



ADMINISTRATIVE PRACTICE NOTE

APPEALS BEFORE THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL

(Update – 31 JULY 2020)

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Introduction

The Chairperson of the International Protection Appeals Tribunal, in furtherance of ensuring the efficiency of the functions of the Tribunal, issues the following note on administrative practices before the International Protection Appeals Tribunal. This Administrative Practice Note shall be read in accordance with the provisions of the International Protection Act 2015 (hereinafter “the 2015 Act”) and the International Protection Act 2015 (Procedures and Periods for Appeal) Regulations 2017 (hereinafter “the 2017 Regulations”), and in the case of any ambiguity or conflict, the legislation shall take precedence.

This Administrative Practice Note replaces the previous version which has been in force since April 2019 and incorporates changes for those attending at the Tribunal itself. These changes are necessitated by the Covid-19 pandemic and are taken in the interest of the health and safety of all those who attend at the Tribunal premises. The Tribunal will be guided by advices and guidelines from the State’s Chief Medical Officer and his staff as well as from the Health Service Executive.

The Tribunal is committed to carrying out its functions in line with its legislative remit and in accordance with best international practices. The Tribunal shall ensure that its functions are performed effectively, and that decisions are issued expeditiously and in a manner that is consistent with fairness and natural justice.

The within Administrative Practice Note may be amended from time to time as the need arises, and appellants and their legal representatives are advised to keep themselves apprised of any matters arising under the Administrative Practice Note. By setting out this Administrative Practice Note (hereinafter “APN”), it is hoped that all parties appearing before the Tribunal will be aware of the procedures before the Tribunal.

Tribunal Sittings

Tribunal hearings currently take place at the offices of the International Protection Appeals Tribunal, 6/7 Hanover Street, Dublin 2. Furthermore, it is anticipated that some hearings will take place via an online platform and a separate APN will issue for those hearings.

All parties appearing before the Tribunal and other participants in the hearing are asked to attend punctually to ensure that hearings can commence at the assigned time; delays may impact adversely on other appeal hearings scheduled for the same day. As the Tribunal will carry out enhanced cleaning of hearing rooms and other facilities, and hearing start times will be staggered, prompt attendance is necessary. Parties will only be admitted to the Tribunal premises at their appointed time, and will not be permitted to enter earlier. This measure is necessary to enable social distancing to take place in the Tribunal foyer and reception area.

Upon arrival at the Tribunal premises, all persons must report straight to the security desk. The security officer will have a list of all expected parties and participants in each hearing and will mark off names once those persons have arrived. Once they have identified themselves, legal practitioners, appellants, witnesses and interpreters will proceed straight to the assigned hearing room. If an appellant or witness arrives before or after their legal representative, they will be brought to the reception area before being escorted to the assigned hearing room. It is recommended that legal practitioners arrange, where possible, to meet appellants and witnesses before they arrive at the building itself.

The Presenting Officers must go to the assigned hearing room at the appointed time.

In light of the restrictions imposed upon the Tribunal by Covid-19, it is vital that the Tribunal Member is in the hearing room at the appointed time.

If any participant in a hearing is more than 10 minutes late, this delay may necessitate a postponement of the hearing because of the consequent effect that the delay may have on the cleaning of the room or any other hearings scheduled for that day. Alternatively, the Tribunal may decide to proceed in their absence unless this would be contrary to the principles of fairness and natural justice.

Only persons actively involved in hearings will be permitted to attend at the Tribunal premises. There are no child-care facilities at the Tribunal.

There is a room within the hearing room corridor for witnesses to wait; this room has a limited capacity due to social distancing requirements.

There are no consultation rooms available at the Tribunal.

There are several sanitation points located in the vicinity of reception and the hearing rooms, and parties are requested to use these on entering the building, on entering the hearing room area, on leaving the hearing room and prior to leaving the building. Parties and other participants in the hearing are requested to wear face coverings while in the public areas and are encouraged to wear face coverings in the hearing rooms.

All of the hearing rooms have been configured to allow for social distancing and there are also Perspex partitions within the hearing rooms. Parties and other participants in the hearing will be required to sit in allocated seats when in the hearing room; the seating arrangements have been designed to enable an appellant engage with their legal representative and interpreter (if any) during the hearing. The air conditioning units have been upgraded and ventilation units serviced to ensure air flow and the circulation of fresh air.

