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This Factsheet does not bind the Court and is not exhaustive

Prisoners' right to vote

See also the factsheet on the "Right to free elections".

"[T]he rights guaranteed under Article 3 of Protocol No. 1 [to the European Convention on Human Rights[1]] are crucial to establishing and maintaining the foundations of an effective and meaningful democracy governed by the rule of law …

Nonetheless, the rights bestowed by Article 3 of Protocol No. 1 are not absolute. There is room for implied limitations and Contracting States must be allowed a margin of appreciation in this sphere.

… There are numerous ways of organising and running electoral systems and a wealth of differences, *inter alia*, in historical development, cultural diversity and political thought within Europe which it is for each Contracting State to mould into their own democratic vision.

… [P]risoners in general continue to enjoy all the fundamental rights and freedoms guaranteed under the Convention save for the right to liberty, where lawfully imposed detention expressly falls within the scope of Article 5 of the Convention [guaranteeing the right to liberty and security]. … Any restrictions on these other rights must be justified …

There is no question, therefore, that a prisoner forfeits his Convention rights merely because of his status as a person detained following conviction. Nor is there any place under the Convention system, where tolerance and broadmindedness are the acknowledged hallmarks of democratic society, for automatic disenfranchisement based purely on what might offend public opinion.

This standard of tolerance does not prevent a democratic society from taking steps to protect itself against activities intended to destroy the rights or freedoms set forth in the Convention. Article 3 of Protocol No. 1, which enshrines the individual's capacity to influence the composition of the law-making power, does not therefore exclude that restrictions on electoral rights could be imposed on an individual who has, for example, seriously abused a public position or whose conduct threatened to undermine the rule of law or democratic foundations … The severe measure of disenfranchisement must not, however, be resorted to lightly and the principle of proportionality requires a discernible and sufficient link between the sanction and the conduct and circumstances of the individual concerned. … As in other contexts, an independent court, applying an adversarial procedure, provides a strong safeguard against arbitrariness." (*Hirst (n° 2) v. the United Kingdom*, Grand Chamber judgment of 6 October 2005, §§ 58-61 and 69-71)

[1]. Article 3 (right to free elections) of Protocol No. 1 to the European Convention on Human Rights provides that:

"The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

Cases concerning the United Kingdom

Hirst (No. 2) v. the United Kingdom

6 October 2005 (Grand Chamber)

Sentenced to life imprisonment for manslaughter, the applicant was disenfranchised during his period of detention by section 3 of the Representation of the People Act 1983 which applied to persons convicted and serving a custodial sentence. In 2004 he was released from prison on licence. The applicant alleged that, as a convicted prisoner in detention, he was subject to a blanket ban on voting in elections.

The European Court of Human Rights held that there had been a **violation of Article 3** (right to free elections) **of Protocol No. 1** to the European Convention on Human Rights on account of the automatic and discriminate restriction on the applicant's right to vote due to his status as a convicted prisoner.

Greens and M.T. v. the United Kingdom

23 November 2010

The applicants were both serving a prison sentence. The case concerned the continued failure to amend the legislation imposing a blanket ban on voting in national and European elections for convicted prisoners in detention in the United Kingdom.

The Court held that there had been a **violation of Article 3 of Protocol No. 1**. It found that the violation was due to the United Kingdom's failure to implement the Court's Grand Chamber judgment in the case of *Hirst (No. 2) v. the United Kingdom* (see above).

Given in particular the significant number of repetitive applications it had received shortly before the May 2010 general election and in the six following months, the Court further decided to apply its pilot judgment procedure[2] to the case.

Under **Article 46** (binding force and execution of judgments) of the Convention[3], the United Kingdom was required to introduce legislative proposals to amend the legislation concerned within six months of the *Greens and M.T.* judgment becoming final, with a view to the enactment of an electoral law to achieve compliance with the Court's judgment in *Hirst (No. 2)* according to any time-scale determined by the Council of Europe Committee of Ministers.

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[4]. The consideration of approximatively 2,000 similar pending applications against the United Kingdom was further adjourned[5] until 24 September 2013 when the Court decided not to further adjourn its proceedings in these applications and to process them in due course.

