requires automatic issuance of a deportation order for foreign national offenders sentenced to 12 months or more in prison, unless removal would be contrary to specified exceptions.
- The Home Office does not currently publish regular data on the number or outcome of appeals against deportation of foreign national offenders on human rights grounds. According to the most recent published data, the number of foreign national offenders who successfully appeal against deportation on human rights grounds alone is very small compared to the overall number of foreign national offenders - 0.73% in the latest year for which data is available. The number of foreign national offenders who successfully appeal against deportation on human rights grounds is around 3.5% of the number of foreign national offenders who are deported from the UK each year. Taking successful appeals based solely on the right to private and family life, the figure is around 2.5%

The text of the ECHR has no explicit provision which prohibits deportation. Deportation will only breach the Convention in very exceptional circumstances where the individual faces a real risk of persecution or serious harm in the country to which they are being deported, or if there is a real risk that the deportee would be tried using evidence obtained through torture, or if the harm caused by their separation from their family and community in the UK outweighs the public interest in their deportation in the concrete circumstances of a given case.

This section examines how UK courts and tribunals make decisions about deportation of foreign national offenders under a legal framework created by Parliament, and how often appeals against deportation by foreign national offenders succeed on human rights grounds.

2.1 HOW ARE DEPORTATION DECISIONS MADE IN THE UK?

Although public debate surrounding decisions of immigration tribunals has led to criticism of the ECHR, it is important to clarify that decisions in human rights-based appeals against deportation in the UK rely on rules that were brought into UK immigration law by Parliament.

EXPLANATION: INITIAL DECISION-MAKING SURROUNDING "RETURNS" AND DEPORTATIONS

Under UK immigration law, the Home Office can effect "returns" of foreign nationals who do not have the right to remain in the UK, including any person whose leave to remain has expired or anyone whose asylum application has been refused. That is, Home Office "returns" include individuals who have not committed a criminal offence but who are no longer permitted to remain in the UK.[47]

Where a foreign national has committed a criminal offence (or engaged in a "sham marriage"), the Home Office issues a "deportation order". Though deportation is generally conceived of as a discretionary power, the Home Office *must* issue deportation orders against any foreign nationals sentenced to imprisonment of 12 months or more.[48] The government plans to broaden this power to enable the Home Office to more easily remove offenders who have received non-custodial sentences.[49]

As of 30 June 2025, there were 10,772 foreign national offenders in the UK.[50] The government has put in place an Early Removal Scheme that enables the removal of foreign national offenders before their custodial sentence comes to an end.[51]

47 Home Office data uses the terminology of "returns" and includes: *voluntary* returns (including "assisted returns" and "controlled returns") and *enforced* returns (including "non-detained enforced removals"), as well as *port* returns (which includes people who are refused entry at a place of arrival and leave from there). As "enforced returns" include people subject to administrative removal, this category does not map onto "deportations". See Home Office, *Accredited official statistics, How many people are returned from the UK?* Updated 25 June 2025, https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-march-2025/how-many-people-are-returned-from-the-uk.

48 Section 32(5) of the UK Borders Act 2007, at https://www.legislation.gov.uk/ukpga/2007/30/section/32. This section mandates that, unless certain circumstances apply, the Home Secretary must make a deportation order against a "foreign criminal", which entails any person who is not a British or Irish citizen, who has been convicted in the UK of a criminal offence, and sentenced to at least 12 months' imprisonment.

49 Home Office, *Restoring control over the immigration system: white paper,* 12 May 2025, https://www.gov.uk/government/publications/restoring-control-over-the-immigration-system-white-paper, at para 236.

50 Ministry of Justice and HM Prisons and Probation Service, *Offender Management Statistics Quarterly, January to March 2025*, 31 July 2025, https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2025/offender-management-statistics-quarterly-january-to-march-2025.

51 See Home Office, *The Early Removal Scheme, Version 10.0,* 27 February 2024, https://assets.publishing.service.gov.uk/media/65df2116cf7eb1e5f4f57f86/The+Early+Removal+Scheme+_ERS_.pdf.

In the year ending March 2025, 34,978 people were "returned" from the UK. Around 15% (5,154) were deportations of foreign national offenders.[52]

In the 2007 UK Borders Act, Parliament specified that the deportation of a foreign national offender should not be presumed to be "conducive to the common good" if removal would breach the individual's Convention rights.[53]

Most invocations of Convention rights in relation to deportations concern the prohibition against torture and inhuman treatment under Article 3 ECHR, the protection of the right to life under Article 2 ECHR, and the right to private and family life under Article 8 ECHR.[54]

PARLIAMENT HAS LEGISLATED TO STRICTLY CIRCUMSCRIBE THE CIRCUMSTANCES IN WHICH FOREIGN NATIONAL OFFENDERS CAN SUCCESSFULLY INVOKE THE RIGHT TO PRIVATE AND FAMILY LIFE TO PREVENT DEPORTATION.

