



PM/81/62

PRIME MINISTER

European Court of Human Rights:  
Compensation for Closed Shop Victims

1. The Secretary of State for Employment sent me a copy of his minute of 1 December to you. I have since seen a copy of the minute of 3 December from the Attorney-General.
  
2. As you know, this Office deals, in the capacity of agent in the proceedings, with all cases against the UK Government before the Strasbourg Commission and Court. We are therefore very much aware both of the large number of such cases - around 100 pending at present, as Norman Tebbit says in his paragraph 5 - and of the wide range of issues which they cover. We have also become very familiar with the extended interpretation which the Commission and Court give to the term "victim" of a violation of the Convention (for example, in the Northern Ireland case to which Norman Tebbit refers, the applicant had not been prosecuted under the homosexuality laws: he was found by the Court to be a victim because, no doubt like many others, he was affected by the mere existence of those laws).
  
3. Given this extended interpretation, I think we may create serious difficulties for ourselves in other cases - not only the Northern Ireland case but also cases relating to airport noise, immigration, detention on grounds of mental disorder and corporal punishment in schools - if, in the present case, we depart from the position that our duty to compensate applies only to the limited category of those who /have



have taken proceedings in Strasbourg and have actually been found to be "victims". I of course see the force of the domestic political considerations to which Norman Tebbit refers; but unless there is a really convincing distinction which we can rely on to block off this case from others in future, we must in my view accept that by going beyond that limited category and compensating also people who might have claimed successfully to be victims, we may be creating what could be a very expensive precedent indeed. And I have to say that, like the Attorney-General, I am not satisfied that the distinction suggested here is anywhere near good enough for the purpose. Nor, I fear, do I see any other distinction on which we could safely rely.

4. I also agree with what the Attorney-General says in his paragraph 3 about the need to guard against the risk of further applications to Strasbourg on the basis of any compensation scheme which might be established.

5. I am sending copies of this minute to the recipients of Norman Tebbit's minute.

(CARRINGTON)

Foreign and Commonwealth Office

7 December 1981

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