

ANNUAL REPORT 2017



An Binse um Achomhaire i dtaobh Cosaint Idirnáisiúnta
The International Protection Appeals Tribunal

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Charles Flanagan T.D.
Minister for Justice and Equality
Department of Justice and Equality
51 St. Stephens Green
Dublin 2.

28th March 2018

International Protection Appeals Tribunal – Annual Report 2017

Dear Minister,

I am enclosing the first Annual Report of the International Protection Appeals Tribunal, which was established on the 31st of December 2016 on commencement of the International Protection Act 2015. From that date, the functions of the former Refugee Appeals Tribunal transferred to the International Protection Appeals Tribunal.

2017 was a period of transition for the Tribunal with only 454 appeals pending at the beginning of the year and the Tribunal issuing a total of 606 decisions by the end of the year. This was due to the majority of appeals that had been pending before the Tribunal in 2016 being transferred to the International Protection Office, for the assessment of appellants' subsidiary protection claims under the transitional provisions of the 2015 Act.

The Tribunal invested significant time and resources in the recruitment and training of new part-time Tribunal Members throughout the year, with the number of part-time Members rising from 25 to 74 by the end of the year. Additionally, 2017 saw the departure from the Tribunal, in April, of the previous Chairperson, Barry Magee, and the appointment of an interim Chairperson as well as the first appointment of two Deputy Chairpersons under the new legislation.

The number of staff provided by your Department to the Tribunal increased slightly, by 2.7, full time equivalent, persons. A substantial increase in staffing numbers will be required in expectation of an increased number of appeals reaching the Tribunal in 2018.

Yours sincerely,



Hilikka Becker

Chairperson

International Protection Appeals Tribunal

1. Introduction

[1.1] Establishment

The International Protection Appeals Tribunal (hereinafter referred to as ‘the Tribunal’) was established on the 31st of December 2016, in accordance with Section 61 of the International Protection Act 2015, to determine appeals and perform such other functions as may be conferred on it by or under the International Protection Act 2015 and the Dublin System Regulations. Pursuant to Section 61(3)(b), the Tribunal is independent in the performance of its functions.

[1.2] Mandate

The Tribunal is a statutorily independent body and exercises a quasi-judicial function under the International Protection Act 2015. The Tribunal decides appeals of persons in respect of whom an International Protection Officer has recommended that they should not be given a refugee declaration and should be given a subsidiary protection declaration, and of persons in respect of whom an International Protection Officer has recommended that they should be given neither a refugee declaration nor a subsidiary protection declaration. The Tribunal also determines appeals under the Dublin System Regulations, as well as appeals against recommendations that an application be deemed inadmissible and appeals against recommendations that the making of a subsequent application not be permitted.

The Tribunal’s predecessor was recognised by the Court of Justice of the European Union (CJEU) as a ‘court or tribunal’ for the purpose of Article 267 of the Treaty on the Functioning of the European Union (TFEU). The Mandate of the Tribunal is to determine appeals from persons in respect of whom an International Protection Officer has recommended that their application for either form of international protection be refused at first instance. The Tribunal may affirm the recommendation at first instance or set aside the

recommendation and recommend to the Minister for Justice and Equality that refugee status or, as the case may be, subsidiary protection status, be granted.

With the commencement of the International Protection Act 2015 on the 31st of December 2016, the Tribunal's remit was expanded to determine also appeals against an International Protection Officer's recommendation to deem an application for international protection inadmissible pursuant to section 21(2) of the Act as well as appeals against an International Protection Officer's recommendation that a subsequent application for international protection not be allowed pursuant to section 22(5) of the Act.

The Tribunal is also tasked with determining appeals under the Dublin procedure, which determines the appropriate European country to decide an application for international protection.

[1.3] Mission Statement

The Mission of the International Protection Appeals Tribunal in accordance with the International Protection Act 2015 and other relevant national, European and international law is:

- (i) To determine appeals from persons in respect of whom an international protection officer has recommended that they should not be given a refugee declaration and should be given a subsidiary protection declaration, and of persons in respect of whom an international protection officer has recommended that they should be given neither a refugee declaration nor a subsidiary protection declaration. The Tribunal also determines appeals under the Dublin System Regulations, as well as appeals against recommendations that an application be deemed inadmissible, and appeals against recommendations that the making of a subsequent application not be permitted;

- (ii) To determine appeals against an International Protection Officer's recommendation to deem an application for international protection inadmissible pursuant to section 21(2) of the Act as well as appeals against an International Protection Officer's recommendation that a subsequent application for international protection not be allowed pursuant to section 22(5) of the Act; and
- (iii) To determine appeals under the Dublin procedure, which determines the appropriate European country to determine an asylum application;

and in so doing, to provide a high quality service through the implementation of policies and procedures which are fair and open, treating all applicants and stakeholders with courtesy and sensitivity.

The Tribunal will strive to determine all appeals:

- in accordance with the law;
- in accordance with fairness and natural justice;
- with respect for the dignity of applicants;
- efficiently;
- with the highest standard of professional competence;
- in a spirit of openness and transparency in how the appeals process is managed.

[1.4] Strategy Statement 2017-2020

In 2017, the Tribunal launched its first Strategy Statement 2017-2020. This Strategic Plan will guide the Tribunal in drafting an annual Business Plan. The annual Business Plan will detail how each Unit within the Tribunal will work towards achieving the goals and objectives set out in the Strategy Statement.

The Strategy Statement identifies the following five high level goals as the key goals that the Tribunal will focus on in the three year period from 2017 to 2020:

High Level Goal 1:

To administer, consider and decide appeals to the highest professional standards.

High Level Goal 2:

To manage the transition to the new legislative basis and structures of the Tribunal following commencement of the International Protection Act 2015

High Level Goal 3:

To achieve and maintain quality standards through the provision of training and professional development supports to Tribunal Members

High Level Goal 4:

To efficiently and actively manage cases in the Superior Courts to which the Tribunal is a party and to provide instructions and/or observations where appropriate

High Level Goal 5

To provide quality service to the highest professional standards with a particular focus on achieving value for money in the deployment of the Tribunal's physical and human resources

The full Strategy Statement is available on the Tribunal website www.protectionappeals.ie.

[1.5] Membership of the Tribunal

The Tribunal consists of a Chairperson, a Registrar, not more than 2 Deputy Chairpersons, and such number of ordinary Members appointed in a whole time or part-time capacity, as the Minister for Justice and Equality, with the consent of the Minister for Public Expenditure and Reform, considers necessary for the expeditious performance of the functions of the Tribunal. The Chairperson is tasked with ensuring that the functions of the Tribunal are performed efficiently and that the business assigned to each Member is disposed of as expeditiously as may be consistent with fairness and natural justice.

On the 31st of December 2017, the Tribunal had one Chairperson (interim), one Deputy Chairperson, and 74 part-time Members.

[1.6] Registrar and Staff of the Tribunal

Pursuant to s.66(1) of the International Protection Act 2015, the Minister shall appoint a person to be the Registrar of the Tribunal. The Registrar, in consultation with the Chairperson, is tasked to manage and control the staff and administration of the Tribunal, and to perform such other functions as may be conferred on him or her by the Chairperson.

The Registrar also has responsibility for assigning the appeals to be determined to Members of the Tribunal, having regard to the need to ensure the efficient management of the work of, and the expeditious performance of its functions by, the Tribunal, consistent with fairness and natural justice, and having regard to any Guidelines issued by the Chairperson.

Administrative staff are assigned to the Tribunal from the Department of Justice and Equality. In accordance with s.61(4) of the International Protection Act 2015, the Minister may appoint such and so many persons to be members of the staff of the Tribunal as he or she considers necessary to assist the Tribunal in the performance of its functions and such members of the staff of

the Tribunal shall receive such remuneration and be subject to such other terms and conditions of service as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine.

On 31st December, 2017 the staff complement was 34.2 (full-time equivalents).

[1.7] Applications for Protection

Applications for international protection in Ireland were steadily declining since the peak of over 11,000 applications for refugee status in 2002. However, as a result of the migration crisis in 2015, applications for international protection rose from 1,448 in 2014 to 3,276 in 2015. While the number of applications fell back to 2,244 in 2016, and rising to 2,926¹ in 2017, they remained significantly higher than in 2014.

More than 1,800 applications against a recommendation from the Refugee Applications Commissioner that refugee status be refused, which were pending before the Tribunal at the time of the commencement of the new legislation on the 31st of December 2016 had to be transferred to the International Protection Office for the consideration of the applicants' possible entitlement to subsidiary protection and the consideration of the granting of permission to remain.

It is expected that a significant proportion of those cases will be returned to the Tribunal following the submission of appeals under Section 41 of the International Protection Act 2015. Additionally, there were 1,550 asylum cases and over 400 Subsidiary Protection cases pending in the Office of the Refugee Applications Commissioner at the end of 2016, which in addition to any new

1

<http://www.ipo.gov.ie/en/IPO/2017%2012%20IPO%20Dec%20monthly%20stats%20EDITED2.pdf/Files/2017%2012%20IPO%20Dec%20monthly%20stats%20EDITED2.pdf>

applications submitted in 2017, will have to be decided and, depending on the outcome, may be appealed to the Tribunal.

It is therefore likely that the caseload of the Tribunal will rise significantly over the coming period and it is imperative that the Tribunal is equipped, both with regard to staffing numbers and the availability of Tribunal Members who are trained and experienced in the efficient delivery of high quality determinations of international protection appeals.

[1.8] Decision Template

The new decision template for use by members, which had originally been introduced at the start of 2014, was amended and updated to reflect the new legislation and widened jurisdiction of the Tribunal. This template was developed in conjunction with the office of the United Nations High Commissioner for Refugees (UNHCR) in Dublin.

The function of the template is to provide decision makers with a logical and legally robust framework within which to make their decision. The Template is not overly prescriptive and sets out the sequence of steps to be taken in the decision. It appears that the new decision template has continued to contribute to the low number of applications for Judicial Review against Tribunal decisions. For example, in the case of *K.M.A. (Algeria)* [2015] IEHC 472, the High Court found the structure provided by the template, especially the use of numbered paragraphs to be “*particularly helpful*”.

[1.9] Legislative Changes

The most significant legislative change in 2017 was brought about by the commencement on 31st December 2016, of the **International Protection Act 2015** (S.I. No. 66 of 2015). With effect from the establishment day, the administration and business in connection with the performance of any functions of the Refugee Appeals Tribunal under the Refugee Act 1996, the

European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006), the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013) and the Dublin System Regulations were transferred to the International Protection Appeals Tribunal.