All parties must bring their own pens, paper and water – these will no longer be provided by the Tribunal.

All appellants, legal representatives, interpreters and other participants in the hearing are required to return self-declaration forms to the Tribunal no later than 3 working days before the scheduled hearing.

Appellants and/or their legal representatives must have notified the Tribunal of all proposed witnesses, and all legal representatives who will attend, whether in the notice of appeal or in advance of the hearing. This is to ensure that the Tribunal knows **the number of persons who will attend a hearing** to ensure in turn that adequate social distancing may be observed within the hearing room, and/or to ensure that alternative measures can be put in place.

If any party or other participant in the hearing has Covid-19 or any of the Covid-19 symptoms (fever, cough, sore throat, loss of taste and smell), or has been in close contact

with someone who has those symptoms or who has Covid-19, they are requested not to attend the Tribunal, and to contact their legal representative by phone. Witnesses should contact the appellant’s legal representative, interpreters should contact their company and Presenting Officers should contact the Presenting Officers’ Unit of the Department of Justice, and these bodies should advise the Tribunal of the situation.

If any party, witness or other participant in the hearing develops Covid-19 symptoms within 10 days of having attended at the Tribunal premises, their legal representatives are requested to inform the Tribunal about this as a matter of urgency, as are the Presenting Officers’ Unit and the interpreter company if their agents develop symptoms. It is recommended that all those attending the Tribunal premises download the COVID Tracker app.

Tribunal hearings currently take place Monday – Thursday inclusive throughout the year (save for public holidays). Any changes to this policy will be posted on the Tribunal website.

Communications with the Tribunal

The Tribunal’s telephone number is **01- 4748400**. This service is available from 9.00am – 5.00pm, Monday to Friday.

Documentation may be submitted to the Tribunal by way of email to the following address: info@protectionappeals.ie no later than later than 10 working days prior to the date fixed for the oral hearing. Documentation may also be submitted by way of post to the **International Protection Appeals Tribunal, 6/7 Hanover Street East, Dublin 2, D02 W320** or by the safe delivery of hard copy documentation to this address. All correspondence to the Tribunal should bear the relevant Person ID number and Tribunal reference.

It is the policy of the Tribunal to acknowledge receipt of all correspondence received and it is a matter for the party submitting the documentation to provide proof of posting otherwise.

All correspondence relating to an appeal should be communicated via the Tribunal. **Legal representatives, appellants, witnesses, interpreters and Presenting Officers must not attempt to contact Tribunal Members personally.**

Appellants and their legal representatives are reminded to ensure that, either in the relevant Notice of Appeal or in a Schedule accompanying such Notice of Appeal, they list all the documents that accompany the notification of recommendation / decisions issued to them by the International Protection Office, or any other body whose decision is the subject of the appeal, as well as all other documents and / or records, upon which it is proposed to rely for the purposes of the appeal, indicating clearly the relevance of any documentation submitted (or parts thereof) to the appeal.

It should be noted that the 2017 Regulations provide that a party may not lodge any additional documents with the Tribunal later than 10 working days prior to the date fixed for the oral hearing except (a) with the written consent of the Tribunal, or (b) on the direction of the Tribunal. This issue is covered in more detail later in the APN under the heading “**Submission of material / documentation to the Tribunal**”.

It should be clearly noted whether documents are original or copy documents, and all documents to be relied upon should be submitted in English or with an English translation of same.

The Tribunal does not accept documentation submitted by way of fax. This is to ensure compliance with the Tribunal’s obligations under the General Data Protection Regulation (EU) 2016 / 679.

International Protection Notices of Appeal

Section 41(2)(b) of the 2015 Act requires an appeal to the Tribunal in respect of a claim for international protection to be brought by notice **in writing within the period prescribed and specifying the grounds of appeal**. The relevant Notice of Appeal is to be found in Schedule 1 to the 2017 Regulations.

The Appellant must sign the Notice of Appeal. Where the appellant has not signed the Notice of Appeal, it is invalid and will not be accepted by the Tribunal.

