

## Introduction

For over 70 years, the United Kingdom has been a member of Europe's most important human rights organisation: the council of Europe ("CoE"). Established in 1949, the CoE is most widely known for creating the European Convention on Human Rights (ECHR).

This crowning achievement, which celebrates its 75<sup>th</sup> anniversary in November this year, has come under relentless and unjustified [criticism](#), with senior British party leaders accusing it of "binding the government's hand", especially over issues such as immigration. Sadly, this populist narrative has not stopped at the UK's borders: in May this year, 6 CoE member states [signed a letter](#) urging the court to grant states more room "to expel criminal foreign nationals".

Now the UK's labour led Government has jumped on the bandwagon. On 18 June 2025, the Lord Chancellor Shabana Mahmood addressed the CoE's highest decision making body, the Committee of Ministers (CM). In her speech, she repeated the oft-circulated (and ill-informed!) claim that the ECHR has become a shield for "criminals to avoid responsibility". Though she may have tried to present her arguments in more measured tones than the populist right – she maintained that the Government was nevertheless "committed" to the Convention– by mimicking the claim that the ECHR tramples on states' ability to manage crime and justice, she effectively legitimised the populist claim.

As the Convention approaches its 75<sup>th</sup> birthday, now is the time to explain how Europe's human rights apparatus truly works. Shedding light on our regional human rights system will help dispel common myths and misinformation.

Moreover, as the Scottish Government tackles mounting human rights challenges – from deepening inequality to food insecurity - it is important to demonstrate how proper implementation of the CoE's standards can help improve the lives of ordinary people.

For this reason, the Human Rights Consortium for Scotland has made raising awareness of the CoE and its institutions a key priority. In the months ahead, through series of educational blogs, the Consortium will be exploring this organisation in depth. Our aim is for human rights defenders to become better versed in its standards, thereby increasing their capacity to advocate for policy change.

In the blogs to come, we will focus on how the CoE protects specific rights (such as civil and political rights, non-discrimination and social and economic rights). We will especially be highlighting how recommendations from the CoE's monitoring bodies can help improve Scottish and UK practices. For the moment, this post gives a general overview of this organisation, introducing readers to some of its main treaties and explaining in a nutshell how it works.

## The CoE in a nutshell

Concretely, there are three pillars to the CoE's work:

- Creating legally binding treaties (**standard setting**);
- ensuring that these treaties are complied with (**monitoring**); and
- getting states to work together to share best practices and propose policy solutions (**intergovernmental cooperation**).

### Standard setting

During its 75-year history, the Council of Europe has produced over 200 legally binding treaties covering subjects as varied as data protection, anti-discrimination and the protection of social and economic rights.

The most well known of these treaties, the European Convention on Human Rights, was ratified by the United Kingdom in 1951. As many readers will know, the Convention protects civil and political rights (the right to protest; freedom of expression; protection of private life). However, the Council of Europe is far more than just the Convention and the European Court of Human Rights.

For instance, one of the CoE's most important achievements was bringing in legally binding protections for vulnerable segments of society such as victims of domestic violence, human trafficking and child sexual abuse. Such groups are protected thanks to the [Council of Europe of Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse](#) (Lanzarote Convention), [the Council of Europe Convention on Action Against Trafficking in Human Beings](#) and the [Convention on preventing and combating violence against women and domestic violence](#) (Istanbul Convention). As a result of these landmark treaties, Member States are duty bound to ensure that victims get the care and support they need; that staff dealing with vulnerable groups are adequately trained; and that abusers receive effective sanctions.

The UK is a party to several Council of Europe instruments and, as a result, has had to change its laws and practice. For instance, the Council of Europe Trafficking Convention was the catalyst behind the creation of the UK's National Referral Mechanism, which allows modern slavery victims to be identified and referred for specialist help.

Beyond legally binding treaties, the Council of Europe's highest executive decision-making body – the Committee of Ministers – regularly issues recommendations to

states, setting out guidance and best practices on a range of policy issues. Some of the topics covered include:

- ensuring that refugees can obtain [access to higher education](#);
- improving [civil legal aid systems](#);
- human rights and [the protection of the environment](#);
- best practice and standards for [National Human Rights Institutions](#).

Though these recommendations are non-binding, they provide a valuable framework for assessing whether Scottish and UK policies reflect international best standards.

### Monitoring

Once a CoE treaty has been adopted, there is often a mechanism in place to ensure that states comply with their obligations.