McLean and Cole v. the United Kingdom

11 June 2013 (decision on the admissibility)

The applicants, two prisoners, complained that they had been subject to a blanket ban on voting in elections and had been, or would be, prevented from voting in various past and future elections.

The Court declared **inadmissible** the applicants' complaints under Article 3 of Protocol No. 1 because they were filed too late or prematurely or because they were about elections not covered by the European Convention on Human Rights.

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[2]. The pilot judgment procedure was developed by the Court as a technique of identifying the structural problems underlying repetitive cases against many countries and imposing an obligation on States to address those problems. See the factsheet on "Pilot judgments".

[3]. Under Article 46 of the Convention, the Committee of Ministers (CM), the executive arm of the Council of Europe, supervises the execution of the Court's judgments. Further information on the execution process and on the state of execution in cases pending for supervision before the CM can be found on the Internet site of the Department for the execution of judgments of the European Court of Human Rights: https://www.coe.int/en/web/execution

[4]. The Court subsequently granted the UK Government an extension of time pending proceedings in the case of *Scoppola (No. 3) v. Italy* summarized below (see the press release of 22 May 2012).

[5]. See the press release of 26 March 2013.

Dunn and Others v. the United Kingdom

13 May 2014 (decision on the admissibility)

The 131 applicants, all prisoners, complained, *inter alia*, about the blanket ban on prisoners' voting rights in the United Kingdom in view of "forthcoming" elections to the United Kingdom or Scottish Parliaments.

The Court declared the applications **inadmissible**. It observed in particular that the applicants had complained about forthcoming elections. Assuming that they had articulated sufficiently clear complaints as regards any potential exclusion from those elections, the Court found that they had failed to adduce the necessary facts to substantiate their complaints since they had not subsequently confirmed that they were in post-conviction detention on the date of the elections in question.

Firth and Others v. the United Kingdom

12 August 2014

This case concerned ten prisoners who, as an automatic consequence of their convictions and detention pursuant to sentences of imprisonment, were unable to vote in elections to the European Parliament on 4 June 2009.

The Court recognised the steps taken in the United Kingdom with the publication of a draft bill and the report of the Parliamentary Joint Committee appointed to examine the bill. Given, however, that the legislation remained unamended, it concluded that there had been a **violation of Article 3 of Protocol No. 1** because the case was identical to *Greens and M.T.* (see above).

The Court rejected the applicants' claim for compensation and legal costs. As in previous judgments concerning prisoners' right to vote, it held that the finding of a violation constituted sufficient just satisfaction for any non-pecuniary damage sustained by the applicants. As regards the applicants' claim for legal costs, the Court referred to its remarks in the *Greens and M.T.* judgment, paragraph 120, where it had indicated that it would be unlikely to award costs in future follow-up cases. It explained that the present applicants, in lodging their applications, had only been required to cite Article 3 of Protocol 1 to the Convention, allege that they were detained pursuant to a sentence of imprisonment of the date of the election on question and confirm that they had been otherwise eligible to vote in that election. The Court found that the lodging of such an application was straightforward and did not require legal assistance. It therefore concluded that the legal costs claimed had not been reasonably and necessarily incurred.

McHugh and Others v. the United Kingdom

10 February 2015

This case concerned 1,015 prisoners who, as an automatic consequence of their convictions and detention pursuant to sentences of imprisonment, were unable to vote in elections.

The Court concluded that there had been a **violation of Article 3 of Protocol No. 1** because the case was identical to other prisoner voting cases in which a breach of the right to vote had been found (see above) and the relevant legislation had not yet been amended. It rejected the applicants' claim for compensation and legal costs.

See also, more recently: ***Millbank and Others v. the United Kingdom***, judgment of 30 June 2016; ***Miller and Others v. the United Kingdom***, judgment (Committee) of 11 April 2019.

Moohan v. the United Kingdom and Gillon v. the United Kingdom

13 June 2017 (decision on the admissibility)

The applicants, who were serving prison sentences, were ineligible to vote in the independence referendum organised in Scotland on 18 September 2014 since the relevant domestic legislation stipulated that a convicted person was legally incapable of voting in the referendum if he was, on the date of the referendum, detained in a penal institution in pursuance of the sentence imposed on him.