Other significant changes for the Tribunal arising from the new legislation include the extension of the Tribunal's jurisdiction to decide appeals against an International Protection Officer's recommendation that an application be determined to be inadmissible (s.21(6)), and against a recommendation that the Minister refuse to give his or her consent to the making of a subsequent application for international protection (s.22(8)). Moreover, under the new legislation, the Tribunal shall, in addition to the Chairperson, consist of "*not more than 2 Deputy Chairpersons, who shall be appointed in a whole-time capacity*" (s.62(1)(b)) and the legislation further foresees the appointment of ordinary members of the Tribunal "*either in a whole-time or a part-time capacity*" (s.62(1)(c)). Additionally, the legislation provides for the appointment of a Registrar of the Tribunal (s.66(1), who manages and controls generally the staff and administration of the Tribunal, and performs such other functions as may be conferred to him or her by the Chairperson (s.67(1)).

2017 also saw the introduction of the **International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017** (S.I. No. 116 of 2017). The Regulations prescribe appeal periods for the purpose of the 2015 Act, prescribe the form of appeals to the International Protection Appeals Tribunal and provide certain rules on the hearing of cases, adjournments and corrections.

Additionally, the **European Union (Subsidiary Protection) Regulations 2017** (S.I. No. 409 of 2017) were introduced to take account of jurisprudence from the Court of Justice of the European Union (CJEU) in the case of *E.D. v Minister for Justice and Equality* (Case C-429/15) and the Court of Appeal in the same case *E.D. v Minister for Justice and Equality (No.2)* [2017] IECA 20. This

provision enabled applicants who had been refused refugee status on or after the 10th of October 2006 and were subsequently invited to apply for subsidiary protection under the European Communities (Eligibility for Protection) Regulations 2006 or the European Union (Subsidiary Protection) Regulations 2013 and:

- a) did not make an application because they believed that they were not entitled to do so on the basis that the 15 working day time limit had expired, *or*
- b) made a late application for subsidiary protection, which application was, on the basis that the 15 working day time limit had expired, not considered or investigated,

subject to the provisions of the 2017 Regulations, to apply for subsidiary protection.

[1.10] Chairperson's Guidelines

Pursuant to s.63(2) of the International Protection Act 2015 the Chairperson may issue to the Members of the Tribunal guidelines on the practical application and operation of the provisions, or any particular provision of Part 10 or the Act, and on developments in the law relating to international protection.

Moreover, pursuant to s.63(3) of the Act, the Chairperson may, if he or she considers it appropriate to do so in the interest of the fair and efficient performance of the functions of the Tribunal, issue guidelines to the Registrar for the purpose of the performance of his or her functions of assigning or re-assigning appeals under s.67(2) or (3) of the Act.

The following Chairperson's Guidelines were in place at the end of the year 2017:

- Guideline No. 2017/1: UNHCR Eligibility Guidelines

- Guideline No. 2017/2: Access to Previous Decisions
- Guideline No. 2017/3: Effect of Order of Certiorari
- Guideline No. 2017/4: Guidance Note on Country of Origin Information (COI)
- Guideline No. 2017/5: Appeals from Child Applicants
- Guideline No. 2017/6: Medico-Legal Reports
- Chairperson's Guidelines on Assigning and Re-assigning Appeals by the Registrar

All Guidelines are available on the website of the Tribunal:
www.protectionappeals.ie.

[1.11] Transitional Provisions

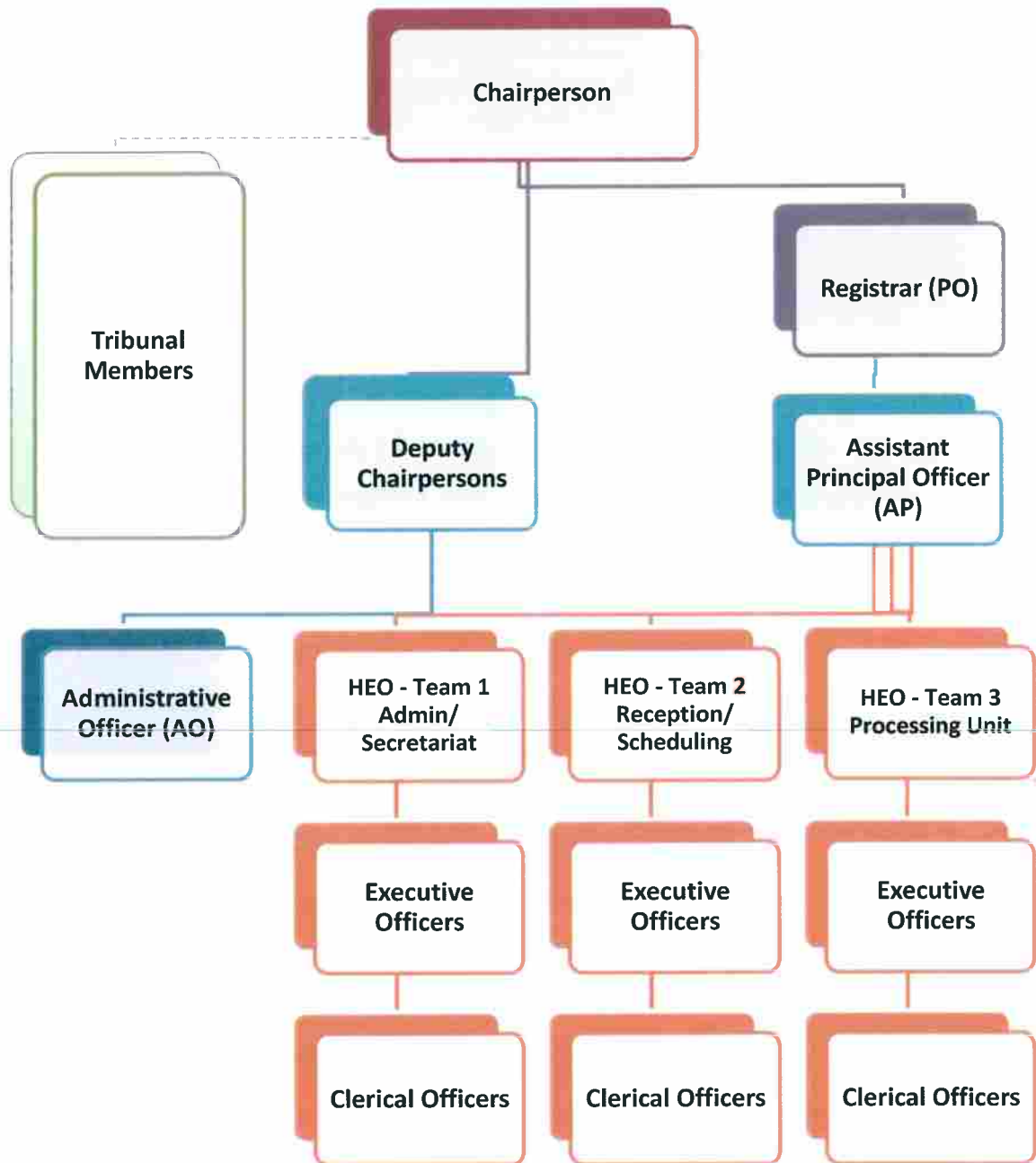
Where appeals were pending before the Refugee Appeals Tribunal on commencement of the International Protection Act 2015, the following provisions applied:

- Where a person has appealed a recommendation to refuse them refugee status and that appeal had not been determined, they were deemed to have made an application for international protection under the 2015 Act, with certain modifications (section 70(2)). This means that their case was transferred from the Tribunal to the Department for the consideration by an International Protection Officer, of their entitlement to subsidiary protection.
- Pending subsidiary protection and Dublin III appeals were retained and decided by the International Protection Appeals Tribunal.

2. Tribunal Operations and Support

[2.1] General

The administrative structure of the Tribunal is set out below.



Appeal Procedures are detailed in **Appendix 2**.

[2.2] Appeals Processing/Administration

Appeals Registration and Assigning

Appeals registration and assigning involves:

- receiving, checking, recording and processing all Notices of Appeal and correspondence, including correspondence from the International Protection Office (hereinafter referred to as the 'IPO'), the United Nations High Commissioner for Refugees (hereinafter referred to as the 'UNHCR'), legal representatives and applicants,
- arranging receipt of the applicants' files from the IPO when a Notice of Appeal is received,
- preparation of copy appeal case files for Tribunal Members, and
- formal assigning of cases to Members by the Registrar.

Scheduling and Reception

Scheduling involves arranging the attendance of Tribunal Members, Presenting Officers, the Applicant, legal representatives and, where appropriate, interpreters, witnesses and HSE/Tusla staff at hearings.

Reception duties include the servicing of oral hearings and the processing of correspondence and submissions received on the day of the hearing.

Appeals Processing

This involves:

- Processing of correspondence and queries from applicants, legal representatives and Members,
- Preparing and issuing decisions to the applicant, the legal representative (if any) and notifying IPO, the Minister for Justice and Equality and the UNHCR in accordance with s.46(6) to (8) of the International Protection Act 2015,
- Recording, tracking and redacting of decisions.

- Redacting Members' Decisions and uploading to the ROMDA webpage (ROMDA Refugee Office Members' Decisions Archive is a web based database of previous Tribunal Decisions see - Appendix 2.8) and maintaining the webpage.

[2.3] Administration/Secretariat

The Secretariat is responsible for:-

- Co-ordinating activity between the Tribunal, the International Protection Office and other constituent parts of the asylum system
- Liaising with the Office of the Representative of the United Nations High Commissioner for Refugees and other governmental and non-governmental bodies, and
- Providing information on Tribunal matters and responding to correspondence.

The Secretariat co-ordinates the day-to-day back-up services for the Members which include ongoing Members' training and collating training/educational resource materials. Training initiatives undertaken in 2016 by the Tribunal are outlined in Chapter 3. Further information concerning Human Resources/Personnel is contained in Chapter 6.

[2.4] Judicial Review

In agreement with the Department, and based on advices received from the Office of the Attorney General, it was decided that as and from the commencement of the International Protection Act 2015, the Tribunal would no longer participate in judicial reviews save for exceptional circumstances where allegations of *mala fides* are made. Therefore, once the cases on hand are dealt with, the Tribunal will not be dealing with future judicial reviews.

The Tribunal's Judicial Review Unit is now situated within its administration/secretariat. It records and monitors progress of all judicial reviews, considers all legal documents received and co-ordinates a response with the

Chairperson, the Legal Services Unit in the Department of Justice and Equality, the Chief State Solicitor's Office and the Attorney General's Office.

At the start of 2017, the Tribunal had 146 active judicial reviews on hand. This compares to 156 cases at the start of 2016. In accordance with the agreement reached with the Department of Justice and Equality, responsibility for 65 of the 146 cases on hand transferred to the Department's Legal Support Services Unit in the first quarter of 2017. The Tribunal continued to deal with a remainder of the judicial reviews, which had been initiated prior to the establishment of the Tribunal on the 31st of December 2016.