EXPLANATION: ARTICLES 2 & 3 ECHR

Article 2 ECHR protects the right to life. Article 3 ECHR prohibits torture or inhuman or degrading treatment or punishment. Article 3 is an "absolute" right, meaning that a state cannot suspend the application of the right in times of emergency or limit its application.

In the context of deportations, this means that governments cannot remove individuals to a country where there is a real risk that they would face death, torture or inhuman treatment. This is known as the principle of non-refoulement, which is a core principle of international law.

52 These figures include individuals who are removed from the UK for many different reasons, e.g. individuals who claimed asylum but had their claim rejected (and did not commit any criminal offence) are removed by the Home Office. See Home Office, Immigration system statistics data tables, year ending March 2025, https://www.gov.uk/government/statistical-data-sets/immigration-system-statistics-data-tables#returns. See further Migration Observatory, 'Deportation, removal, and voluntary departure from the UK' 14 February 2024, https://migrationobservatory.ox.ac.uk/resources/briefings/deportation-and-voluntary-departure-from-the-uk/.

53 See section 33(2)(a) of the UK Borders Act 2007, https://www.legislation.gov.uk/ukpga/2007/30/section/33. See also: Francesca Klug, *Deportation and the right to respect for private and family life under Article 8 HRA,* LSE Human Rights Futures Project, February 2013, https://www.lse.ac.uk/sociology/assets/documents/human-rights/HRF7-KlugDeportation.pdf.

54 CJ McKinney and Melanie Gower, 'Deportation of foreign national offenders,' *House of Commons Library,* 2 August 2024, https://commonslibrary.parliament.uk/research-briefings/cbp-8062/, at p.10.

As the Supreme Court has made clear, this notion that the UK government cannot send a foreign individual to a country where they face a real risk to their lives or of being subjected to torture or other inhuman or degrading treatment stems not only from the ECHR, but also from domestic laws and several other international treaties, including the UN Convention Against Torture and the International Covenant on Civil and Political Rights.[55]

EXPLANATION: ARTICLE 8 ECHR

Article 8 ECHR – which has been at the centre of most of the criticisms arising in media and political debate – protects the right to private and family life. This is a "qualified" right, meaning that the Convention allows governments to interfere with private or family life if the interference is lawful, necessary and proportionate as a means of achieving a legitimate aim. Removing people who pose a threat to public safety is usually understood as a legitimate reason for interfering with this right.

Interfering with family life through immigration decisions is permissible under the ECHR as long as its negative impact in the specific circumstances of individual cases is not disproportionate.[56] This requires a balancing exercise, weighing the specific vulnerabilities of family members – for example, the risk of permanently cutting emotional and social ties within families – against the public interest of controlling immigration or removing dangerous individuals.

The task of tribunals and courts is to assess the evidence presented to them and engage with the risks of human suffering brought about by separating individuals from their families in the light of their concrete circumstances.[57] Interferences with the right to private and family life, therefore, must be balanced against public safety considerations, taking into account the circumstances of each case.[58]

This right is also protected in several other treaties that the UK has ratified, and not only in the ECHR. The right to family life of non-citizens is protected under the International Covenant on Civil and Political Rights and the UN Convention on the Rights of the Child.

55 See *R (on the application of AAA and others) (Respondents/Cross Appellants) v Secretary of State for the Home Department (Appellant/Cross Respondent)* [2023] UKSC 42, at paras 27-33, noting that "There are also several Acts of Parliament which protect refugees against refoulement" – including section 2 of the Asylum and Immigration Appeals Act 1993; and sections 82, 84, and 94 of the Nationality, Immigration and Asylum Act 2002; and the Human Rights Act.

56 McKinney and Gower, 'Deportation of FNOs' (n54), at p.10.

57 *Akinyemi v The Secretary of State for the Home Department* [2019] EWCA Civ 2098 (04 December 2019).

58 See McKinney and Gower, 'Deportation of FNOs' (n54), at p.10.

The Nationality, Immigration and Asylum Act 2002, as amended by the Immigration Act 2014, provides a detailed statutory code for the determination of Article 8 ECHR claims in deportation cases.[59] The government's Immigration Rules provide further detail setting out how Article 8 ECHR applies in the context of deportation.[60] This legal framework states that the deportation of foreign national offenders is in the public interest, and that the public interest *requires* automatic issuance of a deportation order against foreign nationals sentenced to imprisonment of 12 months or more unless removal would be contrary to specified exceptions. Through the Immigration Act, Parliament legislated to prescribe the scope of application of Convention rights in the context of deportation and set a high threshold for these exceptions to the presumption that the deportation is in the public interest.

