

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S PORTFOLIO

**Group: 2**

**Program: Other Agency**

**Question No. AE15/097**

**Senator Collins asked the following question at the hearing on 27 March 2015:**

Senator JACINTA COLLINS: You indicated that compensation is calculated consistent with Federal Court criteria—I do not want to verbal you—but on several occasions in the past they have not been met. It seems to a number of senators that it is unheard of that compensation would be recommended. From what you seem to be saying, there have been several occasions when former presidents have recommended compensation but it has not been met by whichever government was in power. Could you elaborate on that point?

Prof. Triggs: First of all we have a power to make to make compensation recommendations, once I have made a final finding—

Senator JACINTA COLLINS: Is it a power or is it a requirement?

Prof. Triggs: It is a power. As you will appreciate, any matter that concerns a legal judgement, you usually exercise that power to recommend the compensation payment. That would be normal procedure, and it has been the procedure of the commission for 30 years. As far as I am aware, it has never been questioned. Your precise question is: is usual for us to make compensation recommendations? The answer is 'Yes.' Every time we find a breach of Australia's human rights obligations, we invariably make a recommendation. It may be that sometimes financial compensation is not appropriate. We do in a number of matters actually recommend an apology or some written statement—sometimes it is in the private sector and it is worked out within the business that is involved or with the government. That is absolutely normal procedure.

Senator JACINTA COLLINS: Could you take on notice the details of compensation recommendations that have been made? Can you tell me how onerous the length of time might be for compensation of a financial nature?

Prof. Triggs: We can give you a complete list of every one of our decisions in which compensation payment has been recommended.

Senator JACINTA COLLINS: And quantum of that?

Prof. Triggs: Indeed, with the precise amounts that I have recommended. I am very happy to do that.

**The answer to the honourable senator's question is as follows:**

The following is a list of human rights and ILO discrimination complaints in which compensation has been recommended

A copy of each report can be found at

<https://www.humanrights.gov.au/our-work/legal/projects/human-rights-reports>

Report Name and Number	Date tabled	Findings	Compensation recommended
No. 90 – Charlie v Cth (DIBP)	01.12.2014	Breach of articles 9(1), 17(1), 23(1) ICCPR	\$200,000
No 89 – PJ v AMP Financial Planning	01.12.2014	Discrimination in employment on the basis of criminal record	\$5,000
No 88 – AH v Cth (DIBP)	01.12.2014	Breach of article 9(1) ICCPR	\$200,000
No 87 – HA, HB, HC, HD and HE v Cth (DIBP)	01.12.2014	Breach of article 9(1) ICCPR	Mr HA: \$190,000 Mr HB: \$175,000 Mr HC: \$180,000 Mr HD: \$190,000 Mr HE: \$175,000
No. 86 – MG v Cth (DIBP)	01.12.2014	Breach of article 9(1) ICCPR	\$300,000
No. 85 – Jafari v Cth (DIBP)	01.12.2014	Breach of article 9(1) ICCPR	\$140,000
No. 84 – AQ v Cth (DIBP)	01.12.2014	Breach of article 9(1) ICCPR	\$150,000
No. 83 – FA, FB, FC, FD v Cth (DIBP)	01.12.2014	Breach of article 9(1) ICCPR	Mr FA: \$280,000 Mr FB: \$150,000 Mr FC: \$320,000 Mr FD: \$100,000
No. 82 – Fadhel v Cth (DIBP)	01.12.2014	Breach of articles 7 and 9(1) ICCPR	\$400,000
No. 81 – TM v Linfox Australia	01.12.2014	Discrimination in employment on the basis of criminal record	\$11,048
No. 77 – Basikbasik v Commonwealth (DIBP)	24.11.2014	Breach of article 9(1) ICCPR	\$350,000
No. 76 – Mordechai v Cth (DIBP)	23.10.2014	Breach of article 10(1) ICCPR	\$4,000
No. 75 – Arif v Cth (DIBP)	23.10.2014	Breach of article 9(1) ICCPR	\$200,000
No. 74 - MC and Ghanbari v Cth (DIBP)	23.10.2014	Breach of article 9(1) ICCPR	Mr MC: \$150,000 Mr Ghanbari: \$100,000
No. 73 - Thi Binh Mai v Cth (DIBP)	23.10.2014	Breach of article 9(1) ICCPR	\$200,000
No. 72 - JA v Cth (Dept of Defence)	04.09.2014	Breach of article 9(1) ICCPR	\$15,000
No. 69 – Ogawa v Cth (DIAC)	04.09.2014	Breach of article 9(1) ICCPR	\$50,000
No. 68 – Parker v Cth (DIAC)	04.09.2014	Breach of article 9(1) ICCPR	\$100,000
No. 67 – Stevanovic v Cth (DIAC)	04.09.2014	Breach of articles 12(4), 17(1) and 23(1) ICCPR	\$20,000
No. 66 - Swamy v Percival	04.09.2014	Discrimination in employment on basis of religion	\$2,000

