

November 2010

Greens and M.T. v. the United Kingdom - 60041/08 and 60054/08

Judgment 23.11.2010 [Section IV]

Article 46

Article 46-2

Execution of judgment

Measures of a general character

Respondent State required to take measures to enable serving prisoners to vote

Facts – In its judgment in *Hirst v. the United Kingdom (no. 2)**, the Grand Chamber held that the domestic legislation that imposed a blanket restriction on the right to vote of all convicted prisoners in detention, irrespective of the length of their sentence, the nature or gravity of their offence and their individual circumstances, violated Article 3 of Protocol No. 1. That legislation has not been amended and, as a result, the applicants, as serving prisoners, had been ineligible to vote in both the European Parliamentary elections in June 2009 and the general election in May 2010.

Law – The Court found a violation of Article 3 of Protocol No. 1 and no violation of Article 13 of the Convention. As to Article 41, it noted that, while it was a cause for regret and concern that in the five years which had passed since the *Hirst* judgment no amending measures had been brought forward by the Government, aggravated or punitive damages were not appropriate. The finding of a violation, taken together with the Court's directions under Article 46, constituted sufficient just satisfaction.

Article 46: In view of the United Kingdom's lengthy delay in implementing the decision in *Hirst* and the significant number of repetitive applications that had been received by the Court shortly before and since the May 2010 general election, the Court decided to apply the pilot-judgment procedure.

(a) *Specific measures* – The Court had received approximately 2,500 applications in which a similar complaint had been made, around 1,500 of which had been registered and were awaiting a decision. The number continued to grow and, with each relevant election which passed without amended legislation, there was the potential for numerous new cases to be lodged, there being an estimated 70,000 serving prisoners in the United Kingdom at any one time, all of whom were potential applicants. The failure of the United Kingdom to introduce the legislative proposals was not only an aggravating factor as regards its responsibility under the Convention, but also represented a threat to the future effectiveness of the Convention system. While the Court did not consider it appropriate to specify the content of future legislative proposals, the lengthy delay to date had demonstrated the need for a timetable. Accordingly, the United Kingdom was required to introduce legislative proposals to amend the legislation concerned within six months of the instant judgment becoming final, with a view

to the enactment of an electoral law to achieve compliance with the Court's judgment in *Hirst* according to any time-scale determined by the Committee of Ministers.

(b) *Comparable cases* – Given the findings in the present judgment, and in *Hirst*, it was clear that every comparable case pending before the Court which satisfied the admissibility criteria would give rise to a violation of Article 3 of Protocol No. 1. No individual examination of comparable cases was required in order to assess appropriate redress and no financial compensation was payable. The only relevant remedy was a change in the law. In the light of that and the six-month deadline fixed for introducing legislative proposals, the Court considered that the continued examination of each comparable case was no longer justified. An amendment to the electoral law to achieve compliance with *Hirst* would also result in compliance with the present and any future judgment in any comparable case. In those circumstances, the Court did not think anything was to be gained, or that justice would be best served, by the repetition of its findings in a lengthy series of similar cases, which would be a significant drain on its resources and add to its already considerable caseload. In particular, such an exercise would not contribute usefully or in any meaningful way to the strengthening of human-rights protection under the Convention. The Court accordingly considered it appropriate to discontinue its examination of all registered applications raising similar complaints pending compliance by the United Kingdom with the instruction to introduce legislative proposals. In the event of such compliance, the Court proposed to strike out all such registered cases, without prejudice to its power to restore them to the list should the United Kingdom fail to comply. The Court also considered it appropriate to suspend the treatment of such applications which had not yet been registered, as well as future applications, without prejudice to any decision to recommence treatment of those cases if necessary.

* 6 October 2005, no. 74025/01, Information Note no. 79.

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