The first exception, known as the "private life" exception, applies when:

1. The foreign national offender has been lawfully resident in the UK for most of their life; and
2. They are "socially and culturally integrated" in the UK; and
3. There would be "very significant obstacles" to their ability to integrate into the country to which they would be deported.[61]

The second exception, known as the "family life" exception, applies when:

1. The foreign national offender has a child who is either a British citizen or has lived in the UK for 7 years or more prior to the deportation order, and it would be "unduly harsh" for the child to live in the country to which the parent is to be deported or to stay in the UK without them; or
2. The foreign national offender is in a "genuine and subsisting" relationship with a partner who is a British citizen or settled in the UK, and is resident in the UK, and it would be "unduly harsh" for that person to live in the country to which their partner is to be deported or to stay in the UK without them.[62]

The "private life" and "family life" exceptions are even more limited where the individual has committed a more serious crime. If the individual has received a custodial sentence of four years or more, they "must show very compelling circumstances over and above" these exceptions for the deportation to be deemed to breach Article 8 ECHR.[63]

UK immigration law therefore already clearly restricts the application of Article 8 ECHR to the set of circumstances described in these provisions, as set out by Parliament. Having a child or a partner in the UK does not automatically mean that a foreign national offender can successfully appeal on human rights grounds.

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59 See Nationality, Immigration and Asylum Act 2002, Part 5A as inserted by the Immigration Act 2014, at https://www.legislation.gov.uk/ukpga/2002/41/section/117D. See also Home Office, *Immigration Rules, Part 13: Deportation*, Section 2: Article 8 ECHR exceptions to deportation, updated 1 July 2025 [accessed 15 July 2025].

60 Immigration Rules, Part 13 (ibid).

61 See Nationality, Immigration and Asylum Act 2002, Part 5A, Section 117C (as inserted by the Immigration Act 2014), at https://www.legislation.gov.uk/ukpga/2002/41/section/117C.

62 See ibid, and see Immigration Rules, Part 13 (n59), at paras 13.2.4 – 13.2.6.

63 Immigration Rules, Part 13 (n59), at paras 13.2.2 – 13.2.4.

2.2 HOW OFTEN DO APPEALS AGAINST DEPORTATION BY FOREIGN NATIONAL OFFENDERS SUCCEED ON HUMAN RIGHTS GROUNDS?

In a note published in April 2025 about statistics surrounding foreign national offenders, the Home Office acknowledged that "the data has not always been available in sufficiently robust and reliable form to answer many of the questions raised" about foreign national offenders. The Home Office does not currently publish regular data on the number or outcome of appeals against deportation of foreign national offenders on human rights grounds.[64] The latest published data runs to June 2021.[65]

Below, we analyse this data in two ways.

2.2.1 The number of foreign national offenders who successfully appeal against deportation on human rights grounds compared to the overall number of foreign national offenders

IN THE LATEST YEAR FOR WHICH FIGURES ARE AVAILABLE, THE NUMBER OF SUCCESSFUL HUMAN RIGHTS-BASED APPEALS REPRESENTED 0.73% OF ALL SENTENCED FOREIGN NATIONAL OFFENDERS.

The number of successful appeals against deportation on human rights grounds alone is very small in comparison to the overall number of foreign national offenders in the UK—that is, only a very small proportion of foreign national offenders succeed in appealing on human rights grounds.

As data on the number of foreign national offenders in custody is published as a snapshot at any given time, longitudinal analysis is not possible. The latest available published data on human rights-based appeals against deportation runs to June 2021. In the 15 months leading to June 2021, 45 appeals based solely on human rights grounds were allowed at the First-tier Tribunal.[66] As of June 2021, 6,188 sentenced foreign national offenders were being held in custody in the UK.[67] Thus, the number of successful human rights-based appeals in the preceding 15 months represented 0.73% of all sentenced foreign national offenders.

64 Home Office, Statistics on foreign national offenders and the immigration system, 22 April 2025, https://www.gov.uk/government/statistics/statistics-on-foreign-national-offenders-and-the-immigration-system/statistics-on-foreign-national-offenders-and-the-immigration-system.

65 Home Office, Statistical note: FNO appeals lodged and allowed on human rights grounds, 2008 to 2021, 4 February 2022, https://www.gov.uk/government/publications/foreign-national-offenders-appeals-on-human-rights-grounds-2008-to-2021/statistical-note-fno-appeals-lodged-and-allowed-on-human-rights-grounds-2008-to-2021. The statistics provided are described as provisional and subject to change.

66 Home Office, 'Statistical Note on FNO appeals' (ibid).

67 Ministry of Justice and HM Prisons and Probation Service, *Offender Management Statistics Quarterly, January to March 2021, 29 July 2021*, https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2021/offender-management-statistics-quarterly-january-to-march-2021.

