

3.5 Deputy M.R. Higgins of the Attorney General regarding the Human Rights compliance of procedures in the Magistrate's Court: [1(242)]

Will Her Majesty's Attorney General advise whether there are any aspects of the procedure in the Magistrate's Court which gives him concern as not being compliant with the Human Rights (Jersey) Law 2000?

Mr. M.H. Temple, QC, The Solicitor General (Rapporteur):

I have no reason to think that the procedure in the Magistrate's Court is not compliant with the Human Rights (Jersey) Law 2000. The trial process is fair. The defendants have a right to legal representation. If they do not speak English the court will arrange an interpreter. If they plead not guilty the case is presented by a legal adviser employed by the Law Officers' Department. The magistrates are legally qualified. The interests of victims and witnesses are taken into account at all stages of the court process and defendants, if agreed at the outcome of the hearing the Magistrate's Court, have a right of appeal to the Royal Court against both conviction and sentence.

3.5.1 Deputy M.R. Higgins:

Can the Solicitor General advise Members when a human rights audit of the Magistrate's Court took place and if so, by whom and when?

The Solicitor General:

The only one I am aware of is a report that was prepared by a Mr. Cooper in 2007. He is a U.K. barrister. It was considered by the States Assembly but I am not aware of a further human rights audit since that date. The Deputy asked a very general question. It might have been helpful if he raised that question with me specifically so I could have looked at that in advance.

3.5.2 Deputy M.R. Higgins:

I apologise to the Solicitor General if he feels that I was not being helpful. I was not trying to trip him up in any way. However, he has raised Jonathan Cooper Q.C.'s (Queen's Counsel) report, some of which came to the States. In fact it was rather messy. But he came to the conclusion that the Magistrate's Court was not human rights compliant. Can the Solicitor General tell us whether any changes as a result of Jonathan Cooper's report have come forward and if we could have reassurance that it is human rights compatible?

The Solicitor General:

I am grateful to the Deputy for that clarification. It is right to record that the Attorney General of the day did not agree with Mr. Cooper's report in respect of human rights deficiencies. I think Mr. Cooper's principal concern was in relation to the magistrate acting as what is known as *juge d'instruction* in the Magistrate's Court whereby the magistrate would ask questions of a defendant himself. I am happy to report that all not guilty pleas in the Magistrate's Court are dealt with by a legal adviser and there is no reason for a magistrate to act as *juge d'instruction*. Of course the magistrate may ask questions of his own accord, as happens in any court. Mr. Cooper raised a further question in relation to the role of Centeniers in relation to listing cases. I am not entirely clear of what the nature of that concern was but Centeniers essentially ... the court decides which cases are called and the Centeniers may carry out an administrative process when calling those cases. So I repeat I do not have concerns in relation to human rights, in relation to procedures in the Magistrate's Court.

3.5.3 Deputy M.R. Higgins:

I believe Mr. Cooper also expressed concern of the dual role of the Centenier being a policeman and prosecutor and that still remains the same, is it not the case?

The Solicitor General:

As I previously said, that where there is a not guilty plea by a defendant in the Magistrate's Court that case is always dealt with by a legal adviser that is employed by the Law Officer's Department. Centeniers will still present some cases which are guilty pleas but they are not acting as a policeman in those cases because there has already been a guilty plea.