Furthermore, Regulation 5(2) of the 2017 Regulations contains an obligation to include with the Notice of Appeal copies of the documents listed therein, except for any documents furnished by the Minister to the Tribunal pursuant to section 44 of the Act of 2015.

The grounds upon which an appellant seeks to rely must be specified in writing and should be pleaded with specificity, as per section 41(2)(b) of the 2015 Act. While the grounds may be augmented in later submissions, any Notice of Appeal which does not specify the legal and factual grounds upon which the appeal is based will be invalid and will not be accepted by the Tribunal.

Appellants are also required to indicate in the Notice of Appeal whether they wish the Tribunal to hold an oral hearing as per Section 41(2)(b) of the 2015 Act. The Tribunal is obliged by s.42(1)(a) of the International Protection Act 2015 to hold an oral hearing for an applicant where he or she has requested an oral hearing in his or her notice of appeal. The Tribunal also holds an oral hearing if it is of the opinion that it is in the interests of justice to do so (s.42(1)(b)).

If an applicant does not request an oral hearing, an appeal may be determined without an oral hearing (s.42(3)), so long as the Tribunal is not of the opinion that it is necessary in the

interests of justice to hold an oral hearing. It can happen that an appellant requests an oral hearing even though the Tribunal is not of the opinion that it is necessary in the interests of justice to hold one. In such instances, the Tribunal holds an oral hearing, as required, and is happy to do so to facilitate appellants' requests.

The Tribunal considers that what is required is that an appellant must have an opportunity to make his or her case. Whether an oral hearing is required in the interests of justice will depend on the nature of the case made. See *VJ v Minister for Justice and Equality and Ors* [2019] IESC 75, unreported, Supreme Court, 31 October 2019.

In line with the guidance of the Supreme Court, generally it is in the interests of justice for claims that are based on the personal knowledge of an applicant to benefit from an oral hearing. This will be so particularly where personal credibility is in issue. By contrast, the interests of justice would not require an oral hearing in respect of claims particularly suited to determination by reference to country information. This will be so particularly where personal credibility is not in issue. Appellants and their legal representatives should consider these points in deciding whether to ask to proceed without an oral hearing.

Specific details in relation to the necessity for an interpreter should be set out in the Notice of Appeal, i.e. the language and, where relevant, the dialect required.

Any other particular requirements should also be set out in the Notice of Appeal, e.g. an appellant with hearing difficulties, mobility difficulties, or a request for a Tribunal Member and/or interpreter and / or Presenting Officer to be of a particular gender. Every effort will be made to accommodate reasonable requests of this nature, which should be made as soon as possible in advance of the hearing of an appeal.

The position in relation to an appeal which has been lodged outside the prescribed time period is governed by the 2017 Regulations, and in particular Regulation 4 thereof.

Regulation 6(1) of the 2017 Regulations provides for notice of the date of an oral hearing to be sent to an appellant, his or her legal representatives and a copy of same to the Minister not less than 20 working days prior to the hearing date itself. This notice period may be abridged on agreement between all parties, as provided for in Regulation 6(3) of the 2017 Regulations.

Accelerated appeal procedures in certain cases

Certain appeals may be subject to an accelerated procedure (Section 43 of the Act of 2015, following a finding by the International Protection Officer pursuant to section 39(4) of the Act of 2015), with the relevant time period set out at Regulation 3(d) of the 2017 Regulations. Appeals under the accelerated procedure shall take place without an oral hearing unless the Tribunal considers that an oral hearing is necessary in the interests of justice.

Statutory provisions for according priority to any application

Section 63(5) of the 2015 Act provides that the Chairperson (a) may accord priority to an appeal when he or she is of the opinion that it is in the interests of justice to do so, and (b) shall accord priority to an appeal that is the subject of a request under section 73(1), following a consultation with the Minister in this latter category.

It is also open to an appellant before the Tribunal to seek prioritisation of the hearing of their appeal, and such a request will be facilitated where, in the opinion of the Chairperson, it is in the interests of justice to do so.

Notice of Appeal pursuant to section 21 of the 2015 Act

Section 21 of the 2015 Act deals with inadmissible applications. The appeal will take place without an oral hearing (Section 21 (7) (a) of the Act of 2015). For that reason, appellants are advised to submit in a timely manner, together with the Notice of Appeal (Schedule 2 to the 2017 Regulations), all documentation upon which they wish the Tribunal to rely.