This figure may itself be an overestimate, as some of these First-tier Tribunal appeals might have been later overturned by the Upper Tribunal and the individual subsequently deported. Indeed, the government does not publish data that distinguishes between the number of human rights-based appeals that succeed at the First-tier Tribunal and those which are then overturned on appeal.

2.2.2 The number of foreign national offenders who successfully appeal against deportation on human rights grounds compared to the number who are deported from the UK

The number of foreign national offenders who successfully appeal against deportation on human rights grounds alone is also small compared to the number of foreign national offenders who are deported from the UK each year.

The latest available data on the number and outcome of appeals against deportation of foreign national offenders on human rights grounds runs from April 2016 to June 2021. During this roughly five year period, 922 foreign national offenders successfully challenged their deportation on human rights grounds in the First-tier Tribunal.[68] During the same period, 26,091 foreign national offenders were deported.[69] In other words, the number of human rights-based appeals allowed was 3.5% of the number of deportations. Again, this figure may be an overestimate since some of these First-tier Tribunal appeals might have been later overturned by the Upper Tribunal.

It is not possible to give an exact figure for the number of successful human rights appeals that were based solely on the Article 8 ECHR private life or family life exceptions, as opposed to other rights such as the prohibition of torture and severe ill-treatment under Article 3. The Home Office undertook a random sample of appeals against deportation orders by foreign national offenders that were successful on human rights grounds in the First-tier Tribunal, finding that 70% of the analysed appeals were won solely on Article 8 grounds.[70] Extrapolating from this sample would suggest that of the 922 successful human rights appeals referred to above, around 645 were on Article 8 ECHR grounds. This number remains very small in comparison to the number of foreign national offenders who were deported within the same time period: around 2.5%.

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68 Home Office, 'Statistical Note on FNO appeals' (n65).

69 Home Office, *Returns and detention - Historic datasets* (last updated 24 August 2023), https://www.gov.uk/government/statistical-data-sets/returns-and-detention-datasets.

70 "A random sample of 296 First-tier Tribunal FNO allowed appeal determinations were reviewed: 206 were allowed solely on Article 8 grounds; 45 were allowed for another reason plus Article 8; and another 45 were allowed for a non-Article 8 reason." Home Office, 'Statistical Note on FNO appeals' (n65), covering the period 1 April 2016 to 8 November 2021.

2.3 THE IMPORTANCE OF COURTS AND THE APPEALS SYSTEM

An important point that is rarely discussed in media reporting about human rights is that, like most legal systems, the UK legal system provides for appeals in order to correct errors. The Home Office makes millions of immigration decisions every year, including thousands of deportation orders, requiring careful engagement with large amounts of evidence about individuals' lives and circumstances, including details about their family ties, for instance. In this context, it is important to be able to appeal the government's decisions to an independent tribunal or court, to allow for any potential errors or misapplications of the legal framework to be rectified. Parliament has created a detailed statutory code which is applied by the government when it makes individual decisions; the role of the judiciary is to check that this code was properly applied and that decisions are correct.

For their part, first-instance judges are often under time pressure to decide cases, and generally sit alone. At times, first-instance judges may fail to account for certain circumstances or grant insufficient or disproportionate weight to some of the evidence. In some cases, the government decides not to send a Representing Officer to the First-tier Tribunal to represent the Home Office, meaning that First-tier judges do not have an opportunity to better understand the government's position and must rely on written submissions alone.[71] Appellate courts, which are staffed by more senior and experienced lawyers, and generally have more than one judge and more time to reflect on the decision, can rectify mistakes. It is important to be able to appeal decisions, to prevent miscarriages of justice and to ensure that, if rights are seriously at risk from deportation, these risks are properly accounted for. This includes the rights of British or resident family members, including British children.

71 Electronic Immigration Network, *Best Practice Guide: Hearings where the Home Office is unrepresented*, 1 August 2023, https://www.ein.org.uk/bpg/chapter/40. See also *Surendran v Secretary of State for the Home Department* (19197).

3 Judgments and decisions of the European Court of Human Rights in UK removal cases

SUMMARY

- Since 1980, there have been 29 judgments in UK cases at the ECtHR that have concerned removal of a foreign national from the UK.
- In 16 of these cases, the Court found that a planned deportation or extradition by the UK government would *not* breach the ECHR and could go ahead.
- In the other 13 cases, the Court found that deportation or extradition by the UK government would violate the Convention. Four of these 13 cases concerned the right to family life.
- A high threshold is needed for the ECtHR to deem an Article 8 interference to be disproportionate in the context of deportation. In its most recent finding of a violation relating to a UK deportation in 2020, the Court ruled that a Nigerian man who had been convicted of falsifying immigration documents could not be deported because it ran counter to the interests of his three young and financially-dependent children, all of whom were British citizens, and one of whom needed heart surgery.