The Court declared the applications **inadmissible**, finding the applicants' complaint to be incompatible with the provisions of the Convention and its Protocols. It noted in particular that the established case-law strongly indicated that the Court considered that Article 3 of Protocol No. 1 did not apply to referenda.

Frodl v. Austria

8 April 2010

The applicant was a prisoner serving a life sentence for murder in Austria who, under the National Assembly Election Act – which provided that a prisoner serving a term of imprisonment for more than one year for an offence committed with intent was not allowed to vote – had been disenfranchised.

The Court held that there had been a **violation of Article 3 of Protocol No. 1**. It observed that the provision for disenfranchisement set out in section 22 of the National Assembly Election Act was more detailed than the provisions that had been applicable in the case of *Hirst (n° 2) v. the United Kingdom* (see above). It did not apply automatically to all prisoners but only to those given a prison sentence of more than one year for offences committed with intent. Nevertheless, the provision in question did not meet all the criteria the Court had set out for a measure of disenfranchisement to be in conformity with the Convention, namely that the decision on disenfranchisement should be taken by a judge, taking into account the specific circumstances of the case, and that there must be a link between the offence committed and issues relating to elections and democratic institutions. These criteria served the purpose to establish disenfranchisement as an exception, even for convicted prisoners. However, no such link existed under the statutory provisions under which the applicant had been disenfranchised.

Scoppola (No. 3) v. Italy

22 May 2012 (Grand Chamber)

The applicant complained that the ban on public office imposed on him as a result of his life sentence for murder had amounted to a permanent forfeiture of his right to vote. In 2002 an assize court had sentenced the applicant to life imprisonment for murder, attempted murder, ill-treatment of members of his family and unauthorised possession of a firearm. Under Italian law his life sentence entailed a lifetime ban from public office, which in turn meant the permanent forfeiture of his right to vote.

The Court held that there had been **no violation of Article 3 of Protocol No. 1**. It notably found that 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) v. the United Kingdom* judgment of October 2005 (see above).

Accordingly, the Court confirmed *Hirst (No. 2)*, 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. However, it accepted the argument made by the United Kingdom Government, who had been given leave to make submissions as a third party, 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.

Söyler v. Turkey

17 September 2013

This case concerned a complaint brought by a businessman convicted for unpaid cheques that he was not allowed to vote in the 2007 Turkish general elections while he was being detained in prison or in the 2011 general elections after his conditional release. The

applicant submitted that he had been convicted for unpaid cheques, which was not an offence which meant that he was unworthy of exercising his civic duties.
The Court held that there had been a **violation of Article 3 of Protocol No. 1**. It found in particular that the ban on convicted prisoners' voting rights in Turkey was automatic and indiscriminate and did not take into account the nature or gravity of the offence, the length of the prison sentence or the prisoner's individual conduct or circumstances. The application of such a harsh measure on a vitally important Convention right had to be seen as falling outside of any acceptable room for manoeuvre of a State to decide on such matters as the electoral rights of convicted prisoners. Indeed, the ban was harsher and more far-reaching than any the Court has had to consider in previous cases against the United Kingdom, Austria and Italy (see above, the cases of *Hirst (no. 2)*, *Frodl*, and *Scoppola (no. 3)*) as it was applicable to convicts even after their conditional release and to those who are given suspended sentences and therefore do not even serve a prison term.

See also: ***Çetin c. Turquie***, judgment (Committee) of 1 February 2022.