While the Tribunal may seek further information in appeals of this type, an appellant should not take for granted that there will in fact be any communication between the Tribunal and an appellant from the time the Notice of Appeal is lodged until the time the decision is made.

Notice of Appeal pursuant to section 22 of the 2015 Act

Section 22 of the 2015 Act deals with subsequent applications. Appellants are advised to submit all relevant material for the consideration of the Tribunal in a timely manner, together with the Notice of Appeal (Schedule 3 of the 2017 Regulations).

While the Tribunal may seek further information in appeals of this type, an appellant should not take for granted that there will in fact be any communication between the Tribunal and an appellant from the time the Notice of Appeal is lodged until the time the decision is made. The appeal will be decided without an oral hearing (Section 22(9)(a) of the Act of 2015).

Appeals pursuant to S.I. No. 62 of 2018 European Union (Dublin System) Regulations, 2018

The appeals procedure pursuant to the European Union (Dublin System) Regulations, 2018 (hereinafter “the Dublin System Regulations”) is to be found at Regulation 6 of those Regulations, with late appeals covered at Regulation 7.

The appeal is an appeal in fact and in law. The issue to be considered by the Tribunal is that of the transfer of the Appellant to another State. Therefore, submissions should deal with matters arising under the Dublin System Regulations and Regulation (EU) 604 / 2013 (the Dublin III Regulation).

Pursuant to Regulation 6(2)(b), the Notice of Appeal (available on the Tribunal website) shall specify the grounds of appeal, and indicate whether the Appellant wishes the Tribunal to hold an oral hearing for the purpose of the appeal. If an extension of time to make the appeal is necessary, the appropriate section on the Notice of Appeal must be completed in addition to the grounds of appeal. In common with all appeals to the Tribunal, particularised substantive grounds of appeal are required and the Notice of Appeal must be signed by the Appellant.

In these appeals, there may be no factual dispute with the matter turning on points of law only. If this is the case, it will be in the ease of the Appellant and the Tribunal for the Appellant to make this clear in the notice of appeal. Where there is no factual dispute, the Appellant may wish to consider whether he or she wishes the Tribunal to hold an oral hearing.

Appeals pursuant to S.I. 230 / 2018 European Union (Reception Conditions) Regulations

The Tribunal may determine appeals pursuant to Regulation 21 of the European Union (Reception Conditions) Regulations (hereinafter “the Reception Conditions Regulations”) against a decision of a review officer which has been made under Regulation 20 of the Reception Conditions Regulations. Late appeals are dealt with in Regulation 22. All first level appeals and / or reviews must have been exhausted before an appeal to the Tribunal is lodged pursuant to Regulation 21.

Copies of all documents referred to in the appeal must be submitted with the Notice of Appeal by the Appellant or his / her legal representative (Schedule 7 of the Reception Conditions Regulations, late appeals must also include the Notice at Schedule 8).

The Appellant must sign both the Schedule 7 Notice of Appeal and (where applicable) the Schedule 8 Application for an extension of time within which to bring the appeal. As the decision should issue within 15 working days of receipt of the Notice of Appeal, time is of the essence in the submission of documentation and the appeal will be determined on the material submitted by the Appellant. A copy of the decision of the review officer and any documentation referred to therein must be submitted. If such documentation is not received with the Notice of Appeal as provided for in Regulation 21(2)(b), the appeal will not be regarded as a valid appeal.

Taking evidence on oath or affirmation

Pursuant to section 42(8)(d) of the Act of 2015 and in line with the [Chairperson's Guideline 2019/1 on Taking Evidence from Appellants and other Witnesses](#), the Tribunal may require all persons (over the age of 14) giving evidence before it to give that evidence on oath. Appellants and other witnesses whom the Tribunal requires to give evidence in this manner will be given the opportunity to affirm if they are a non-believer or if the taking of an oath is incompatible with the person's belief.

The following religious texts are available in the Tribunal: Old Testament Bible, New Testament Bible, Quran. If an appellant prefers, they may use their own personal religious text if the religious texts provided by the Tribunal are not in accordance with their religious beliefs. The religious texts are appropriately and respectfully sanitised for health and safety reasons between hearings.