Individuals have the right to lodge an application to the ECtHR only once they have exhausted all effective domestic remedies. This means that they must have gone through administrative procedures, courts or tribunals and appealed to the highest level to which they have been allowed to appeal.[72] The ECtHR is a court of last resort. Its judgments are binding, but the Court does not have the power to overrule or change domestic laws. Its judgments require governments to remedy violations and ensure their non-repetition in future, but governments choose how best to move forward.

As explained above in relation to decisions of UK courts and tribunals, the European Convention contains no explicit provision which prohibits the removal of non-citizens.[73] Only in certain narrow circumstances where an individual faces a real risk of serious harm – such as risks of death or torture in the receiving country or significant harm to their family life – would the removal breach the Convention.[74]

72 See European Court of Human Rights, 'Questions and Answers,' at: https://www.echr.coe.int/documents/d/echr/Questions_Answers_ENG, at p.6.

73 Donald, Gordon, and Leach, 'The UK and the European Court of Human Rights' (n43), at p.93-98.

74 James Thomas, 'Fact Check: Is the ECHR Really Blocking the UK From Deporting Migrants?' *Euronews,* 17 October 2024.

A significant early judgment from the ECtHR on the topic of deportation and extradition[75] was decided against the UK government. In *Soering v. UK,* decided in 1989 regarding extradition from the UK to the US, the European Court held that extradition of individuals to countries where they are at risk of inhuman or degrading treatment by being placed on death row violates Article 3 ECHR.[76] The absolute prohibition under Article 3, the Court affirmed, prohibited governments from removing individuals to a country where they were at real risk of torture or inhuman or degrading treatment or punishment.

Since then, the ECtHR has seldom ruled against the UK government in relation to removals. Indeed, the Court rarely rules against the UK at all. Between 2012-2022, the Court issued an average of only four judgments against the UK each year—and found only one violation by the UK government in 2023 and one in 2024.[77]

EXPLANATION: DEPORTATION AND EXTRADITION CASES CONCERNING THE UK AT THE EUROPEAN COURT OF HUMAN RIGHTS

Since 1980, there have been 29 judgments in UK cases at the ECtHR that have concerned either deportation (enforced removal of a foreign national) or extradition (removal of a person to another country for trial or to serve a sentence).

In 16 of these cases, the Court found that a planned deportation or extradition by the UK government would *not* breach the European Convention and could go ahead.[78] For example, in 2017, the Court held that the UK government's decision to deport a man who had lived in the UK since he was two years old did not violate the Convention, because the individual's history of offending outweighed his Article 8 rights.[79]

In the other 13 cases, the Court found that deportation or extradition by the UK government *would* violate the Convention.[80] Its last finding of a violation relating to a planned deportation from the UK was in 2020.[81]

Only four of these 13 cases concerned the right to private and family life. The other nine cases concerned deportation or extradition to countries where there was a substantial risk that the individual would be tortured or (in one case) that evidence obtained by torture would be used.

75 "Extradition" refers to a situation where an individual is accused of committing a crime and is presently in country A. Government B, which has an interest in prosecuting the individual for the offence, requests government A to send the individual to country B to stand trial. See: https://www.gov.uk/guidance/extradition-processes-and-review.

76 *Soering v. UK* (Application no. 14038/88), 7 July 1989.

77 Alice Donald and Joelle Grogan, 'Explainer: The UK's ECHR record: how common are Rule 39 orders and how often is the UK found to have violated rights?' *UK in a Changing Europe,* 4 April 2024, https://ukandeu.ac.uk/explainers/the-uks-echr-record-how-common-are-rule-39-orders-and-how-often-is-the-uk-found-to-have-violated-rights/.

78 Joanna Dawson and Allwell Uwazuruike, *Research Briefing: UK cases at the European Court of Human Rights since 1975,* 29 January 2025, https://commonslibrary.parliament.uk/research-briefings/cbp-8049/.

79 *Ndidi v. UK* (Application No. 41215/14) 14 September 2017.

80 Dawson and Uwazuruike, 'UK cases at the ECtHR since 1975' (n78).

81 *Unuane v. UK* (Application no. 80343/17) 24 November 2020.

