

Strasbourg Judgments Bind the UK

by Francis Bennion

You report today that the Attorney General, Dominic Grieve QC MP, says it is not clear whether Parliament intended our courts, in applying the Human Rights Act 1998, to follow Strasbourg judgments. In my submission Parliament made this clear in section 2(1) of the Act, which says our courts and tribunals “must take into account any judgment, decision, declaration or advisory opinion of the European Court of Human Rights”. You take a thing into account by following it, not by defying it. Mr Grieve contradicts himself by later saying, according to your report, that even if his suggested reforms are carried out “the United Kingdom should still be subject to the judgments of the Strasbourg Court”.

If any domestic court did defy a relevant Strasbourg decision the claimant would have the right to go straight to Strasbourg and obtain a ruling applying what the Strasbourg court would be bound to treat as the correct version of ECHR law, namely the one it had arrived at in the disputed decision. The usual practice of the UK Government is to respect such rulings.

This shows the error of those who think we are free to scrap the present Human Rights Act and enact a British Bill of Rights in its place. While the UK remains a member of the EU it is required by it to submit to the ECHR and Strasbourg justice. It is also bound to submit to the Charter of Fundamental Rights of the European Union, which has bound Britain since the entry into force of the Treaty of Lisbon in 2009 and overlaps in many respects with the ECHR.

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References:

None

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