

The UK Supreme Court

Key cases

As the UK Supreme Court celebrates its tenth anniversary, **David Tuck** highlights some of the key cases you need to know about

What does the court do?

Established in 2009, the Supreme Court only judges on cases where the meaning of the law is uncertain. The decisions that it reaches set precedents for future cases. Some of its most important cases have involved the court upholding the Human Rights Act 1998, thus frustrating the will of the government. However, some cases are unrelated to government and see individuals attempting to clarify whether laws are being correctly interpreted.

HM Treasury v Ahmed (2010)

The government wished to freeze the assets of suspected terrorists. The court ruled that the government did not have the legal power to do this, as it infringed the presumption of innocence inherent in common law and the Human Rights Act.

R (Nicklinson) v Ministry of Justice (2014)

Do individuals have the right to die (assisted suicide)? The court supported the government position arguing that Article 8 (right to respect for private and family life) of the European Convention on Human Rights could not be used to overturn the Suicide Act 1961 as a means of justifying assisted suicide.

Al Rawi vs The Security Service (2011)

Former detainees of Guantánamo Bay claimed that British security services shared responsibility for their imprisonment and ill-treatment. The Court found in favour of the detainees, arguing that it was a departure from the natural justice inherent in common law as well as the Human Rights Act.

P v Cheshire West and Chester Council (2014)

In a case concerning whether the living arrangements made for mentally incapacitated persons amounted to a deprivation of liberty, the court found that they did, arguing that social services must not limit the personal freedom of the individual. The court cited Article 5 (right to liberty and security) of the European Convention on Human Rights as the justification for this judgement.



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'Black Spider' memos (2015)

Journalist Rob Evans wished to see letters and memos (nicknamed 'Black Spider' because of the distinctive handwriting) sent by Prince Charles to government ministers. The government did not want to release the letters, arguing the contents were private and sensitive. The Court found in favour of Rob Evans, citing the Freedom of Information Act.

Radmacher v Granatino (2010)

Are prenuptial agreements binding in the UK? The court found that they were, and that the agreements between marrying couples on how assets should be distributed in the event of divorce are legally valid.

Miller v Secretary of State for Exiting the European Union (2017)

Gina Miller argued that the UK government could not trigger Article 50 (to leave the European Union) without a vote or deliberative debate in Parliament. David Davis, the secretary of state for exiting the European Union, argued that the government's use of the royal prerogative meant Parliament need not be consulted. The Supreme Court found in favour of Miller, arguing that as referendums are non-binding, the government could not ignore the sovereignty of Parliament. The Commons duly had a vote on triggering Article 50.

UK Withdrawal from the EU (Scotland Bill) (2018)

The Scottish Parliament sought to reaffirm rights on agriculture and fisheries that would return to the UK from EU control following Brexit. The UK government argued that these areas were outside the remit of the Scottish Parliament and should fall under the jurisdiction of the UK Parliament. The court found in favour of the UK government, arguing that the bill went beyond the powers of the Scottish Parliament.

Successful decade?

The Supreme Court should be judged a success, as it has effectively defended the rule of law: the principle that the government must govern within set parameters. However, it should be remembered that, unlike the US Supreme Court, which can strike legislation down as being unconstitutional, the UK Supreme Court can only advise the government that its actions are 'incompatible' with the law. Parliament remains sovereign, so can technically ignore Supreme Court judgements. But no government wishes to appear above the law, so governments (sometimes begrudgingly) have always respected the rulings of the Supreme Court.

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