

Joint Committee on Human Rights

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Rt Hon Theresa May MP
Home Secretary
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Certificate of Approval Scheme: O'Donoghue v UK

On 14 December 2010, the European Court of Human Rights held that the operation of the Certificate of Approval Scheme for marriages of individuals subject to immigration control in Section 19 Asylum and Immigration (Treatment of Claimants) Act 2004 had operated in a manner which had violated the right to marry protected by Article 12 ECHR; and the right to enjoy that right without discrimination on the grounds of religion (Articles 12 and 14 ECHR) and the right to respect for religion without discrimination (Article 9 ECHR and 14 ECHR). In this case, the Court considered the treatment of the applicants and awarded around 9,000 Euros in compensation and 16,000 Euros in costs.¹

The judgment in this case is not yet final. However, in light of the Committee's work on the Government's proposals for a draft remedial order designed to repeal the Certificate of Approval and the expected tabling of a draft remedial order on the subject, we would be grateful for some further information, as set out below.

Grand Chamber

- 1. Does the Government intend to request that the case is referred to the Grand Chamber?**

Compensation and repeat violations or clone cases

In our report on the Government's proposals for repeal, we called on the Government to think innovatively about the likelihood of a significant number of clone cases which might arise should the European Court of Human Rights award compensation in this case.²

- 2. Does the Government consider that there is a significant risk of multiple repeat cases alleging similar violations by others affected by the Certificate of**

¹ Judgment dated 14 December 2010, App No 34848/07.

² Fifth report of session 2011-11, *Proposal for the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (Remedial) Order 2010, HC599/HL 54, see para 52.*

Approval scheme? Please explain the Government's assessment of the likely risk of clone litigation.

- 3. Does the Government have statistics for the number of individuals prevented from marrying by either (a) their exclusion from the Certificate of Approval scheme or (b) by the level of fee imposed by the scheme between its introduction and the decision of the House of Lords in *Baiai* and the subsequent waiver of the supposed fee? If so, please provide them.**
- 4. What steps, if any, does the Government intend to take to consider the implications of the award of just satisfaction in this case, in order for example, to ensure that people whose rights have been violated in similar circumstances, do not have to make applications to the European Court of Human Rights in order to seek redress?**

It would be helpful if we could receive your reply by 10 January 2010. I would also be grateful if your officials could provide the Committee secretariat with a copy of your response in Word format, to aid publication.

I look forward to hearing from you.

Dr Hywel Francis
Chair, Joint Committee on Human Rights