The European Court of Human Rights, which oversees the ECHR, is the most emblematic of these monitoring mechanisms. Any citizen of a CoE Member State, who has tried but failed to obtain redress in their own national courts, can ask the Court to determine whether their government has violated the ECHR.

For the most part, however, CoE treaties are monitored by expert committees. Although candidates for these committees are proposed by states, the members do not in fact represent their governments. Instead they are usually drawn from civil society and academia and must form their own objective and impartial opinions. Typically, committees ensure compliance by issuing questionnaires to states (who then must respond); considering information from NGOs and other international bodies; conducting state visits; and adopting a final report identifying gaps in Member States' policies.

Examples of important monitoring bodies include:

- [GRETA](#) and [GREVIO](#), who oversee the human trafficking and Istanbul Conventions respectively;
- the [European Committee for the Prevention of Torture and Inhumane Treatment \(CPT\)](#), which visits places of detention;
- the [European Committee of Social Rights](#), which assesses whether European states are respecting the Social Rights Charter; and
- [ECRI](#), which specialises in the fight against racism.

When monitoring groups issue questionnaires, civil society groups can also play a role by providing further information through shadow reports and written submissions. During the UK's first evaluation by GREVIO, Scottish Women's Aid submitted a [shadow report](#) alongside five other NGOs highlighting gaps in the Scottish Government's policy for addressing domestic violence. Alternatively, CoE monitoring

bodies often conduct roundtables or private meetings with NGOs when carrying out their monitoring visits.

Not all monitoring mechanisms are attached to a specific treaty. For instance, the [Council of Europe Commissioner for Human Rights](#) assists states in their implementation of all CoE standards. In addition to conducting fact-finding visits and issuing country-specific reports, the Commissioner also identifies negative trends that affect all member states. To this end, the Commissioner often releases opinions and policy papers on issues such as artificial intelligence, migration and children's rights. The current Commissioner, Dr. Michael O'Flaherty, was elected in January 2024. In his first [annual report](#), he identified his priorities as including the human rights of migrants and the rights of Roma travellers.

#### Intergovernmental cooperation

Additionally, the CoE brings policy makers together to discuss common problems and share best practices for addressing these issues. In particular, the CoE consists of numerous "[Steering Committees](#)".

Think of these Committees as being akin to the CoE's think tanks. Unlike the monitoring bodies, Steering Committees do not oversee a specific treaty but instead propose policy solutions to tackle a thematic area. Accordingly, there are steering committees on youth affairs, education, anti-discrimination, culture and human rights. The Steering Committees are responsible for drafting the CoE's recommendations and treaties. As such, it is important to keep a close eye on their outputs.

Important work underway by these committees include:

- ensuring [drug and addiction policies](#) respect human rights;
- developing guidance on how to prevent and combat [hate crime](#);
- protecting the human rights of [migrants in detention](#).

#### **Scotland's place in all this**

As we will see in the blogs to come, the CoE's monitoring bodies regularly identify gaps in human rights protection in Scotland and the United Kingdom. With the Scottish Human Rights bill on the backburner, this means that there are *already* standards and recommendations in place, which are in dire need of implementation.

The First Minister's recent [Programme for Government](#) has an entire section devoted to improving equality outcomes for LGBTQ+ people, tackling hate crime and combating violence against women and girls. The CoE's standards on gender equality and anti-racism provide a vital framework for measuring the adequacy and effectiveness of these policies.

Finally, the CoE is taking the lead on pressing issues, such as environmental justice. In only May of this year, the CoE adopted a new treaty [criminalising serious pollution](#) by private actors and a new comprehensive [strategy for the environment](#), which

acknowledges the growing political momentum for the right to a healthy environment. As the Scottish Government makes improving the environment a central part of [its Human Rights Action Plan](#), advocating for the UK to adhere to and apply these standards will be of vital importance.

Before we conclude, however, it is important to stress one thing: most CoE bodies do not actually *impose* anything on member states – they work on the basis of *recommendations*. The emphasis is not on naming and shaming states, but working in spirit of cooperation to help states tailor their policies to national circumstances. According to the [CPT](#): “*Co-operation* with the national authorities is at the heart of the CPT’s work, since the aim is to protect persons deprived of their liberty rather than to condemn States for abuses,”. Even the CoE’s most famous organ, the European Court of Human Rights, does not actually tell states how to improve human rights outcomes but instead leaves this at the discretion of domestic authorities. These are vital factors to bear in mind as populists force us to confront the false choice between respecting human rights and protecting our national sovereignty.