

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY T.M. PITMAN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 18th JUNE 2013**

Question

Would the Attorney General advise whether individuals who are aggrieved by the fact that Option B of the Electoral Commission (which gives greater representation to residents of the smaller rural parishes at the expense of St. Helier and other urban parishes) would have any recourse against the States of Jersey via the European Court of Human Rights if this Option is implemented?

Answer

No human rights arguments arise here.

The European Convention of Human Rights does not impose any legal requirement that each vote in an election must have equal value in determining the composition of the legislature. On the contrary, the European Courts have consistently held that there is no obligation on a State to introduce a particular voting system. For example, first-past-the-post elections are considered human rights compliant even in countries whose constitutions protect equality of voting as a fundamental right. In 1979, the Liberal Democrats secured 18.8 % of the votes in a general election in the United Kingdom but only obtained 1.7% of the seats in Parliament. The European Court rejected their complaint that there had been a breach of human rights law.

The European Court affords jurisdictions a wide margin of appreciation and has regard to the particular political history of the jurisdiction. In this case, Option B seeks to preserve the role of the Connétables and, given their historic link to the States Assembly, that is a feature of Option B that would carry significant weight with the European Court.

The European Court would also be struck by the number of politicians that are elected in Jersey, and would be elected in St Helier and other urban areas if Option B is implemented, having regard to the Island's size and population.

The Vienna Commission guidelines are guidelines that do not change the legal position as described above.