

2.30pm update

UK prisoners should get vote, European court rules

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Laws setting out who can and cannot take part in elections are to be rewritten after the European court of human rights today ruled in favour of giving British prisoners the right to vote.

Ruling in the case of a former prisoner against the United Kingdom, the Strasbourg court said the disenfranchisement of 48,000 convicts in British jails violated the European convention on human rights.

It said that with the exception of the right to liberty, lawfully detained prisoners continued to enjoy all the rights guaranteed in the convention - including political rights and freedom from inhumane and degrading punishment.

Britain is among 13 signatories to the human rights convention who prevent prisoners from voting, according to a government survey. The only exceptions in Britain are those in jail for non-payment of debts, contempt of court or on remand.

A further 14 signatories to the convention limit the right of prisoners to vote, while another 18 impose no restriction at all. The court's ruling could see prisoners across all states belonging to the 46-member Council of Europe, the court's parent body, given the right to vote.

Juliet Lyon, director of the Prison Reform Trust, said the court's ruling confirmed "people are sent to prison to lose their liberty, not their identity or their citizenship".

Speaking for the Tories, the shadow attorney general, Dominic Grieve, said giving convicted murderers and rapists the vote would "bring the law into disrepute and many people will see it as making a mockery of justice".

A spokesman for the Department for Constitutional Affairs said it was giving the judgment urgent consideration and would bring forward proposals in due course.

The former prisoner who brought the challenge, John Hirst, 54, pleaded guilty to manslaughter on the grounds of diminished responsibility after killing his landlady Bronia Burton with an axe.

He was sentenced to discretionary life imprisonment on February 11 1980 and released from Rye Hill prison, Warwickshire, on May 25 2004.

After his application to vote from prison was turned down, Mr Hirst took his case to the high court and lost. A seven-judge chamber of the Strasbourg court backed him, ruling that blocking the right to vote was disproportionate, and awarded him £8,000 in costs and expenses.

The government then appealed to a 17-judge "grand chamber" of the human rights court, arguing that Mr Hirst would be barred from voting even if the law was reformed to restrict the democratic rights of those who had committed only the most serious offences.

Mr Hirst's lawyers argued that blocking the right to vote was inconsistent with the stated rehabilitative aim of prison and that there was no proven link between removal of the vote and prevention of crime.

The court - on a majority ruling of 12-5 - said an article in the convention guaranteeing the "free expression

of the opinion of the people in choosing a legislature" was not absolute but in a 21st century democracy the presumption should be in favour of inclusion.

Two of the judges said in an additional written ruling that the ban was applied to those in prison but neglected that a judge's decision to send a defendant to prison or hand down a suspended sentence or fine could depend on his or her health, age and family situation and not just the gravity of the crime.

Now living in Hull, Mr Hirst said his challenge had been about breaking the link between crime and the right to take part in the democratic process.

"The human rights court has agreed with me that the government's position is wrong - it doesn't matter how heinous the crime, everyone is entitled to have the basic human right to vote."

A bar on prisoners voting is made in the 1983 Representation of the People Act but the substance dates back to the 1870 Forfeiture Act, which in turn reflects earlier laws limiting the rights of criminals from the reign of Edward III.

The five dissenters - Judges Wildhaber, Costa, Lorenzen, Kolver and Jebens - said in a joint written opinion that the Strasbourg court should be careful not to assume legislative functions. They said states should have the right to restrict voting based on nationality, age, residence and other factors.

The court was set up in 1950 to hear citizens' complaints under the human rights convention and is independent of the European Union.