During 2017, 47 of these judicial reviews were determined. Of these the Applicant was unsuccessful in 24. A proportion of the 24 were withdrawn by the Applicant prior to the case coming on for hearing. In the 23 cases in which the applicant was successful, the Tribunal settled 10 and the remaining 13 were determined by the court following a hearing.

At the end of the year, the Tribunal had 40 active judicial reviews on hand. Of these, 35 were waiting for a court outcome. This figure of 35 can be further broken down as follows:

Awaiting Hearing Date	8
Hearing Date Fixed	8
Heard – Judgment Awaited	19
Supreme Court	0

On the 31st of December 2017 the Legal Support Services Unit of the Department of Justice & Equality had approximately 114 cases pending in which the Tribunal is named as a respondent.

[2.5] Legal Costs

The Tribunal has been supported by the offices of the Attorney General and the Chief State Solicitor in the defence of judicial reviews in which it does continue to participate. In such cases, the Department of Justice and Equality is liable to pay the costs of applicants who successfully apply for judicial review in the High Court.

However, following advice received from the Attorney General in 2016, it was decided that the IPAT as an independent statutory body carrying out quasi-judicial functions, should attract the same legal principles as those applying to a District Court judge and that once the IPAT has made a decision, it is *functus officio* and has no interest in defending or supporting it. The only justification for a decision of the IPAT will be set out in the decision itself. Once a Member of the IPAT has fulfilled the function of delivering a reasoned decision, he or she has no further function and it could be seen to impugn the independence of the IPAT to seek to stand over its decisions. These principles apply in the public interest so as to maintain confidence in the judicial and equivalent systems. The only circumstances in which these principles may not apply is where *mala fides* on the part of a Member of the IPAT is alleged; in all other cases, the Minister for Justice and Equality, who makes the decision to grant or refuse international protection, determine an application to be inadmissible, consent to the making of a subsequent application is the *legitimus contradictor*.

The legal costs incurred by the Tribunal's predecessor, the Refugee Appeals Tribunal, since 2008 are set out in the following table.

Year	Expenditure
2008	€3,428,130
2009	€4,523,622
2010	€4,363,114

2011	€3,168,952
2012	€1,427,510
2013	€1,625,971
2014	€2,688,787
2015	€1,833,385
2016	€2,696,339

In 2017, the total cost paid in legal costs arising out of successful and settled judicial reviews of decisions, primarily of the Tribunal's predecessor, the Refugee Appeals Tribunal, amounted to €1,580,537.

The 2017 figure covers some 43 cases which gives an average cost of €36,756 per case. However, this figure does not include the legal costs of the State. It should be noted that these figures reflect the year in which the costs were paid and not necessarily the year in which the case was finalised.

The expense to the State in defending judicial reviews emphasises the benefit of investing in the training of Members of the IPAT to ensure the production of high quality decisions that are consistent with fairness and natural justice.

In cases where a judicial review is successfully defended, an order will normally be obtained that the unsuccessful applicant pay their legal costs. However, there is usually little prospect of the State recovering costs from unsuccessful applicants.

3. Membership of the Tribunal

[3.1] Introduction

The Tribunal shall consist of the following Members:

- (a) a Chairperson, who shall be appointed in a whole-time capacity;
- (b) not more than 2 Deputy Chairpersons, who shall be appointed in a whole-time capacity; and
- (c) such number of other Members, appointed either in a whole-time or part-time capacity, as the Minister, with the consent of the Minister for Public Expenditure and Reform, considers necessary for the expeditious performance of the functions of the Tribunal.

On commencement of the International Protection Act 2015, the Chairperson of the Refugee Appeals Tribunal, Barry Magee, Solicitor, was deemed, pursuant to s.71(6) of the Act, to have been appointed Chairperson of the International Protection Appeals Tribunal. Following Barry Magee's resignation from the Tribunal with effect from 22nd April 2017, Hilikka Becker, Solicitor, who had been appointed Deputy Chairperson of the Tribunal with effect from 31st December 2016, was appointed interim Chairperson of the Tribunal pursuant to s.62(8) of the Act. With effect from 13th February 2017, John Stanley BL was appointed Deputy Chairperson of the Tribunal. A competition under s.47 of the Public Service Management (Recruitment and Appointments) Act 2004 for the position of Chairperson of the Tribunal was held in the autumn of 2017 and concluded in December 2017, leading to the appointment of Hilikka Becker as Chairperson of the Tribunal in January 2018. Both the Chairperson and the Deputy Chairperson were appointed by the Minister for Justice and Equality on a whole-time basis for a term of 5 years.

The ordinary Members of the Tribunal are appointed by the Minister for Justice and Equality on a part-time basis for a term of 3 years. A Member must have

been a practising Barrister or Solicitor for at least five years to qualify for appointment.

[3.2] List of members

The following is a list of the part-time Members of the Tribunal who held office during 2017.

1.	Kieran Falvey, B.L.
2.	Louis Dokery, Solicitor
3.	Rory de Bruir, B.L.
4.	Anne Colley, Solicitor
5.	Olive Brennan, B.L.
6.	Una McGurk, S.C.
7.	Kim Walley, Solicitor
8.	Paul Brennan, Solicitor
9.	Brian Cusack, B.L.
10.	Byron Wade, B.L.
11.	Agnes McKenzie, B.L.
12.	Ann Marie Courell, B.L.
13.	Patricia O'Connor, Solicitor
14.	Caroline Counihan, B.L.
15.	Marguerite Fitzgerald, Solicitor
16.	Bernadette McGonigle, Solicitor
17.	Mark William Murphy, B.L.
18.	Emma Toal, B.L.
19.	Shauna Ann Gillan, B.L.
20.	Mark Byrne, B.L.
21.	Conor Gallagher, B.L.
22.	Elizabeth O'Brien, B.L.
23.	Majella Twomey, B.L.

24. Michelle O'Gorman, B.L.
25. Margaret Browne, B.L.
26. Frank Caffrey, Solicitor
27. Leonora Doyle, Solicitor
28. Fiona McMorrow, B.L.
29. John Noonan, B.L.
30. Zeldine O'Brien, B.L.
31. Nicholas Russell, Solicitor
32. Simon Brady, B.L.
33. Eoin Byrne, B.L.
34. Rosemary Kingston O'Connell, Solicitor
35. Katherine McGillicuddy, B.L.
36. Elizabeth Mitrow, Solicitor
37. Patricia O'Sullivan Lacy, B.L.
38. Ciaran White, B.L.
39. Christopher Hughes, B.L.
40. John Buckley, Solicitor
41. Moira Shipsey, Solicitor
42. Colin Lynch, Solicitor
43. Jeanne Boyle, Solicitor
44. Finbar O'Connor, Solicitor
45. Michael Ramsey, B.L.
46. Stephen Boggs, B.L.
47. Nuala Dockry, B.L.
48. Nuala Egan, B.L.
49. Ciara Fitzgerald, B.L.
50. Kevin Lenahan, B.L.
51. Evelyn Leyden, Solicitor
52. Marie-Claire Maney, Solicitor
53. Michael McGrath, S.C.

54. Cormac Ó Dúlacháin, S.C.
55. Brid O'Flaherty, B.L.
56. Lalita Pillay, B.L.
57. Peter Shanley, B.L.
58. Shaun Smyth, B.L.
59. Elizabeth Davey, B.L.
60. Conor Feeney, B.L.
61. Mary Forde, Solicitor
62. Denis Halton, B.L.
63. Conor Keogh, B.L.
64. Paul Kerrigan, Solicitor
65. Meg McMahon, B.L.
66. Ciara McKenna-Keane, B.L.
67. Clare O'Driscoll, B.L.
68. Helen-Claire O'Hanlon, B.L.
69. Morgan Shelly, B.L.
70. Ger O'Donovan, B.L.
71. Steven Dixon, B.L.
72. Michael Kinsley, B.L.
73. Niall O'Hanlon, B.L.
74. Folasade Kuti-Olaniyan, Solicitor
75. Patrick Hurley, Solicitor

[3.3] Training for Members of the Tribunal

Once a Member is appointed to the IPAT, it is necessary for them to undergo an intensive period of training prior to being in a position to commence hearing and deciding appeals. This involves formal training, delivered in conjunction with the UNHCR, on all aspects of International Protection Status

Determination. It is also necessary for the Members to be trained on use of the Tribunal's IT systems, which permits remote access for the Members. The Tribunal also facilitates new Members 'sitting in' on other Tribunal hearings to become familiar with how hearings are conducted. This induction process is vital to ensure that new Members are fully capable of properly hearing and deciding cases assigned to them. The consequence of this induction process is that a new Member is not in a position to commence issuing decisions for a number of months after their appointment.

Following commencement of the International Protection Act 2015 on the 31st of December 2016, the Members of the Refugee Appeals Tribunal were deemed to have been appointed in a part-time capacity to the IPAT. In March 2017, a competition under s.47 of the Public Service Management (Recruitment and Appointments) Act 2004, following which a total of 50 new Members were appointed to the IPAT in the course of 2017.

At the end of 2017, the number of Members of the IPAT had risen from 25 at the beginning of the year to a total of 75.

The 25 former Members of the Refugee Appeals Tribunal who continued their terms as Members of the IPAT following that competition did receive training on the new 'single procedure' for the determination of refugee status and subsidiary protection applications as well as on the Tribunal's expanded jurisdiction to decide appeals against an International Protection Officer's recommendation that an application be determined to be inadmissible (s.21(6)) and against a recommendation that the Minister refuse to give his or her consent to the making of a subsequent application for international protection (s.22(8)).

Moreover, newly appointed Members of the IPAT received 4 full days' introductory training which was delivered to a group of 21 Members in September 2017 and to another group of 31 Members in December 2017.

Additionally, as detailed below at paras. [5.2] and [5.3] below, Members of the IPAT attended various conferences and engaged in other training activities throughout 2017, which are detailed below in Section 5 of this report.

[3.4] Statutory Meetings

S.63(7) of the International Protection Act 2015 requires the Chairperson to convene a meeting of the Members of the Tribunal at least once a year to review the work of the Tribunal. The following meeting took place:

Date	Venue
15 th December 2017	Ashling Hotel, Parkgate Street, Dublin 8

[3.5] Members' Fees

The scale of fees which determines the amount payable for each type of appeal is shown below.