Submission of material / documentation to the Tribunal

In accordance with Regulation 6(4) and (5) of the 2017 Regulations, all material to be relied on by a party before the Tribunal in an international protection appeal where there is an oral hearing must be submitted not later than 10 working days prior to an oral hearing. Thereafter, the acceptance of documents is a matter for the Tribunal

However, in accordance with Regulation 6(5), the Tribunal shall not consent to a party lodging additional documents in an international protection appeal where there is an oral hearing following the expiry of the prescribed period unless:

- (a) The documents concerned are relevant and of probative value;
- (b) The documents concerned provide new evidence or information; and
- (c) The party concerned, with reasonable effort, could not have lodged the documents concerned prior to 10 working days before the date fixed for the oral hearing.

Even where the conditions set out at (a) to (c) above are fulfilled, late submission of documents may only be permitted with the written consent of the Tribunal, or on the direction of the Tribunal.

No documentation may be submitted on the hearing date as Tribunal staff will not be in a position to handle or copy same for health and safety reasons.

The Tribunal does not have the facilities to access information from a USB stick. Should you wish the contents of same to be considered by the Tribunal, you should submit a transcript or print out of same.

All written submissions setting out and elaborating on the grounds of appeal in all single procedure appeals should be submitted in electronic Word format. In ease of both the Appellant and the Tribunal, it is recommended that submissions address as relevant those matters within its jurisdiction which the Tribunal will address:

- (i) Introduction, to include chronology;
- (ii) Nationality;
- (iii) Factual background and identification of those facts which the Appellant believes to be material;
- (iv) Nature of persecution / serious harm feared;
- (v) Convention ground or nexus;
- (vi) Objective evidential basis of the future risk of persecution;
- (vii) State protection;
- (viii) Internal protection alternative;
- (ix) Grounds upon which serious harm, in the context of subsidiary protection, is feared;
- (x) State protection and / or IPA if different from above;
- (xi) Exclusion (if relevant)
- (xii) Submissions addressing *de novo* arguments which may not have been addressed at first instance (if applicable);
- (xiii) Conclusion.

Written submissions in the context of other types of appeal will vary according to the nature of the appeal, but should address any legal issues within the Tribunal's jurisdiction.

Country information (hereinafter referred to as "COI"), where possible, is to be submitted in electronic format only in all appeals. If COI is referenced in written submissions, a hyperlink to a that document online should be inserted. **The exact portion of the COI on which the Appellant relies should be cited (page number, paragraph number) and the relevance to the appeal of that portion of the COI should be set out clearly.** The Tribunal would find it of great assistance if a soft copy index of all documentation and COI submitted by an appellant to the Tribunal with full titles and dates of each document, were emailed to the Tribunal no later than 10 working days before the oral hearing.

If the appeal is to proceed without an oral hearing, the documentation and index should be submitted with the Notice of Appeal. While the Tribunal may seek further information in appeals of this type, an appellant should not take for granted that there will in fact be any communication between the Tribunal and an appellant from the time the Notice of Appeal is lodged until the time the decision is made.

Adjournments and Postponements

The issue of adjournments and postponements in relation to international protection appeals and appeals pursuant to the Dublin Regulations where there is an oral hearing is addressed in Regulation 9 of the 2017 Regulations and the Chairperson's Guideline 2018/2 on Adjournments and Postponements of Appeal Hearings. Any request for a postponement shall be made in writing, and the Tribunal may grant an application for a postponement where it is satisfied that it is in the interests of justice to do so.

If an appellant seeks a postponement of an appeal before the Tribunal because of pending judicial review proceedings, his or her appeal will typically only be postponed if the High Court (or Court of Appeal or Supreme Court where relevant) has granted a stay or injunction on the appeal, or made general directions which would affect the processing of an appeal. The Tribunal may also postpone a hearing if it is of the view that such postponement is in the interests of justice.

If an appellant or witness, or a close contact of either, has Covid-19, a postponement will be granted. Further medical evidence of this must be produced within 3 days of the adjournment of the hearing. If a legal representative or close contact, interpreter or Presenting Officer has Covid-19, every effort should be made to arrange for a colleague to attend the hearing; however, this will be a weighty factor in considering a postponement request.

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