

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 29TH NOVEMBER 2016**

Question

Will H.M. Attorney General explain whether *dégrévement* is compliant with Jersey's Human Rights obligations and, if so, how?

Answer

Dégrévement is a procedure that concerns the realisation of security over immovable property. The *dégrévement* procedure is provided for in the *Loi (1880) sur la propriété foncière*. Pursuant to this procedure, on the application of a secured creditor, the Royal Court may appoint two advocates for the purpose of conducting a *dégrévement*. The procedure will usually result in the disposal of the debtor's immovable property by the creditor being confirmed as the 'tenant' of that property. Any surplus remaining after the disposal of the immovable property and satisfaction of the debts owed to the tenant and to any prior secured creditors will be retained by the tenant.

It is important to recognise that *dégrévement* is one of a number of remedies that the Royal Court can grant, including *remise de biens* and *desastre*, having regard to the particular circumstances of the debtor and the hardship that might be caused to the debtor or the creditors in any particular case. Article 1 of Protocol 1 to the European Convention on Human Rights ("ECHR") (as incorporated into Jersey Law by the Human Rights (Jersey) Law 2000) provides a right to the peaceful enjoyment of possessions. However, this is a qualified right that may be interfered with to the extent that such interference is lawful and proportionate to a legitimate aim. As the rules applicable to the realisation of security and bankruptcy, including *dégrévement*, are clear and provide adequate protection for debtors and creditors from unjustified interference with their rights, I am satisfied that they are compatible with Jersey's obligations under the European Convention on Human Rights.

Further, if a question arises in any case as to whether *dégrévement* is human rights compliant, then Article 4 of the Human Rights (Jersey) Law 2000 would require the court to interpret the law in a convention compliant way to the extent that is possible.