Type	2017
Single Procedure Oral Hearing	€
Principal Applicant	730
+ Spouse or Partner case similar (reduced fee €365)	1095
+ Spouse or Partner case different (Full fee €730)	1460
Single Procedure – Papers only Appeal	
Principal Applicant	490
+ Spouse or Partner case similar (reduced fee €245)	735
+ Spouse or Partner case different (Full fee €490)	980
Inadmissible or Subsequent Appeal	
Principal Applicant	365
+ Spouse or Partner case similar (reduced fee €180)	546
+ Spouse or Partner case different (Full fee €365)	730
Withdrawn/Postponed	
Withdrawn Prior to Hearing	245
Withdrawn Post Hearing	490
Postponement – Day of Hearing	245
Accelerated Appeal	
Determination	248

Husband & Wife similar cases	372
Husband & Wife different cases	496
Dublin Regulation	
Oral Hearing	315
Oral Hearing – Husband and Wife similar case	473
Oral Hearing - Husband & Wife different cases	630
On Papers	166
On Papers – Husband & Wife similar cases	249
On Papers– Husband & Wife different cases	332
No Show / Withdrawal	137

[3.6] Members' Fees paid and Decisions completed in 2017

Member's fees paid and number of decisions completed for 2017 is set out in the following table.

Member	Fees €	Decisions
Agnes McKenzie BL	€17,260.00	32
Anne Colley, Solicitor	€952.00	2
Barry Magee, Solicitor	€0 ²	4
Bernadette McGonigle, Solicitor	€3,946.00	13
Brian Cusack BL	€10,987.00	21
Byron Wade BL	€12,934.00	25
Caroline Counihan BL	€952.00	2
Conor Gallagher BL	€21,438.00	53
Elizabeth O'Brien BL	€12,821.00	29
Emma Toal BL	€12,458.00	35

² The Chairperson of the Tribunal does not receive payment for appeals completed.

Helen Johnson, Solicitor	€3,469.00	7
Hilkka Becker, Solicitor	€523 ³	3
John Cheatle BL	€1,151.00	4
John Stanley BL	€0 ⁴	5
Kieran Falvey BL	€476	1
Kim Walley, Solicitor	€5,849.00	13
Majella Twomey BL	€9,834.00	32
Mark Byrne BL	€30,994.00	72
Mark William Murphy BL	€5,555.00	11
Michelle O'Gorman BL	€1,810.00	5
Moira Shipsey, Solicitor	€5,373.00	12
Olive Brennan BL	€21,766.00	48
Patricia O'Connor, Solicitor	€1,089.00	3
Patrick Hurley, Solicitor	€8,503.00	24
Paul Brennan, Solicitor	€613.00	2
Rory de Bruir BL	€2,993.00	7
Shauna Gillan BL	€19,309.00	54
Una McGurk SC	€12,600.00	24
Totals	€225,655.00	543

³ Payment relates to work completed as Member of the Refugee Appeals Tribunal in 2016.

⁴ The Deputy Chairperson does not receive payment for appeals completed.

Payments may relate to decisions completed in previous years.

Pursuant to s.67(2) of the International Protection Act 2015, appeals are assigned to Members by the Registrar in accordance with the Chairperson's Guideline on Assigning and re-assigning appeals by the Registrar included in **Annex 2** to this report.

4. Summary of the Work of the Tribunal for 2017

[4.1] Introduction

At the beginning of 2017 the Tribunal had 25 part-time Members who had completed their induction process and conducted appeal hearings throughout the year. Additional appointments of new Members were made in September (14), October (3) and December (31) and a four-day induction training provided to all new Members.

It is the Tribunal's experience that it can take up to six months for a newly appointed Member to be fully trained and go through the induction process, including mentoring, and to be in a position to deal with a significant number of appeals on a regular basis.

[4.2] Executive Summary for 2017

Due to the transfer of the functions of the former Refugee Appeals Tribunal to the International Protection Appeals Tribunal and the related implementation of the transitional provisions of the International Protection Act 2015, the Tribunal started the year with a caseload of 454. The number of appeals reaching the IPAT increased steadily throughout the year, reaching a total of 887 by the end of December 2017, and ending the year with 653 appeals pending.

	2017
Appeals Accepted	887
Cases Scheduled	616
Decisions Issued	602
Live Appeals on Hand at Year End	653

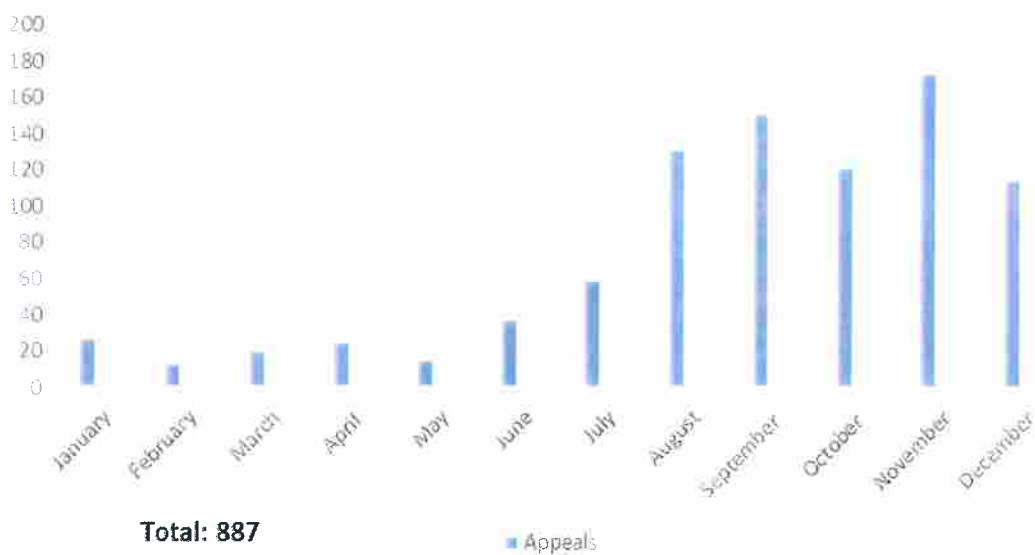
[4.3] Appeals Received

Tables 4.3.1.1. to 4.3.1.10. below set out the total number of appeals received by the Tribunal in 2017:

4.3.1.1. Appeals Received in 2017

Month	2017
January	27
February	13
March	20
April	25
May	15
June	37
July	59
August	131
September	151
October	121
November	173
December	115
Total	887

Appeals Received by Month for 2017



4.3.1.2. Summary – Types of Appeals received in 2017

Appeal Type	2017
Substantive 15-Day Appeals	0
Accelerated	0
Dublin III	1
Subsidiary Protection	124
Single Procedure RS and SP	627
Single Procedure RS Only	8
Single Procedure SP only	53
Asylum Appeal	24
Subsequent	40
Inadmissible	10
Total	887

4.3.1.3. Dublin Regulation Appeals Received

Month	2017
January	1
February	0
March	0
April	0
May	0
June	0
July	0
August	0
September	0
October	0
November	0
December	0
Total	1⁵

4.3.1.4. Legacy Asylum Only Appeals Received (s.70(7))

Month	2017
January	20
February	3
March	0
April	0
May	0
June	0
July	0
August	0
September	1
October	0
November	0
December	0
Total	24

⁵ Following the making of the European Union (Dublin System) Regulations 2018 (S.I. No. 62 of 2018) on the 6th of March 2018, it is expected that there will be a significant rise in Dublin Regulation Appeals reaching the Tribunal in 2018.

4.3.1.5. Legacy Subsidiary Protection Appeals Received (s.70(8))

Month	2017
January	6
February	10
March	20
April	21
May	11
June	5
July	1
August	17
September	8
October	13
November	6
December	6
Total	124

4.3.1.6. Substantive International Protection Appeals Received

Month	2017
January	0
February	0
March	0
April	0
May	0
June	30
July	43
August	80
September	121
October	97
November	158
December	98
Total	627

4.3.1.7. Substantive International Protection Appeals Received (SP Only)

Month	2017
January	0
February	0
March	0
April	0
May	1
June	0
July	4
August	21
September	12
October	6
November	6
December	3
Total	53

4.3.1.8. Substantive IP Appeal Received (Refugee Status Only)

Month	2017
January	0
February	0
March	0
April	0
May	0
June	0
July	1
August	2
September	0
October	2
November	2
December	1
Total	8

4.3.1.9. Inadmissible Appeals Received (s.21)

Month	2017
January	0
February	0
March	0
April	4
May	2
June	0
July	0
August	0
September	0
October	0
November	0
December	4
Total	10

4.3.1.10. Subsequent Appeals Received (s.22)

Month	2017
January	0
February	0
March	0
April	0
May	1
June	2
July	10
August	11
September	9
October	3
November	1
December	3
Total	40

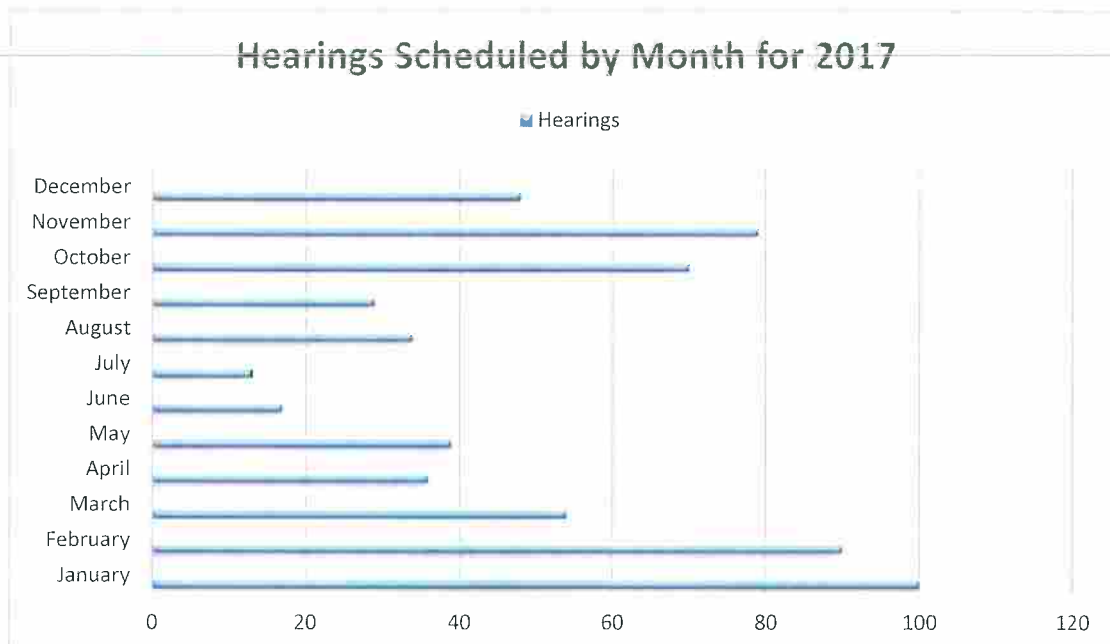
[4.4] Number of Appeals Scheduled for Hearing

The number of appeals scheduled for hearing in 2017 stood at 609. This figure represents 69% of the appeals that reached the Tribunal during the year. When

considering the scheduling rate, it must be considered that, depending on a number of preliminary matters, including receipt of the Appellants’s file pursuant to s.44(1) of the Act, it takes a minimum of six weeks from the time an appeal is received to the time it is scheduled for hearing.