Beyond these 29 cases, many other cases will have been rejected by the ECtHR at the earliest stage as they will not have been deemed admissible. The Court sets a high threshold for admissibility, such that only cases of substantial merit are heard at all. Only around 2% of applications to the Court are generally declared admissible.[82]

Where cases relating to Article 8 ECHR have reached the ECtHR, the Court has consistently held that governments have a "margin of appreciation" (meaning that the Court gives them a degree of discretion) when assessing whether interferences are necessary or proportionate.[83] Where domestic courts have carefully assessed applicants' circumstances and balanced competing interests, to reach conclusions which were "neither arbitrary nor manifestly unreasonable", the Court will respect their conclusions.[84]

In relation to deportation, the ECtHR has on many occasions found that the UK has struck the correct balance and thus agreed that a deportation, despite interfering with Article 8 ECHR, is proportionate.[85] The Court has usually found that this is for the national government to decide and is often deferential in this context. For example, in 2017, the ECtHR found in favour of the UK government, holding that the deportation of a Nigerian national who had lived in the UK since he was two years old would not violate the Convention: the Court agreed that the individual's long history of offending and the government's legitimate interest of preventing disorder and crime outweighed the applicant's Article 8 rights.[86]

A high threshold is needed for the ECtHR to deem an Article 8 ECHR interference to be disproportionate in the context of deportation. In its most recent finding of a violation relating to a UK deportation in 2020, the Court ruled that a Nigerian man who had been convicted of falsifying immigration documents could not be deported because it ran counter to the interests of his three young and financially-dependent children, all of whom were British citizens, and one of whom needed heart surgery.[87]

Thus, as barrister Jamie Burton KC puts it, "The European court has been demonstrably robust in defending the right of countries who have signed up to the [Convention] to reach their own judgments as to where the balance lies in respect of family life, so long as basic human rights principles are not violated."[88]

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82 See Registry of the European Court of Human Rights, *Practical Guide on Admissibility Guide* (updated 28 February 2025), at: https://www.echr.coe.int/documents/admissibility_guide_eng.pdf: "In 2020, out of the 39,190 applications disposed of by the Court, 37,289 were declared inadmissible or struck out of the list of cases." See also Donald, Gordon, and Leach, 'The UK and the European Court of Human Rights' (n43) at p.13 and p.34-35: "Between 1999 and 2010, only around three per cent of applications [lodged against the UK government] allocated for a decision were declared admissible."

83 *Slivenko et al v. Latvia* (Application No. 48321/99), 9 October 2003, at para 113; *Boultif v. Switzerland*, (Application no. 54273/00), 2 August 2001, at para 47.

84 See *Hamesevic v. Denmark* (Application No. 25748/15), 16 May 2017, at paras 43-45: "The Court finds no grounds for concluding that [the Danish High Court's] finding was arbitrary or manifestly unreasonable... the Court is satisfied that the interference with the applicant's private life – the refusal to revoke his deportation order – was supported by relevant and sufficient reasons and that it was not disproportionate given all the circumstances of the case. It follows that the application is manifestly ill-founded and must be rejected". See also *Alam v. Denmark* (Application No. 33809/15), 6 June 2017, at para 35.

85 See, for example, *Ndidi v. UK* (Application No. 41215/14), 14 September 2017; *AH Khan v. UK*, (Application No. 6222/10), 20 December 2011.

86 *Ndidi* (ibid).

87 *Unuane v. UK* (n81)

88 Jamie Burton, 'Does human rights law really stop the UK controlling migration? No – and Keir Starmer knows that' *The Guardian,* 3 May 2025.

4 How does the European Convention on Human Rights relate to the UK's immigration rules?

SUMMARY

- The ECHR does not provide any person with a human right to live in any country of which they are not a national, and states are free to set their own immigration policies. Where persons seeking asylum or migrants have claimed that governments' immigration decisions violate the Convention, the ECtHR has continually emphasised that it is for governments to control the residence rights of foreign nationals and for governments and national courts to determine whether migration control measures are compatible with the Convention. When the ECtHR delivers a judgment against a state, it is up to the state itself to decide the most appropriate way of complying with it.
- The ECtHR rarely finds that governments' decisions and policies on immigration control violate the Convention. In the last 45 years, the Court has only three times ruled that the UK's immigration rules violate the ECHR.

The ECHR does not provide any person with a human right to live in any state of which they are not a national.[89] States are free to set their own immigration policies, and the Court often reiterates that "as a matter of well-established international law and subject to its treaty obligations, a State has the right to control the entry of non-nationals into its territory".[90]

Nevertheless, criticisms of the Convention's impacts upon UK immigration control have extended beyond the issue of the removal of foreign national offenders, to suggestions that the ECHR also prevents the government from issuing policies controlling entry. In the first half of 2025, some commentators suggested that the ECHR is frustrating the UK government's attempts to control immigration more generally and stymying the government's attempts to prevent irregular migration.[91] Parliamentarians and political

89 For a comprehensive review of the European Court's case law on all migration related applications, see Başak Çalı, Ledi Bianku, and Iulia Motoc (eds.), *Migration and the European Convention on Human Rights* (Oxford University Press 2021).

90 *Abdulaziz, Cabales and Balkandali v. UK* (9214/80; 9473/81; 9474/81), 28 May 1985, at para 67; see also *Moustaquim v Belgium*, (Application No. 12313/86), 18 February 1991, at para 43.

