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Urgent need for the adoption of measures implementing a judgment of the European Court of Human Rights

Reply to Written question[1]: Written question No. 581 (Doc. 12133)
Committee of Ministers

Written Question No. 581 by Mr Pourgourides (Doc. 12133)

In light of the urgent need for the adoption of measures implementing the European Court of Human Rights judgment in the case of Hirst (No.2) v. the United Kingdom, of 6 October 2005,

Mr Pourgourides,

To ask the Committee of Ministers,

What steps is the Committee of Ministers taking to follow-up the Interim Resolution adopted at its December 2009 Human Rights meeting, which calls upon the United Kingdom authorities to implement measures ensuring that the forthcoming general election will be performed in a way which is compliant with the European Convention on Human Rights, as interpreted by the Court?

Reply by the Committee of Ministers

As the honourable parliamentarian is aware, the Committee of Ministers is supervising the execution of the judgment mentioned in his question in the context of its responsibility under Article 46, paragraph 2, of the European Convention on Human Rights. In the framework of the exercise of this responsibility, at their 1078th Human Rights meeting (2-4 March 2010), the Ministers' Deputies, after a thorough debate concerning the outstanding issues in this case, adopted the following decision:

> *"The Deputies*
>
> *1. recalled that in the present judgment, delivered on 6 October 2005, the Court found that the general, automatic and indiscriminate restriction on the right of convicted prisoners in custody to vote, fell outside any acceptable margin of appreciation and was incompatible with Article 3 of Protocol No. 1 to the Convention;*
>
> *2. recalled further that at the last DH meeting in December 2009, the Committee of Ministers adopted Interim Resolution CM/ResDH(2009)160, in which it expressed serious concern that the substantial delay in implementing the judgment has given rise to a significant risk that the next United Kingdom general election, which must take place by June 2010, will be performed in a way that fails to comply with the Convention, and urged the respondent state to rapidly adopt measures to implement the judgment;*
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> *3. noted that notwithstanding the Grand Chamber's judgment in 2005, a declaration of incompatibility with the Convention under the Human Rights Act 1998 by the highest civil appeal court in Scotland*[2]*and the large number of persons affected, the said automatic and indiscriminate restriction remains in force;*

1. adopted at the 1082nd meeting of the Ministers' Deputies (14 April 2010)

4. reiterated their serious concern that a failure to implement the Court's judgment before the general election and the increasing number of persons potentially affected by the restriction could result in similar violations affecting a significant category of persons, giving rise to a substantial risk of repetitive applications to the European Court;

5. strongly urged the authorities to rapidly adopt measures, of even an interim nature, to ensure the execution of the Court's judgment before the forthcoming general election;

6. decided to resume consideration of this item at their 1086th meeting (June 2010) (DH) in the light of further information to be provided by the authorities on general measures."

2. The Registration Appeal Court of Scotland (part of the Court of Session): Smith v Scott 2007 S.L.T 137 judgment of 24/01/2007.