



Court says that it is up to member States to decide how to regulate the ban on prisoners voting

In today's judgment in the case of [Scoppola v. Italy \(n° 3\)](#) (application no. 126/05), the Court has confirmed the [Hirst \(no. 2\) v. the United Kingdom](#) (no. 74025/01) judgment of October 2005, again holding that general, automatic and indiscriminate disenfranchisement of all serving prisoners, irrespective of the nature or gravity of their offences, is incompatible with Article 3 of Protocol No. 1 (right to free elections) of the European Convention on Human Rights. However, it accepted the United Kingdom Government's argument that each State has a wide discretion as to how it regulates the ban, both as regards the types of offence that should result in the loss of the vote and as to whether disenfranchisement should be ordered by a judge in an individual case or should result from general application of a law.

The case concerned Mr Scoppola's loss of the vote following his criminal conviction for killing his wife and wounding one of his sons.

The UK Government had been given leave to make submissions as a third party.

The Court held, by a majority, that there had been **no violation of Article 3 of Protocol No. 1 (right to free elections)** to the Convention. Under Italian law only prisoners convicted of certain offences against the State or the judicial system, or sentenced to at least three years' imprisonment, lost the right to vote. There was, therefore, no general, automatic, indiscriminate measure of the kind that led the Court to find a violation of Article 3 of Protocol No. 1 in the **Hirst (no. 2)** case.

Implications for the judgment [Greens and M.T. v. the United Kingdom \(nos. 60041/08 & 60054/08\)](#)

On 23 November 2010 the Court adopted a judgment in the case of **Greens and M.T.** It noted that there had been no amendment to the law in the UK since the **Hirst (no. 2)** judgment in 2005. This had led to a situation where approximately 2,500 similar applications had been lodged with the Court, with the number continuing to grow.

The Court did not consider it appropriate to give guidance as to the content of future legislative proposals, which was a decision for the Government. However, it took the view that the lengthy delay to date demonstrated the need to set a timetable for the introduction of proposals to amend the electoral law. The Court therefore held that the UK Government should bring forward legislative proposals to amend the law within six months of the date on which **Greens and M.T.** became final. The Government was further required to enact the relevant legislation within any time-frame decided by the Committee of Ministers, the executive arm of the Council of Europe, which supervises the implementation of the Court's judgments. The Court did not award any damages to the applicants and held that in future cases no financial compensation would be payable. On 11 April 2011 the Panel of the Grand Chamber refused the applicants' request to refer the case to the Grand Chamber. The judgment therefore became final on that date.

On 30 August 2011, the Court examined the UK Government's request that the timetable set out in its judgment in **Greens and M.T.** be deferred to expire six months from the Grand Chamber judgment in **Scoppola (no. 3)**. The Court expressed the view that further unnecessary delay could not be contemplated, having regard to the time which had already passed since the Court's ruling in **Hirst (no. 2)**. However, it considered it

reasonable to grant an extension of six months, to start running from the date of the Grand Chamber judgment in **Scoppola (no. 3)**.

The delivery of that judgment, which is final¹ immediately, means that the six month period referred to in **Greens and M.T.** begins to run today.

The Court indicated in its judgment in **Greens and M.T.** that, if the UK Government complied with the time-frame, it would proceed to strike out all the similar pending cases.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.

¹ Grand Chamber judgments are final (Article 44 of the Convention). All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their implementation. Further information about the implementation process can be found here: www.coe.int/t/dghl/monitoring/execution