

## SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRETARIAT DU COMITE DES MINISTRES



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Meeting: 1273 meeting (6-8 December) (DH)

Item reference: Action plan updated (25/10/2016)

Communication from the authorities in the Hirst No. 2 and others group of cases against the United Kingdom (Application No. 74025/01)

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Réunion : 1273 réunion (6-8 décembre) (DH)

Référence du point : Plan d'action mis à jour (25/10/2016)

Communication des autorités dans le groupe d'affaires Hirst n°2 et autres contre le Royaume-Uni (Requête n°74025/01) **[anglais uniquement]**

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## **Execution of Judgments of the European Court of Human Rights**

### **Action Plan**

DGI

25 OCT. 2016

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

**Hirst No. 2 (application no. 74025/01; judgment final on 06/10/2005)**  
**Greens and MT (application no. 60041/08+; judgment final on 11/04/2011)**  
**Firth and others (application no. 47784/09+; judgment final on 15/12/2014)**  
**McHugh and others (application no. 51987/08+; judgment final on 10/02/2015)**  
**Millbank and others (application no. 44473/14+; judgment final on 30/06/2016)**

**Information submitted by the United Kingdom Government on 25/10/2016**

#### **A. Case description**

1. In the *Hirst* group of cases the European Court of Human Rights found that the restrictions on convicted and detained prisoners voting in parliamentary elections violated Article 3 of Protocol No. 1 to the European Convention on Human Rights.
2. The Court found that section 3 of the Representation of the People Act 1983 imposes a blanket restriction on all convicted prisoners in prison, and that it applies automatically to such prisoners, irrespective of the length of their sentence and irrespective of the nature or gravity of their offence and their individual circumstances.
3. The Court concluded that such a general, automatic and indiscriminate restriction on a vitally important Convention right must be seen as falling outside any acceptable margin of appreciation and as being incompatible with Article 3 of Protocol No. 1.
4. The Court also pointed out that disenfranchisement, to be justified, required a discernible and sufficient link between the sanction and the conduct and circumstances of the individual concerned.

#### **B. Individual measures**

5. The just satisfaction awards (costs and expenses) have been paid and the evidence previously supplied.
6. The United Kingdom considers that no further individual measures are required.

#### **C. General measures**

7. The United Kingdom's assessment is that the source of the violation stems from the fact that, in accordance with section 3 of the Representation of the People Act 1983:

A convicted person during the time that he is detained in a penal institution in pursuance of his sentence or unlawfully at large when he would otherwise be so detained is legally incapable of voting at any parliamentary or local government election.
8. The legislation did not fall within the margin of appreciation given the Court considered it applied in a general, automatic and indiscriminate manner.
9. It might be worth noting that the following persons can vote in the UK:
  - a. Prisoners on remand
  - b. Prisoners committed to prison for contempt of court

- c. Prisoners committed to prison for default in paying fines
  - d. Convicted offenders who are not given a prison sentence.
10. Since this case was last discussed by the Ministers' deputies, the United Kingdom has engaged in a period of dialogue with the Secretariat of the Council of Europe and Council of Europe member States, collating ideas and options to help us address this judgment without amending section 3 of the Representation of the People Act 1983. Parliament continues to oppose passing such legislation.
11. We have been examining any and all options that could potentially help to address this judgment. The process will now move to a phase of filtering these options, developing further options, and weighing up which might be more suitable and achievable. We would present these at a future human rights meeting of the Ministers' deputies.
12. Premature disclosure of options which may not be deliverable or meet the expectations of the Committee of Ministers would harm the ability of the United Kingdom to implement the required general measures.
13. We are not yet in a position to fix a definitive time scale, given the large negotiation that will be impacting on the work of the United Kingdom government in light of the referendum result to leave the European Union.
14. However, a further 9-12 months should allow the United Kingdom to develop options in line with discussions held over the last year with the Secretariat and member States, assess whether they are feasible and adequate, and agree how they would be implemented.
15. The United Kingdom will, of course, continue to engage with the Secretariat and member States (whose advice and ideas have been very useful) and will keep the Committee informed.

#### **D. Conclusion of the authorities**

16. An updated action plan will be submitted to the Committee of Ministers once options to implement the *Hirst* group of cases have been identified.