91 This critique has also intensified in other countries, as is demonstrated by the open letter signed by the Prime Ministers of nine European countries signatory to the Convention – see *Open letter on the European Convention on Human Rights*, 22 May 2025, at https://www.governo.it/sites/governo.it/files/Lettera_aperta_22052025.pdf.

leaders have argued that the ECHR, and the ECtHR's decisions and interpretations, hinder the UK's ability to set immigration policy and "control its borders".[92]

But the ECtHR has very rarely ruled against the UK government in relation to its immigration rules. In its judgments, the Court repeatedly reiterates that states have the right to control the entry and residence of non-nationals,[93] and that it is for governments and national courts to determine whether migration control measures are compatible with the Convention.[94] In cases relating to states' immigration policies, the Court is usually especially deferential to governments and domestic courts, granting them a wide degree of discretion. An independent review, commissioned by the UK government in 2020, found that, in the immigration and asylum context, UK tribunals and courts have generally carefully explained their interpretation of the ECtHR's immigration-related case law in their judgments, such that when cases subsequently reached the European Court, the latter often concluded that the domestic courts had appropriately applied the test required under the ECHR.[95]

> "[A]S A MATTER OF WELL-ESTABLISHED INTERNATIONAL LAW AND SUBJECT TO ITS TREATY OBLIGATIONS, A STATE HAS THE RIGHT TO CONTROL THE ENTRY OF NON-NATIONALS INTO ITS TERRITORY"
> — EUROPEAN COURT OF HUMAN RIGHTS, IN ABDULAZIZ, CABALES AND BALKANDALI V. UK

In 45 years, beyond the thirteen deportation and extradition cases discussed in section above, the ECtHR has only three times found that UK immigration rules violate the ECHR.[96]

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92 Lord Murray, speaking in a House of Lords debate, argued that, through judicial interpretations, Article 8 ECHR "has been expanded to override immigration controls" and that "misinterpretations facilitate and incentivise unlawful migration": 'European Convention on Human Rights: 75th Anniversary, Volume 844,' 20 March 2025, https://hansard.parliament.uk/lords/2025-03-20/debates/FAFEDE1D-7EA4-4C7B-9C3A-D2553D37DC65/EuropeanConventionOnHumanRights75ThAnniversary. In March, Badenoch stated that it would be "critical to shift immigration powers from the courts to Parliament and elected ministers, enabling more effective control over our borders": Francesca Gillett and Iain Watson, 'Tories say rights act should not apply to deportations,' *BBC News*, 9 March 2025; Farage said, "We have to get back the ability to decide, can we really control our borders? Who comes and lives here?" : Lewis Denison, 'Nigel Farage says first thing he would do as PM is leave the European Convention on Human Rights' *ITV News*, 16 April 2025.

93 For example, in *Abdulaziz, Cabales and Balkandali v. UK* (n90), the Court said: "the Court cannot ignore that the present case is concerned not only with family life but also with immigration and that, as a matter of well-established international law and subject to its treaty obligations, a State has the right to control the entry of non-nationals into its territory." At para 67.

94 States have "the right to control the entry, residence, and expulsion of aliens": see *F.G. v. Sweden* (Application no. 43611/11) 23 March 2016, at para 111. See also *Abdulaziz, Cabales and Balkandali* (n90), and Donald, Gordon, and Leach, 'The UK and the European Court of Human Rights' (n43), at p.93-98.

95 Independent Human Rights Act Review, Presented to Parliament by the Secretary of State for Justice by Command of Her Majesty (December 2021), at p.148.

96 Dawson and Uwazuruike, 'UK cases at the ECtHR since 1975' (n78). Seven other ECtHR cases against the UK government concerned individual immigrants' rights not to be arbitrarily deprived of liberty (under Article 5 ECHR) where, for example, individuals had been kept in immigration detention for extended periods.

EXPLANATION: JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS CONCERNING THE UK'S IMMIGRATION RULES

Since 1980, the Court has three times ruled that the UK government's immigration rules breached the ECHR. These cases concerned rules issued by the government, not laws passed by Parliament.[97] When the ECtHR finds a violation, it is up to the government to decide the most appropriate way of complying with the judgment, that is, whether and how to change the immigration rules.

For example, one such case concerned a government scheme whereby anyone subject to immigration control was prohibited from marrying without government approval, *unless* they were willing to marry in the Church of England.[98] The Appellate Committee of the House of Lords (now the Supreme Court) had already ruled that this scheme was discriminatory, and by the time the case reached the ECtHR the government had decided to abolish the scheme.[99] The ECtHR held that the scheme was discriminatory, and the government subsequently abolished it.[100]

Beyond three cases in 45 years, the ECtHR has not been involved in questions surrounding the UK's immigration control policies. The Court has on several occasions held that UK immigration rules do not violate the ECHR[101] and, again, many other cases submitted to the Court will have been rejected without a hearing, given that the Court rejects around 98% of cases at the admissibility stage.[102] Suggestions that the European Court plays a significant role in shaping the UK's immigration decision-making and immigration rules, to the extent of "hindering" immigration control, therefore, do not stand up to scrutiny.