Report Name and Number	Date tabled	Findings	Compensation recommended
No. 65 - Johansson v Masonic Homes Inc	04.09.2014	Discrimination in employment on the basis of criminal record	\$11,155
No. 62 – Ince v Cth (DIAC)	12.11.2013	Breach of articles 7, 9(1), 10, 17 and 23 ICCPR	\$450,000
No. 61 - BD v Queensland (Department of Community Safety)	12.11.2013	Discrimination in employment on the basis of criminal record	\$8,723.65
No. 59 - DA v AFP	11.04.2013	Discrimination in employment on the basis of criminal record	\$1,000
No. 57 - ST v Endeavour Energy	27.11.2012	Discrimination in employment on the basis of criminal record	\$6,311.80
No. 55 - BZ and AD v Cth (DIAC)	17.10.2012	Breach of articles 9(1), 17(1), 10 ICCPR Breach of articles 3, 37(b), 37(c) CRC	BZ – \$452,500 AD – 82,500
No. 53 – Judy Tuifangaloka v Cth (DIAC)	12.09.2012	Breach of articles 9(1), 17(1), 23(1) ICCPR Breach of articles 3, 37(b) CRC	\$250,000
No. 52 – SD v Cth (DIAC)	12.09.2012	Breach of article 9(1) ICCPR	\$300,000
No. 51 – Brown v Cth (DIAC)	19.06.2012	Breach of articles 9(1), 10(1), 17(1), 23(1) ICCPR	\$450,000
No. 50 – Campbell v Black and White Cabs Pty Ltd and Tighe	19.06.2012	Discrimination in employment on the basis of criminal record	\$10,000
No. 49 – Cherkupalli v Cth (DIAC)	19.06.2012	Breach of article 9(1) ICCPR	\$697,000
No. 48 – CG v State of NSW (RailCorp)	13.03.2012	Discrimination in employment on the basis of criminal record	\$7,500
No. 47 – Heyward v Cth (DIAC)	01.12.2011	Breach of articles 9(1), 17(1) and 23(1) ICCPR	\$200,000
No. 46 – Yousefi family v Cth (DIAC)	07.11.2011	Breach of articles 7, 9 and 10 ICCPR Breach of articles 3(1), 3(2), 19(1), 24(1), 28(1), 37(a) and 37(c) of the CRC	\$1,025,000 (to Manoochehr Yousefi) \$675,000 (to Mernoosh Yousefi)
No. 45 - Al Jenabi v Cth (DIAC)	16.08.2011	Breach of article 9(1) ICCPR	\$450,000
No. 44 – Toro-Martinez v Cth (DIAC)	16.08.2011	Breach of articles 9 (1), 17(1) and 23(1) of the ICCPR.	\$100,000
No. 43 – NK v Cth (DIAC)	14.06.2011	Breach of articles 9(1), 17(1) and 23(1) ICCPR	\$500,000