4.4.1 Number of Hearings Scheduled

Month	2017
January	100
February	90
March	54
April	36
May	39
June	17
July	13
August	34
September	29
October	70
November	79
December	48
Total	609



[4.5] 'No Shows' and Withdrawals

Where an applicant fails, without reasonable cause, to attend an oral hearing without reasonable cause and fails to furnish to the Tribunal with an explanation for not attending within 3 working days from the date of the oral hearing, which satisfies the Tribunal that he or she had reasonable cause for not attending, then the appeal is deemed to be withdrawn.

In 2017, the number of 'no shows' was 25 , which represented just over 4% of the total number of cases scheduled.

An applicant may withdraw his or her appeal at any stage in the process for a number of reasons, for example, marriage to an Irish or EU national, or voluntary repatriation to their country of origin. In the event of a withdrawal, the original recommendation of the International Protection Officer stands. Additionally, where in the opinion of the Tribunal an applicant has failed, or is failing, in his or her duty to co-operate, or the Minister notifies the Tribunal that he or she is of the opinion that the applicant is in breach of paragraph (a), (c) or (d) of section 16(3) of the International Protection Act 2015, and the applicant has not – within 10 working days - confirmed in writing that he or she wishes to continue with his or her appeal, the Tribunal shall deem the appeal to have been withdrawn.

In 2017, the number of withdrawals was 49, which represents just over 8% of the total number of cases scheduled.

Table 4.5.1 sets out the number of 'no shows' and withdrawals in 2017.

4.5.1 Number of 'No Shows' and Withdrawals in 2017

Year	2017
'No Shows'	25
Withdrawals	49
Total	74

[4.6] Postponements and Adjournments

4.6.1. Number of Postponements and Adjournments

Year	2017
Adjournments	34
Postponements	123
Total	157

A postponement occurs prior to the date of the hearing and may be caused by circumstances unrelated to an appeal, for example a weather alert or chicken pox outbreaks in an accommodation centre. Adjournments take place at the hearing and are regulated in regulation 9 of the 2017 Appeals Regulations, which provides that the Tribunal may adjourn a hearing to a specified date where it is satisfied that it is in the interests of justice to do so. 25% of scheduled cases were either postponed or adjourned which is lower than the 2015 figure which was 30%.

[4.7] Total number of decisions issued in 2017

4.7.1 Total number of decisions issued

Month	2017
January	96
February	103
March	119
April	29
May	30
June	27
July	20
August	20
September	13
October	42
November	54
December	53
Total	606

4.7.2 Total number of Dublin III Regulation – decisions issued

Month	2017
January	65
February	59
March	74
April	10
May	9
June	0
July	4
August	6
September	1
October	2
November	0
December	1
Total	231

4.7.3 Total number of Refugee Status decisions issued under the transitional provisions of the International Protection Act 2015 (s.70(7))

Month	2017
January	0
February	0
March	0
April	2
May	4
June	6
July	2
August	1
September	0
October	0
November	0
December	0
Total	15

4.7.4 Total number of substantive international protection (SP only) decisions issued (s.70(5))

Month	2017
January	0
February	0
March	0
April	0
May	0
June	0
July	0
August	0
September	0
October	0
November	3
December	11
Total	14

4.7.5 Total number of SP decisions issued under the transitional provisions of the International Protection Act 2015 (s.70(8))

Month	2017
January	31
February	44
March	45
April	17
May	17
June	21
July	14
August	8
September	6
October	13
November	14
December	5
Total	235

4.7.6. Total number of single procedure substantive international protection decisions issued

Month	2017
January	0
February	0
March	0
April	0
May	0
June	0
July	0
August	1
September	3
October	21
November	32
December	36
Total	93

4.7.7. Inadmissibility Appeals (s.21) – decisions issued

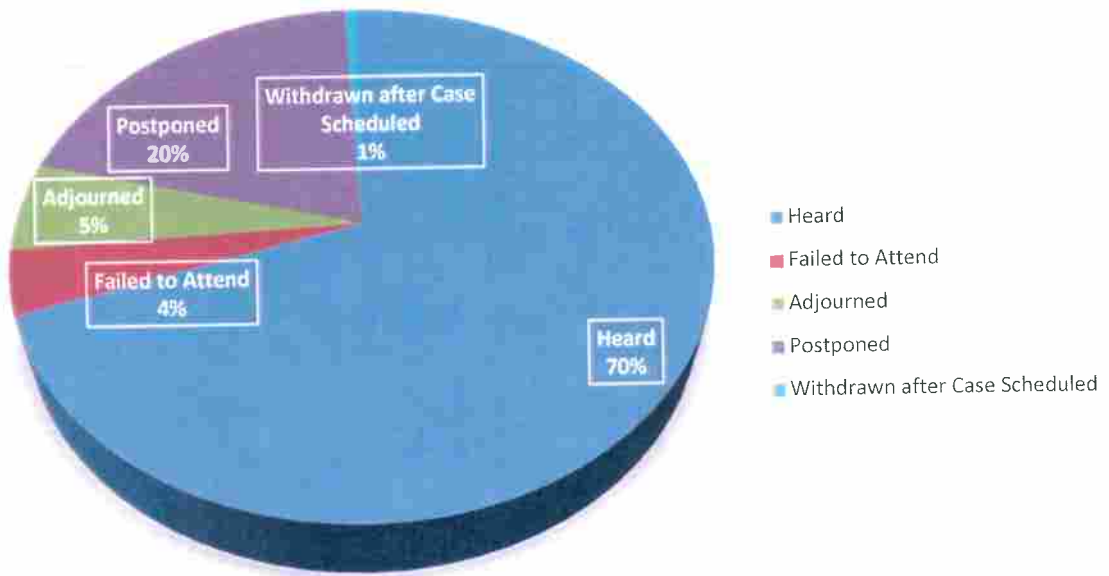
Month	2017
January	0
February	0
March	0
April	0
May	0
June	0
July	0
August	4
September	0
October	4
November	0
December	0
Total	8

4.7.8. Appeals against refusal to permit subsequent application (s.22) – decisions issued

Month	2017
January	0
February	0
March	0
April	0
May	0
June	0
July	0
August	0
September	3
October	2
November	5
December	0
Total	10

Outcome for Scheduled Cases for 2017

Total:609



[4.8] Appeals on Hand at 31st December, 2017

A total of 653 live appeals were on hand as at the 31st December 2017 compared to 2,239 appeals on hand at 31st December 2016 a decrease of almost 71%.

Summary of “live appeals” in the Tribunal at 31st December 2017

International Protection	546
Subsidiary Protection legacy	72
Subsequent	29
Inadmissible	5
Dublin III Regulation	1
Total number of appeals on hand as at 31st December 2017	653

[4.9] Length of Appeal Process

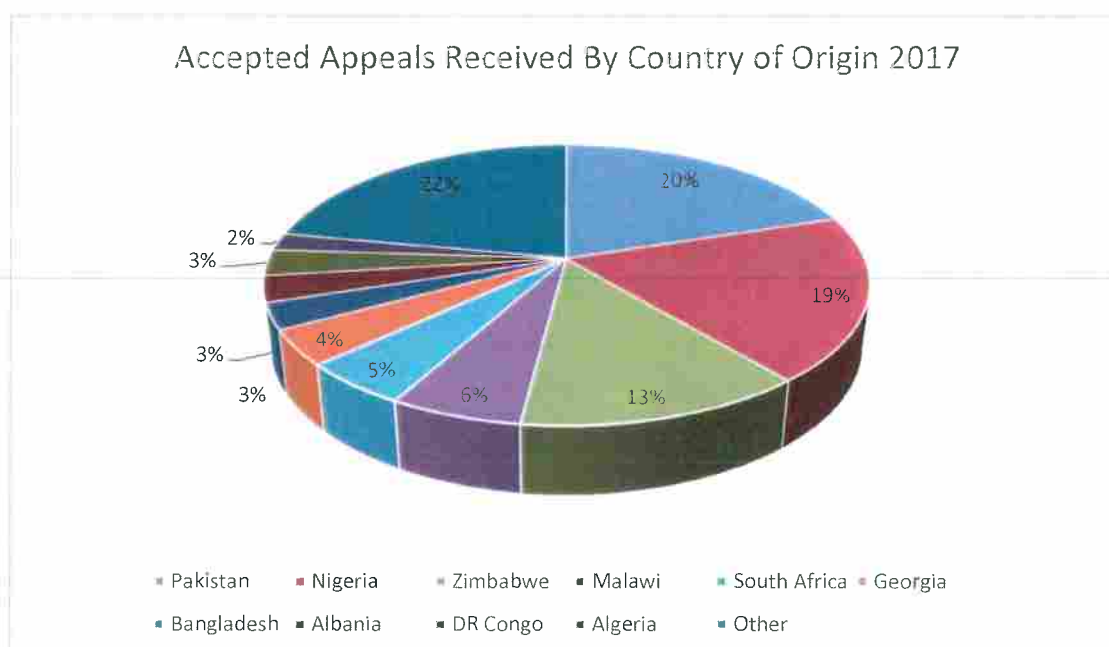
The average length of time taken by the Tribunal to process and complete Substantive International Protection appeals including transition cases in 2017 was approximately 125 days. The average length of time taken to process all categories of appeals, including legacy asylum appeals in 2017 was 133 days.

[4.10] Country of Origin of Applicants 2017

Pakistani and Nigerian nationals, followed by Zimbabwean nationals, represented the highest proportion of substantive appeals received by the Tribunal in 2017.

4.10.1. Substantive International Protection Appeals, Subsequent Appeals and Inadmissible Appeals accepted⁶ in 2017 by country of origin.

Nationality	Total Appeals Received	%	Substantive International Protection	%	Subsequent Appeals	%	SP	%	Inadmissible Appeal	%
Pakistan	168	20	140	20	4	10	24	19	0	0
Nigeria	161	19	140	20	3	8	18	14	0	0
Zimbabwe	110	13	97	14	0	0	13	10	0	0
Malawi	55	6	103	7	1	3	7	6	0	0
South Africa	46	5	117	6	0	0	3	2	0	0
Georgia	34	4	29	4	4	10	1	1	0	0
Bangladesh	30	3	19	3	6	15	5	4	0	0
Albania	28	3	13	2	3	8	12	10	0	0
DR Congo	22	3	20	3	2	5	0	0	0	0
Algeria	20	2	11	2	4	10	5	4	0	0
Other	191	22	132	19	13	33	37	30	9	100
Total	865	100	691	100	40	102	125	100	9	100



⁶ A total of 887 appeals were received by the Tribunal in 2017 – 22 remained at the pre-acceptance stage at the end of the year.