97 *Abdulaziz, Cabales and Balkandali v. UK* (n90); *O'Donoghue v. UK* (34848/07), 14 March 2011; *Hode and Abdi v. UK* (22341/09), 6 November 2012.

98 *O'Donoghue v. UK* (34848/07), 14 March 2011.

99 *Baiai, Bigoku, Agolli and Tilki v Secretary of State* [2008] UKHL 53 [2009] 1 AC 287.

100 Department for the Execution of Judgments of the European Court of Human Rights, *Thematic Factsheet: Migration and Asylum*, November 2021, https://www.coe.int/en/web/execution/-/migration-and-asylum-new-thematic-factsheet [accessed 7 June 2025].

101 See, for example, *Bah v UK* (56328/07), 27 September 2011.

102 See Registry of the European Court of Human Rights (n82).

Conclusion

Media reporting and political commentary surrounding the role of the European Convention on Human Rights in the context of immigration has intensified in the first half of 2025, to the extent that debate about human rights has been framed almost exclusively through the lens of immigration. The debate has been especially dominated by misleading reporting of a number of highly-publicised cases about human rights-based appeals against deportation by foreign national offenders.

This problem of misreporting is exacerbated by the fact that the Home Office does not publish clear and accessible data on such appeals. The data that is reported shows that the number of foreign national offenders who successfully appeal against deportation on human rights grounds alone is a tiny proportion of the number of foreign national offenders overall: 0.73% in the latest year for which data is available. We recommend that in future, data on the success rate of human rights-based appeals to the First-tier Tribunal and Upper Tribunal be systematically collected and published to inform debate and policy-making.[103]

> "IT IS ONE THING FOR A NEWSPAPER TO TAKE THE VIEW THAT... THE ASYLUM AND/OR HUMAN RIGHTS SYSTEM SHOULD BE REFORMED... IT IS ANOTHER THING TO MISREPORT STORIES EITHER WILFULLY OR RECKLESSLY AS TO THEIR TRUTH OR ACCURACY, IN ORDER TO ENSURE THAT THEY SUPPORT THOSE POLITICAL VIEWS..."
> — LEVESON REPORT, 2012

Our findings show that the misleading reporting and commentary about specific cases, and misrepresentations of how the UK's immigration appeals system and the European Convention system function, are heightening critique of the ECHR and the way it is applied by UK judges and the ECtHR. There are significant misunderstandings of the role that the European Convention and Court actually play in this area. Far-reaching changes, up to and including UK withdrawal from the ECHR, are presently being proposed by some commentators and politicians based upon a misconceived representation of human rights law and its application in particular cases.[104]

The dangers of such misreporting were highlighted more than a decade ago by Lord Justice Leveson, in his 2012 report into press ethics. Referring to erroneous press reports that a man had been allowed to stay in the UK because his right to family life protected his relationship with his cat, Lord Leveson ventured that:

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103 Though the Home Office is working on improving its collection and reporting of statistics on foreign national offenders, its note on statistics does not mention any plan to publish statistics on appeals against deportations. Home Office, 'Statistics on foreign national offenders' (n64).

104 Faye Brown, 'Kemi Badenoch to launch review into ECHR exit,' Sky News, 5 June 2025; Matt Goodwin, "'I'm utterly frustrated and fed up about the state of our country its time to leave the ECHR," says Matt Goodwin' GB News, 14 February 2025; Lewis Denison, 'Nigel Farage says first thing he would do as PM is leave the European Convention on Human Rights' *ITV News*, 16 April 2025.

> *"It is one thing for a newspaper to take the view that… the asylum and/or human rights system should be reformed… It is another thing to misreport stories either wilfully or recklessly as to their truth or accuracy, in order to ensure that they support those political views… [T]here are enough examples of careless or reckless reporting to conclude that discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers is a feature of journalistic practice in parts of the press, rather than an aberration."* [105]

Over a decade later, misleading claims about the UK's immigration appeals system and the ECHR are continuing to engender misunderstandings of the role of the ECHR. While commentators may hold different views on matters of human rights and immigration, it is vital that public debate is based upon accurate data and a sound understanding of the law and its application in specific cases.

105 Lord Justice Leveson, *The Leveson Inquiry: An inquiry into the culture, practices and ethics of the press: Volume 2, HC 780-ii*, 29 November 2012, https://www.gov.uk/government/publications/leveson-inquiry-report-into-the-culture-practices-and-ethics-of-the-press, at paras 8.48-8.49, 8.51.

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