

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY THE CONNÉTABLE OF ST. OUEN  
ANSWER TO BE TABLED ON TUESDAY 4th FEBRUARY 2020**

**Question**

Will H.M. Attorney General advise whether Jersey's electoral system for the States Assembly is compliant with the European Convention on Human Rights?

**Answer**

The principle Article of the European Convention on Human Rights (the "**ECHR**") relating to elections is Article 3 of the First Protocol to the ECHR ("**A3P1**"), which provides –

*“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.”*

It is important to recognise that A3P1 is not an absolute right and may be subject to limitations. The European Court of Human Rights ("**European Court**") has found that limitations on, for example, voting and candidature rights are permitted provided that they do not impair the very essence of the rights afforded by A3P1 or deprive them of their effectiveness; and also that they are imposed in pursuit of, and are proportionate to, some legitimate aim. The leading case on these issues is *Mathieu-Mohin v Belgium* (1987) 10 EHRR 1.

A3P1 does not require any particular constitutional structure, nor electoral system, and in determining whether a state's system is compatible with A3P1, the European Court will have regard to its political history, allowing the state a considerable margin of appreciation so long as the electoral measures ensure the free expression of the opinion of the people in the choice of the legislature.

There is no reason at present to consider that the electoral system for the States Assembly would breach the requirements of A3P1.