

# **STATES OF JERSEY**



## **EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS: EXTENSION OF PROTOCOL 13**

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**Lodged au Greffe on 8th April 2003  
by the Policy and Resources Committee**

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**STATES GREFFE**

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

to request the Bailiff to inform the Lord Chancellor that it is the wish of the Insular Authorities that the United Kingdom's ratification of Protocol 13 to the European Convention on Human Rights and Fundamental Freedoms be extended to the Bailiwick.

**POLICY AND RESOURCES COMMITTEE**

# **REPORT**

## **Introduction**

The Government of the United Kingdom, through the Lord Chancellor's Department, has asked the Insular Authorities whether they would wish Protocol 13 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) to be extended to the Island.

## **Background**

The ECHR was ratified by the United Kingdom on behalf of the Island in 1953.

Protocol 13 to the ECHR concerns the abolition of the death penalty in all circumstances. Whilst the Island, through the United Kingdom, has had the sixth Protocol of the ECHR extended to it, this only provides for the abolition on the death penalty in times of peace. Protocol 13, on the other hand, aims precisely at the abolition of the death penalty also in the time of war or of an imminent threat of war. Attached is a copy of the Protocol which was signed in Vilnius on the 2nd May 2002. Please note that Article 4 of Protocol 13 provides for the extension.

Application of the Protocol to the Bailiwick would be consistent with the decision of the Island Authorities in June 1999, to request extension of the Second Protocol of the International Covenant on Civil and Political Rights (ICCPR) which also provides for abolition of the death penalty in times of war. The advice of the then Attorney General was that the death penalty had been abolished under Jersey Law for all offences including treason and military offences, and therefore there was no reason for the Island not to request extension of the Protocol. This advice has been confirmed by the present Attorney General, who is satisfied that from a legal perspective the Island can request the extension of the United Kingdom ratification of Protocol 13.

At present, four countries have ratified Protocol 13, and the United Kingdom intends to do so by the end of May 2003. Once ten countries have ratified the Protocol, it will then come into force.

## **Conclusion**

It is the recommendation of the Policy and Resources Committee that Protocol 13 be ratified on behalf of the Island. Should the States agree, as soon as the United Kingdom has ratified the Protocol on the Island's behalf, the Policy and Resources Committee will make an Order under Article 2(2) of the Human Rights (Jersey) Law 2000 adding Protocol 13 to the Convention Rights in the First Schedule to the Law, which are given effect under Article 2(1) of the Law.

## **Financial/manpower statement**

There are no additional financial or manpower implications for the States arising from this proposition.

PROTOCOL No. 13  
TO THE CONVENTION FOR THE  
PROTECTION OF HUMAN RIGHTS  
AND FUNDAMENTAL FREEDOMS,  
CONCERNING THE ABOLITION  
OF THE DEATH PENALTY  
IN ALL CIRCUMSTANCES

Vilnius, 3.V.2002

The member States of the Council of Europe signatory hereto,

Convinced that everyone's right to life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings;

Wishing to strengthen the protection of the right to life guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention");

Noting that Protocol No. 6 to the Convention, concerning the Abolition of the Death Penalty, signed at Strasbourg on 28 April 1983, does not exclude the death penalty in respect of acts committed in time of war or of imminent threat of war;

Being resolved to take the final step in order to abolish the death penalty in all circumstances,

Have agreed as follows:

**Article 1 – Abolition of the death penalty**

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

**Article 2 – Prohibition of derogations**

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

**Article 3 – Prohibition of reservations**

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

**Article 4 – Territorial application**

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.
- 2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
- 3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

**Article 5 – Relationship to the Convention**

As between the States Parties the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

### **Article 6 – Signature and ratification**

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

### **Article 7 – Entry into force**

- 1 This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 6.
- 2 In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

### **Article 8 – Depositary functions**

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance or approval;
- c any date of entry into force of this Protocol in accordance with Articles 4 and 7;
- d any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Vilnius, this 3 May 2002, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.