Anchugov and Gladkov v. Russia

4 July 2013

Both applicants were convicted of murder and other criminal offences and sentenced to death, later commuted to fifteen years' imprisonment. They were also debarred from voting, in particular, in elections to the State Duma and in presidential elections, pursuant to Article 32 § 3 of the Russian Constitution. Both applicants challenged that provision before the Russian Constitutional Court, which, however, declined to accept the complaint for examination on the grounds that it had no jurisdiction to check whether certain constitutional provisions were compatible with others.
The Court held that there had been a **violation of Article 3 of Protocol No. 1**. It found in particular that the applicants had been deprived of their right to vote in parliamentary elections regardless of the length of their sentence, of the nature or gravity of their offence or of their individual circumstances. The Court rejected the Russian Government's argument that this case was essentially different from the cases against other countries, notably Italy and the United Kingdom, in which the Court had addressed the issue of disenfranchisement, as the ban on prisoners' voting rights in Russia was laid down in the Constitution rather than in an act of parliament. Indeed, all acts of a member State are subject to scrutiny under the Convention, regardless of the type of measure in question. The Court therefore concluded that, despite the room for manoeuvre they had to decide on such matters, the Russian authorities had gone too far in applying an automatic and indiscriminate ban on the electoral rights of convicted prisoners.
As regards the implementation of the judgment, and in view of the complexity of amending the Constitution, the Court considered that it was open to Russia to explore all possible ways to ensure compliance with the Convention, including through some form of political process or by interpreting the Constitution in harmony with the Convention.

See also: ***Isakov and Others v. Russia***, judgment of 4 July 2017.

Murat Vural v. Turkey

21 October 2014

In October 2005 the applicant was convicted under the Law on Offences Committed Against Atatürk, after he had poured paint over several statues of Mustafa Kemal Atatürk, the founder of the Republic of Turkey, located in public places. He was initially sentenced to 22 years and six months' imprisonment, but on appeal the sentence was reduced to about 13 years' imprisonment. At the same time, the trial court imposed a number of restrictions on the applicant; in particular, while serving his sentence, he was banned from voting, taking part in elections and running associations. In June 2013, he was conditionally released from prison.
The Court held that there had been a **violation of Article 3 of Protocol No. 1**. It notably observed that the applicant's deprivation of his right to vote had not ended when

he was conditionally released from prison in June 2013. Altogether, he had been and would be unable to vote for a period of more than 11 years, from 5 February 2007, when his conviction became final, until 22 October 2018, the date initially foreseen for his release. So far, he has been unable to vote in two sets of parliamentary elections. Referring to its case-law, in particular, the judgment in the case of *Hirst (No.2) v. the United Kingdom* (see above), the Court underlined that a general, automatic, and indiscriminate restriction on the right to vote, applied to all those serving custodial sentences, was incompatible with Article 3 of Protocol No. 1. The Court recalled that it had already observed in the case of *Soyler v. Turkey* (see above) that the ban on convicted prisoners' voting rights in Turkey was automatic and indiscriminate and did not take into account the nature or gravity of the offence, the length of the prison sentence – leaving aside suspended sentences of less than a year – or the prisoner's individual circumstances.

Kulinski and Sabev v. Bulgaria

21 July 2016

This case concerned the constitutional ban on prisoners' voting rights in Bulgaria. Both applicants complained that their disenfranchisement on the ground that they were convicted prisoners violated their rights under Article 3 of Protocol No. 1 They also complained that they did not have effective domestic remedies in respect of that complaint.

The Court held that there had been a **violation of Article 3 of Protocol No. 1** to the Convention, confirming its finding in its earlier case-law that a general, automatic and indiscriminate restriction of the right to vote for prisoners was disproportionate to any legitimate aim pursued. Concerning in particular the Bulgarian Government's argument that prisoners regained their right to vote upon their release from prison, the Court observed that this did not change the fact that under the law in force at the time of the elections in question all convicted prisoners in Bulgaria, including the applicants, regardless of their individual circumstances, their conduct and the gravity of the offences committed, had been deprived of the right to vote. The Court further held that there had been **no violation of Article 13** (right to an effective remedy) of the Convention, noting that it had already held in previous cases that Article 13 did not guarantee a remedy allowing a State's laws as such to be challenged before a national authority on the ground of being contrary to the Convention.

See also: ***Petrov and Others v. Bulgaria***, decision (Committee) on the admissibility of 19 June 2018; ***Dimov and Others v. Bulgaria***, judgment (Committee) of 8 June 2021.

See also, more recently:

Ramishvili v. Georgia

31 May 2018

Mironescu v. Romania

30 November 2021[6]

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[6]. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the European Convention on Human Rights.