[4.11] Outcome of Appeals

Tables 4.11.1 to 4.11.8 below show the number of recommendations made at first instance which were affirmed on appeal by the Tribunal in 2017. These figures do not include withdrawals or abandoned cases.

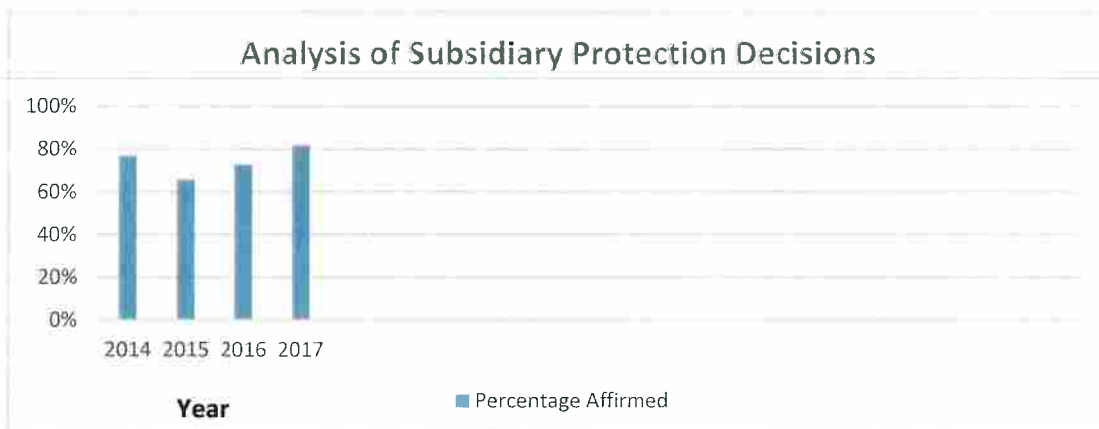
4.11.1. International protection single-procedure recommendations affirmed in 2017

Year	Total	Affirmed	% Affirmed
2017	124	96	77

4.11.2. Subsidiary Protection recommendations⁷ affirmed in 2017

Year	Total	Affirmed	% Affirmed
2017	234	191	82

4.11.3. Analysis of Subsidiary Protection Decisions from 2014 to 2017

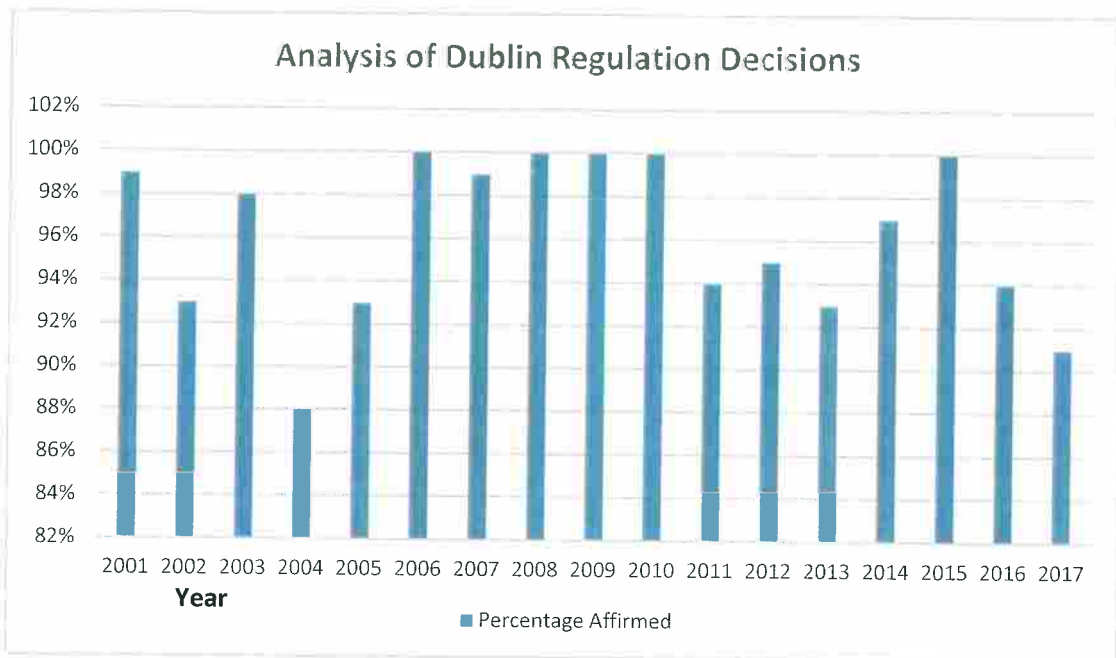


⁷ Transition cases.

4.11.4. Dublin Regulation Decisions affirmed in 2017

Year	Total	Affirmed	% Affirmed
2017	231	211	91

4.11.5. Analysis of Dublin Regulation Decisions 2001 to 2017



4.11.6. Inadmissibility decisions affirmed (s.21)

Year	Total	Affirmed	% Affirmed
2017	5	5	100

4.11.7. Subsequent application decisions affirmed (s.22)

Year	Total	Affirmed	% Affirmed
2017	10	3	30

4.11.8. Summary of International Protection, Subsidiary Protection , Subsequent Appeals and Inadmissible Appeals accepted in 2017 by country of nationality – affirmed and set aside from 1st January 2017 to 31st December 2017

Nationality	Affirmed	Set Aside	Total	Total Set Asides as % of Total Decisions
Nigeria	55	4	59	7
Zimbabwe	31	16	47	34
Pakistan	33	11	44	25
Malawi	23	10	33	30
Albania	27	2	29	7
Algeria	12	4	16	25
Congo (DRC)	11	2	13	15
South Africa	13	0	13	0
Bangladesh	9	2	11	18
Other	80	25	105	24
Total	294	76	370	21

4.11.9. Summary of Dublin III Appeals, by country of nationality, affirmed and set aside from 1st January 2017 to 31st December 2017

Nationality	Affirmed	Set Aside	Total	Total Set Asides as % of Total Decisions
Pakistan	103	8	111	7
Bangladesh	31	0	31	0
Nigeria	16	2	18	11
Afghanistan	8	3	11	27
Algeria	8	0	8	0
Congo (DRC)	6	0	6	0
Albania	5	0	5	0
India	5	0	5	0
Angola	3	1	4	25
Other*	25	5	30	17
Total	210	19	229	8

5. Other Activities

[5.1] Meetings with other organisations

It is a specific objective of the Tribunal to develop and maintain good working relations with organisations working in the asylum area and the Tribunal has continued this policy in 2017. Meetings were held with each of the following organisations, among others, during the year.

- Department of Justice and Equality
- Office of the Chief State Solicitor
- Office of the Attorney General
- Courts Service of Ireland
- Legal Aid Board - Refugee Documentation Centre
- Tusla-Child and Family Agency
- Office of the United Nations High Commissioner for Refugees
- EASO, European Asylum Support Office
- EJTN, European Judicial Training Network
- IARLJ, International Association of Refugee Law Judges
- EMN, European Migration Network
- SPIRASI
- Immigrant Council of Ireland

[5.2] Training of Tribunal Members

The Members of the Tribunal attended the following trainings during the year:

- EASO Pilot Professional Development workshop: Qualification for International Protection, 16th – 17th February, Malta
- EASO Professional development workshop: Subsidiary protection under Article 15 (c) QD (recast), 20th – 21st March, Malta
- IPAT Training on the new single procedure, s.21 appeals and s.22 appeals, 19th May, Dublin

- IPAT Training on the new single procedure, s.21 appeals and s.22 appeals, 14th July, Dublin
- EASO Pilot Professional development workshop: Evidence and Credibility Assessment, 28th – 29th September, Malta
- EJTJN Judicial Training Methods – Seminar on ‘Judgecraft’, 25th – 26th September, Brussels
- UNHCR Training on ‘Children in the International Protection System’, 28th – 29th November, Dublin
- IPAT 4-day induction training for new Tribunal Members 7th – 12th December, Dublin

Additionally, the two Deputy Chairpersons carried out a study visit to the UK Judicial Training College in the UK, where they observed hearings before the UK 1st Tier Tribunal (Asylum and Migration Chamber) and attended a two-day residential training for judges of the 1st Tier Tribunal (Asylum and Immigration Chamber), 6th – 8th March, Birmingham/Loughborough.

Two Tribunal Members participated in a judicial exchanges to Germany and Slovenia respectively. These exchanges were organised by the European Judicial Training Network (EJTJN).

[5.3] Conferences Attended

The Tribunal attended the following conferences during the year:

- UCC Child Law Clinic, Separated Children in Judicial Proceedings: Recourse to European and International Mechanisms, 30th – 31st March, Dublin;
- Children’s Rights Alliance, Measuring Up for Children: Reviewing Progress on the ‘McMahon’ Recommendations, 8th June, Dublin;
- International Association of Refugee Law Judges (IARLJ) European Chapter Conference, 11th – 13th June, Berlin;
- Academy of European Law (ERA), Annual Conference on European Asylum Law 2016, 10th – 11th October, Brussels;

- Immigrant Council of Ireland (ICI), Launch of findings of transnational project: 'TRACKS – identification of TRafficked Asylum seeKers' Special needs', 12th October, Dublin.

[5.4] EASO

The Tribunal participated in several projects being run by the European Asylum Support Office including: -

- Working Group on the drafting of a Judicial Practical Guide on Country of Origin Information (April/June/September)
- Provision of Judicial Training Workshops for Independent Appeals Committees in Greece (May/June)

[5.5] International Association of Refugee Law Judges (IARLJ)

The Tribunal Members are members of the IARLJ, which was founded in 1997 and seeks to foster recognition that protection from persecution on account of race, religion, nationality, membership in a particular social group, or political opinion is an individual right established under international law, and that the determination of refugee status and its cessation should be subject to the rule of law.

The Tribunal has actively contributed to the development of judicial training materials on:

- Introduction to the Common European Asylum System (CEAS) for Courts and Tribunals - A Judicial Analysis (Produced by IARLJ Europe under contract to EASO);
- Qualification for International Protection (Directive 2011/95/EU) – A Judicial Analysis (Produced by IARLJ-Europe under contract to EASO);
- Evidence and credibility assessment in the context of the Common European Asylum System (CEAS) – A Judicial Analysis (Produced by IARLJ-Europe under contract to EASO); and

- Asylum Procedures and the Principle of Non-*Refoulement* – A Judicial Analysis (Produced by IARLJ-Europe under contract to EASO).