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No. 42 – KL v State of NSW (Department of Education)	1.10.2010	Discrimination in employment on the basis of criminal record	\$38,500
No. 41 – El Masri v Cth (DIAC)	28.10.2009	Breach of articles 9(1) and 10(1) ICCPR	\$105,000
No. 40 – Complaints by immigration detainees v Cth (DIMIA)	19.03.2009 (H of Reps)	Breach of articles 10(1) and 17(1) ICCPR	for some \$5000 for others \$9,000
No. 39 – Nguyen and Okoye v Cth (DIMIA) and GSL (Australia) Pty Ltd	11.03.2008	Breach of articles 7 and 10(1) ICCPR and 17(1) and 23(1) ICCPR	\$20,000 each
No. 38 – Frank Ottaviano v South Australia (South Australia Police)	11.03.2008	Discrimination in employment on the basis of criminal record	\$20,000
No. 37 – Dr Julie Copeman v Derbarl Yerrigan Health Service	11.09.2007	Discrimination in employment on the basis of trade union activity	\$76,185
No. 36 CD v Cth (DIMA)	17.10.2006	Breach of article 10(1) ICCPR	\$15,000
No. 35 – AV v Cth (DIMA)	20.06.2006	Breach of articles 7 and 10(1) ICCPR	\$4,000
No. 26 Report of an inquiry into a complaint by Mr Kenneth Douglas of age discrimination in the Australian Defence Force	30.03.2004	Discrimination in employment on the basis of age	\$15,000
No. 25 - Report of an inquiry into a complaint by Mr Mohammed Badraie on behalf of his son Shayan regarding acts or practices of the Commonwealth of Australia (the Department of Immigration, Multicultural and Indigenous Affairs) (2002)	10.12.2002	Breach of articles 3(1), 9(1), 37(b) and 37(c) CRC	70,000
No. 24 - Report of an inquiry into complaints by five asylum seekers concerning their detention in the separation and management block at the Port Hedland Immigration Reception and Processing Centre (2002)	10.12.2002	Breach of articles 9(1) and 10(1) ICCPR	\$35,000 each complainant

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No. 23 - Report of an inquiry into a complaint by Mr Hassan Ghomwari concerning his immigration detention and the adequacy of the medical treatment he received while detained (2002)	10.12.2002	Breach of articles 10(1) and 10(2)(a) ICCPR	\$26,500
No. 22 - Report of an inquiry into a complaint by Mr XY concerning his continuing detention despite having completed his criminal sentence (2002)	10.12.2002	Breach of article 9(1) of the ICCPR	\$45,000
No. 19 - Report of inquiries into complaints of discrimination in employment on the basis of criminal record - Mr Mark Hall v NSW Thoroughbred Racing Board (2002)	25.09.2002	Discrimination in employment on the basis of criminal record	\$33,303.05
No. 15 Report of an inquiry into a complaint by Ms Elizabeth Ching concerning the cancellation of her visa on arrival in Australia and subsequent mandatory detention (2002)	19.06.2002	Breach of article 13 ICCPR	\$2,000
No. 14 Report of an inquiry into a complaint by Mr Andrew Hamilton of age discrimination in the Australian Defence Force (2002)	19.06.2002	Discrimination in employment on the basis of age	\$20,000
No. 12 Report of an inquiry into complaints into Immigration Detention Centre (2000) Quan Ri Qing & Su Yu Fei v. Department of Immigration and Multicultural Affairs	28.03.2001	Breach of articles 10(1) and 9(1) ICCPR	Qing - \$15,000 Fei - \$20,000
No. 11 Discrimination on the ground of age (2000) Ishikuni v. Japan Travel Bureau (Australia)	28.03.2001	Discrimination in employment on the basis of age	\$43,385

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No. 10 Report of an inquiry into Immigration Detention Centre (2000) Johnson v. Department of Immigration and Multicultural Affairs	29.06.2000	Breach article 10(1) ICCPR	Complainant could not be located and did not specify if seeking compensation, however question left open as "the complainant's treatment requires reparation by way of financial compensation.
No. 9 Discrimination on the ground of trade union activity (2000) Edwards, Farrell, Moate v. O'Brien Metal Products Pty Ltd	29.06.2000	Discrimination in employment on the basis of trade union activity	Edwards - \$5,000 Farrell - \$5,000 Moate - \$5,000
No. 8 Age discrimination in the Australian Defence Force (2000) Bradley, Barty, Petersen & Van Den Heuvel v. Australian Defence Force	29.06.2000	Discrimination in employment on the basis of age	Bradley - \$5,000 Barty - \$5,000 Van Den Heuvel - \$10,000
No. 3 Discrimination on the ground of trade union activity (1997) - Kong v. Australia Post	3.12.1997	Discrimination in employment on the basis of trade union activity	\$2,000
No. 1 Compulsory age retirement (1996) - Bone, Craig, Ivanoff, Love v. QANTAS	15.10.1996	Discrimination in employment on the basis of age	Bone - \$120,900 Craig - \$116,250 Ivanoff - \$117,235 Love - \$132,785