[5.6] Tribunal Users Group

The Tribunal Users Group was established in 2014 to meet and discuss proposals around practice and procedure put forward by the Tribunal and to provide an opportunity for legal representatives to give feedback to the Tribunal on issues of concern. The Group was not active in 2017 as the two Law Society nominees were no longer available to participate in the group. The Chairperson requested new nominations from the Law Society, which were received in November, and the group will resume meetings in 2018 to further explore proposals for improvement of the Tribunal and to receive feedback from legal practitioners.

6. Personnel

[6.1] Staffing

On the 31st of December 2017 the number of staff serving in the Tribunal was 37 (of whom 9 avail of shorter working year). This corresponds to 34.2 full-time equivalents (FTE).

The breakdown of staff by grade is as follows:

Grade	Number of Posts
Chairperson	1
Registrar	1
Assistant Principal Officer	2 (1 Shorter working year)
Higher Executive Officer	3(1 shorter working year)
Administrative Officer	1
Executive Officer	6 (2 Shorter working year)
Clerical Officer	23 (5 Shorter working year)
Total	37 (34.2 FTE)

The significant increase in appeals expected to reach the Tribunal in 2018 and beyond will require a corresponding increase in support staff to enable the Tribunal to deal with such appeals in a fair and efficient manner.

[6.2] Staff Training

The Tribunal has provided or facilitated a wide range of training courses for staff. Training courses availed of by administrative staff included:

- Microsoft Word (Intermediate)
- Microsoft Excel (Intermediate and Advanced)
- Microsoft Powerpoint (Advanced)
- Communication Skills
- Supervisory Management Skills
- Customer Service Skills
- Middle Management Development Course
- Assertiveness Skills

- B.A. in Public Management
- Professional Diploma in Official Statistics for Policy Evaluation
- Advanced Diploma in Immigration and Asylum Law
- Health and Safety Training
- Pre-retirement Training

[6.3] Accommodation

The Tribunal is located at 6/7 Hanover St. East, Dublin 2, where it currently occupies the first floor. In addition to the workspace for administrative staff, there are seven hearing rooms and consultation rooms for appellants and their legal representatives on the ground floor of the building. The Tribunal also has a training room with a maximum capacity of 35.

[6.4] Finance

The Tribunal is funded by monies voted by the Dáil through the Vote for the Office of the Minister for Justice and Equality.

The table below sets out expenditure details for 2017:

Category	Expenditure 2017
Salaries and wages ⁸	1,587,368.93
Travel and Subsistence/Incidental Expenses ⁵	3,473.33
Postal and Communications Services	106,560.26
Office Machinery and Other office Supplies	16,068.07
Office and Premises Expenses	205,250.34

⁸ This is the first time that a figure for salary and wages has been included.

⁵ This figure includes cost associated with interpretation and translation.

Legal Costs	1,580,536.80
Members Fees	246,955.05
IT costs	621.49
Incidental Expenses	13,097.74
Total	3,759,932.01

[6.5] Customer Service

The office is open 5 days a week including lunchtime and is open to personal callers between the hours of 8.45am and 5.30pm Monday to Friday. A telephone enquiry service (tel. 01-4748400) is provided daily from 9.15am - 5.30pm (5.15pm on Fridays). The Tribunal is committed to providing a high standard of customer service as set out in our customer service charter.

[6.6] Data Protection

In line with the Data Protection Act 1988, the Tribunal is registered with the Data Protection Commissioner as a data controller. Throughout 2017, preparations were on the way to ensure full compliance with the General Data Protection Regulation (EU 2016/679) and corresponding national legislation in advance of the implementation date on the 25th of May 2018.

[6.7] Health and Safety

It is the policy of the Tribunal, as set out in our Health and Safety Statement, to ensure, in so far as is reasonably practicable, the safety, health and welfare of all its employees and those who have business on its premises. Health and safety issues are a priority for the Tribunal - this is reflected in the training provided to staff and the security measures at the Tribunal's premises which are continually under review. The Health and Safety Statement is updated as required.

[6.8] Ethics in Public Office Act, 1995

The Chairperson and Principal Officer of the Tribunal are subject to the requirements of the 1995 Act. All relevant staff holding prescribed positions is made aware of their obligations under the Ethics in Public Office Acts 1995 to 2001 and have complied with the requirements.

[6.9] Freedom of Information Act, 2014

The Tribunal is now covered by the provisions of the Freedom of Information Act, 2014. Further details are available on the Tribunal's website. FOI requests can be submitted to FOIRequests@refappeal.ie.

Appendix 1:

Appeals Process: Procedures

2.1 Introduction

Traditionally, the Tribunal dealt with three types of appeals: Substantive, Accelerated, and Dublin Regulation. The Tribunal now also adjudicates appeals against an International Protection Officer's recommendation to deem an application for international protection inadmissible pursuant to section 21(2) of the Act as well as appeals against an International Protection Officer's recommendation that a subsequent application for international protection not be allowed pursuant to section 22(5) of the Act.

The following is an outline of the main features of the appeals procedure.

Substantive - Oral Hearing

A substantive appeal is one where the Applicant may seek an oral hearing pursuant to s.42(1)(a) of the Act. The hearing occurs before a Member of the Tribunal and generally involves the Applicant and his/her legal representative, an interpreter and an officer of the Minister (hereinafter referred to as 'Presenting Officer'). Furthermore, in addition to the examination and cross-examination of the application, the Tribunal is obliged, pursuant to s.42(6)(f) of the Act, to allow for the examination and cross-examination of any witnesses. Experience to date shows that on average an oral hearing takes 1½ - 2 hours. Section 42(4) of the Act requires that an oral hearing be held in private. However, the UNHCR can attend for the purposes of observing the proceedings (s.42(5) of the Act). In the event that an oral hearing is not sought, the substantive appeal will be decided on the papers by the Tribunal, unless the Tribunal is of the opinion that it is in the interest of justice to hold an oral hearing.

Accelerated Appeals - No Oral Hearing

These arise where the report of the report of an International Protection Officer pursuant to s.39 of the Act includes any of the findings referred to in s.39(4) of the

Act. Such appeals are determined without an oral hearing, unless the Tribunal considers it not in the interest of justice not hold an oral hearing (s.43(b)) and have shorter time limits for lodging the Appeal.

Dublin System Regulation

Dublin appeals arise under the European Union (Dublin System) Regulations, 2014, SI No. 525 of 2014, which came into operation on the 25th of November 2014⁹ and replaced the Dublin II Regulations.

The 2014 Regulations gave effect to the Dublin III Regulation in Irish law. Regulation 8 of the 2014 Regulations provided for the transfer of persons from the State to the Member State responsible under the Dublin III Regulation for receiving the person.

Following the disbanding of the Office of the Refugee Applications Commissioner with the 2015 Act's repeal of the Refugee Act 1996 there was no transitional provision in those regulations transferring the Refugee Application Commissioner's jurisdiction to make a transfer decision to another body. And consequently, although transitional provisions in the 2015 Act transferred this jurisdiction to the Tribunal, there were only a limited number of 'legacy' Dublin appeals before the Tribunal in 2017.

⁹ The Regulations of 2014 and 2016 were revoked with effect from 6th March 2018 and replaced by the European Union (Dublin System) Regulations 2018 (S.I. No. 62 of 2018).

Inadmissibility Appeals

Section 21 of the International Protection Act 2015 gives effect to Article 25 of Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status. It provides that a person may not make an application for international protection where the application is deemed inadmissible. Where an International Protection Officer at first instance is of the opinion that an application is inadmissible he/she must recommend that the Minister deem the application inadmissible.

The decision of the International Protection Officer on admissibility is appealable to the Tribunal under s.21(6) of the Act. Pursuant to s.21(7), appeals to the Tribunal on admissibility must be determined without an oral hearing.

The provisions contained in s.21 IPA 2015 were not contained in the Refugee Act 1996, the European Communities (Eligibility for Protection) Regulations 2006 or the European Union (Subsidiary Protection) Regulations 2013.

Subsequent Appeals

Section 22 of the International Protection Act 2015 gives effect to Article 32 of Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status. It provides for the circumstances in which a person may be permitted to make a subsequent application for international protection after refusal or withdrawal (including deemed withdrawal) of a prior claim.

The first instance decision of an International Protection Officer on the matter is appealable to the Tribunal under s.22(8). Pursuant to s.22(9), appeals to the Tribunal on admissibility must be determined without an oral hearing.

The provisions contained in s.22 of the Act are comparable to those that were in s.17(7) of the Refugee Act 1996, as amended (albeit that s.17(7) did not provide for an appeal to the Tribunal).

2.2 Procedure for Lodging an Appeal

When an Applicant receives a recommendation from the International Protection Office pursuant to s.40 of the International Protection Act 2015, he/she is informed of the right to appeal and the requirement to do so within specific statutory time limits depending on the type of appeal:-

- **Substantive** appeals – Applicants have **15 working days**, from the date of the sending of to the applicant of the notification of the International Protection Officer’s recommendation, to complete and lodge the **Notice of Appeal**. They have the option of an oral hearing, which they must request on the Notice of Appeal Form.
- **Accelerated** appeals – Applicants have **10 working days**, from the date of the sending of to the applicant of the notification of the International Protection Officer’s recommendation, to complete and lodge the **Notice of Appeal**. They do not have the option of an oral hearing; unless the Tribunal considers it not in the interest of justice not to hold an oral hearing.
- **Dublin Regulation** appeals – Applicants have **10 working days**, from the date of the sending of to the applicant of the notification of the International Protection Officer’s recommendation, to complete and lodge the **Notice of Appeal**. They have the option of an oral hearing. The lodging of an appeal suspends the transfer of an applicant to the relevant country.
- **Inadmissibility** appeals – Applicants have **10 working days**, from the date of the sending of to the applicant of the notification of the International Protection Officer’s

recommendation, to complete and lodge a Notice of Appeal. They do not have an option of an oral hearing.

- **Subsequent appeals** – Applicants have **10 working days**, from the date of the sending of to the applicant of the notification of the International Protection Officer’s recommendation, to complete and lodge a Notice of Appeal. They do not have an option of an oral hearing.

In all instances the Applicant must specify the grounds of appeal in the Notice of Appeal Form, attach any supporting documentation, the submissions to be made and the authorities to be relied upon.

The Tribunal has discretion to direct the attendance of witnesses in cases where the applicant requests an oral hearing or the Tribunal is of the opinion that it is in the interest of justice to hold an oral hearing.

2.3 Procedure for Accepting Appeals

On receipt of the **Notice of Appeal**, the Tribunal considers whether it is within the prescribed time limit for the particular appeal type.

The Tribunal has the discretion to allow late appeals where the applicant is able to demonstrate that there were special circumstances as to why the Notice of Appeal was submitted after expiry of the prescribed period, and, in the circumstances concerned, it would be unjust not to extend the prescribed period.

The Notice of Appeal is acknowledged to the Applicant and his/her legal representative (if any). The Minister and the UNHCR Dublin are notified by e-mail on the same day of receipt of the appeal, distinguishing the appeal type.

The Minister is also requested, pursuant to s.44(1) of the International Protection Act 2015, to furnish the Tribunal with copies of the documents provided to the applicant

under s.40 of the Act, namely a statement of the reasons for the recommendation of the International Protection Officer and a copy of the report under s.39 of the Act . Copies of the Notice of Appeal and all associated documents submitted to the Tribunal are furnished to the Minister, as required under s.41(3) of the Act.

2.4 Procedure for Assigning Cases to Members for Decision Making

The Chairperson has issued [Guideline to the Registrar for the purpose of his functions of assigning or re-assigning appeals under s.67\(2\) or \(3\) of the International Protection Act 2015](#). The Guideline is issued pursuant to S. 63(3)(a) of the International Protection Act 2015.

In assigning appeals to members of the Tribunal, the overriding objective is to ensure that the business of the Tribunal is managed efficiently and that the business assigned to each member is disposed of as expeditiously as may be consistent with fairness and natural justice. Subject to the matters set out in paragraph 2.1 and paragraphs 3 to 7 of the Guideline, the Registrar should endeavour, insofar as is practicable, to assign and re-assign appeals fairly and proportionately amongst the Members.

2.5 Procedure in relation to Oral Hearings

Where an Applicant has requested an oral hearing, the Tribunal must give not less than 20 working days' notice of the date of oral hearing to both the Applicant and his/her legal representative (if any). In practice, the notice given exceeds the statutory requirement and the aim of the Tribunal is to give six weeks' notice to all Applicants. The Minister, UNHCR and witnesses (if any) are notified at the same time as the Applicant. The hearing is held in private and conducted through an interpreter, where necessary and possible. The hearing is intended to be conducted without undue formality and in such a manner as to ensure that the proceedings are fair, transparent, and efficiently progressed.

2.6 Procedure in Relation to Withdrawals

At any stage during the process, an Applicant may withdraw an appeal by sending a notice of withdrawal to the Tribunal. In the event of a withdrawal, the original Recommendation of the Commissioner stands.

Where an Applicant fails, without reasonable cause, to attend an oral hearing at the date and time fixed for the hearing then, unless the Applicant, no later than three working days from that date, furnishes the Tribunal with an explanation for not attending the oral hearing which the Tribunal considers reasonable in the circumstances, his/her appeal shall be deemed to be withdrawn.

Furthermore, where, in the opinion of the Tribunal, an applicant has failed, or is failing in his or her duty under s.27 of the Act to cooperate, the appeal may – in line with the procedure set out in s.45(2) to (7) of the Act – be deemed withdrawn.

2.7 Procedure for issuing Decisions

An appeal against the recommendation of an International Protection Officer is dealt with under s.41 of the International Protection Act 2015.

Decisions of the Tribunal are notified to the applicant, the legal representative (if any), and to the Minister for Justice and Equality. The decision is also communicated to the United Nations High Commissioner for Refugees.

All Applicants receive a copy of the Tribunal's 'Information Leaflets for Applicants on Appeals Procedures - (one document for each type of appeal)' from the International Protection Office with the issue of the International Protection Officer's recommendation on their case. A short explanatory note is also available in several languages on request.

2.8 Procedures in relation to the Refugee Office Members' Decisions Archive (ROMDA)

ROMDA, the facility for legal representatives to research and submit previous redacted Decisions in support of their clients' asylum appeal, is maintained on a continuous basis. The decisions archive is updated on a monthly basis with the most recent Decisions of the Tribunal. Decisions are redacted by Tribunal staff to ensure that confidential applicant details have been removed. The Decisions are then converted to PDF files and uploaded onto the Tribunal Decisions Archive on the website. Access is now open to ROMDA and users can access the database by requesting a username and password. Please contact info@refappeal.ie for further information.

Appendix 2

Guideline to the Registrar on Assigning and Re-assigning Appeals

1. Background:

- 1.1 This guidance is issued pursuant to S. 63(3)(a) of the International Protection Act 2015 to assist the Registrar of the Tribunal in performing their functions of assigning or re-assigning appeals pursuant to S.67(2) or (3).
- 1.2 The relevant statutory provisions are set out in Appendix 1.
- 2.2 The following terms have the same meaning as that contained in the International Protection Act 2015: “Business”, “Family”, “Tribunal”, “member”, “Registrar” “Unaccompanied child” and “Chairperson”.

2. Assignment of Appeals

- 2.1 In assigning appeals to members of the Tribunal, the overriding objective is to ensure that the business of the Tribunal is managed efficiently and that the business assigned to each member is disposed of as expeditiously as may be consistent with fairness and natural justice.
- 2.2 Subject to the matters set out in paragraph 2.1 and paragraphs 3 to 7 of this Guidance Note, the Registrar should endeavour, insofar as is practicable, to assign and re-assign appeals fairly and proportionately amongst the Members.

3. Family Members:

- 3.1 Where there are several appeals which relate to the same family those appeals may be assigned to the same Member.
- 3.2 Where a member has previously dealt with an appeal relating to a family member of a current applicant, the appeal of the current applicant may be assigned to the Member who dealt with the previous appeal of the family member.

4. Unaccompanied Minors:

- 4.1 Were the appeal is made in respect of an unaccompanied minor the Registrar should use their best endeavours to ensure that the appeal is assigned to a Member who has received appropriate training, as specified by the Chairperson, in dealing with such persons.

5. Appeals Involving Particular Sensitivities:

- 5.1 It is acknowledged that particular appeals may involve certain cultural, gender and/or other sensitivities, e.g. allegations of sexual assault or female genital mutilation.
- 5.2 Such appeals should be assigned to Members taking such sensitivities into account, insofar as it is practicable to do so.

6. Re-assignment of Appeals

- 6.1 Where a Member is unable or unwilling to decide an appeal, the Registrar may, in agreement with the Member, re-assign that appeal to another Member.
- 6.2 Where the Registrar cannot agree with a Member to re-assign an appeal the Registrar shall so inform the Chairperson who shall then decide whether to re-assign the Appeal pursuant to S. 63(4)(a).

7. Other Matters:

- 7.1 In assigning or re-assigning appeals between the various Members of the Tribunal the following matters should also be taken into account by the Registrar:-
- 7.1.1 A Member's availability,
 - 7.1.2 A Member's ability to meet such timelines for the efficient dispatch of the business of the Tribunal, as may be determined by the Chairperson,
 - 7.1.3 The grounds of the appeals set out in the notices of appeal,
 - 7.1.4 The country of origin of applicants,
 - 7.1.5 The provision of the International Protection Act 2015, (as amended), pursuant to which the appeals are made,
 - 7.1.6 Whether the Member is disposing of the business of the Tribunal as expeditiously as may be consistent with fairness and natural justice,
 - 7.1.7 Whether the Member has particular knowledge, or training, relevant to the issues raised in the appeal,
 - 7.1.8 Any other matters relevant to the disposal of the business of the Tribunal efficiently and as expeditiously as may be consistent with fairness and natural justice.

Appendix 1
Statutory Provisions
International Protection Act 2015

Functions of
chairperson of
Tribunal

63. (1) The chairperson shall ensure that the functions of the Tribunal are performed efficiently and that the business assigned to each member is disposed of as expeditiously as may be consistent with fairness and natural justice.

(2) The chairperson may issue to the members of the Tribunal guidelines on the practical application and operation of the provisions or any particular provisions of this Part and on developments in the law relating to international protection.

(3) (a) The chairperson may, if he or she considers it appropriate to do so in the interest of the fair and efficient performance of the functions of the Tribunal, issue guidelines to the Registrar for the purpose of the performance of his or her functions of assigning or re-assigning appeals under section 67 (2) or (3).

(b) In issuing the guidelines referred to in *paragraph (a)*, the chairperson shall have regard to the following matters:

(i) the grounds of the appeals specified in the notices of appeal;

(ii) the country of origin of applicants;

(iii) any family relationship between applicants;

(iv) the ages of the applicants and, in particular, of persons under the age of 18 years in respect of whom applications are made;

(v) the provisions of this Act under which the appeals are made.

(4) The chairperson may —

(a) re-assign business from one member to a different member if, in the opinion of the chairperson, such re-assignment—

(i) is warranted by the inability or unwillingness to transact that business of the member to whom the business was originally assigned, and

(ii) where the business relates to an appeal, cannot be achieved by agreement between the Registrar and that member,

**Role of
members of
Tribunal**

65. (1) A member of the Tribunal shall, on behalf of the Tribunal, transact the business assigned to him or her under this Act.

(2) A member shall, in the performance of his or her functions under this Act—

(a) ensure that the business assigned to him or her is managed efficiently and disposed of as expeditiously as is consistent with fairness and natural justice,

(b) conduct oral hearings in accordance with this Act and any regulations under [section 41 \(4\)](#),

(c) accord priority to an appeal to which [section 63 \(5\)](#) applies that is assigned to him or her,

(d) have regard to any guidelines issued by the chairperson under [section 63 \(2\)](#),

- (e) prepare the report referred to in *paragraph (b) or (c) of [section 63 \(4\)](#)* and provide it to the chairperson when requested to do so,
- (f) attend any meetings convened by the chairperson under *subsection (6) or (7) of [section 63](#)*, unless it is impracticable to do so,
- (g) provide such assistance to the chairperson in the performance by the chairperson of his or her functions under this Act as the chairperson may reasonably request, and
- (h) comply with any direction given by the chairperson relating to training and the continued professional development of members.

Functions of Registrar

67. (1) The Registrar shall, in consultation with the chairperson—

- (a) manage and control generally the staff and administration of the Tribunal, and
- (b) perform such other functions as may be conferred on him or her by the chairperson.

(2) The Registrar shall assign to each member the appeals to be determined by him or her.

(3) Subject to [section 63 \(4\)\(a\)](#), the Registrar may re-assign an appeal where the member to whom it was originally assigned is unable or unwilling to determine that appeal.

(4) In assigning or re-assigning an appeal to a member the Registrar shall have regard to—

- (a) the need to ensure the efficient management of the work of, and the expeditious performance of its

functions by, the Tribunal, consistent with fairness and natural justice, and

(b) any guidelines issued by the chairperson under section 63 (3)(a).

