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# Refugee Appeals Tribunal

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## Annual Report



## Annual Report 2013

1<sup>st</sup> January 2013 to 31<sup>st</sup> December 2013  
Refugee Appeals Tribunal, 6/7 Hanover Street East, Dublin 2.  
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Mr. Alan Shatter T.D.  
Minister for Justice and Equality  
Department of Justice and Equality  
94 St. Stephens Green  
Dublin 2.

31st March 2013

## Refugee Appeals Tribunal

### Annual Report 2013

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Dear Minister,

I am pleased to present the annual report of the Refugee Appeals Tribunal for 2013.

The trend of falling numbers continued in 2013 (see chapter 4) with a small decrease in the number of appeals received by the Tribunal from 686 in 2012 to 660 in 2013. Having fallen steadily over the last decade or more this may indicate a levelling off in applications, however, the introduction of the Subsidiary Protection Regulations in November, 2013 is expected to substantially increase the work of the Tribunal in 2014.

Since I was appointed as Chairperson of the Tribunal in August of last year I have commenced a major review of Tribunal practices, procedures and guidelines. New guidelines on the Tribunal's case **Assigning Policy** were published in 2013 and in the coming weeks I intend to publish guidelines on the **Practice and Procedure for Making Appeals Before the Tribunal** as well as guidance on **Child Applicants**. Access to the Tribunal's database of decisions is now open, on request, to the general public.

A Tribunal Users Group, with representatives of the Law Society and the Bar Council, has been established to assist the Tribunal with this process of reform. To date, the group has met on one occasion and I was very encouraged by the constructive engagement of the group with the Tribunal on matters of mutual concern.

The ongoing costs of Judicial Reviews to the Tribunal are considerable. In 2013 I commenced an examination of all Judicial Reviews on hand with a view to offering settlements in cases where that was considered appropriate. This has resulted in a substantial reduction of the number of Judicial Reviews in which the Tribunal is a defendant with consequential savings in legal costs.

At the end of 2013 there were 6 serving members of the Tribunal who were appointed in November, 2013. The additional 4 members appointed in March, 2014 brings the current total to ten. The strategy statement of the Tribunal for 2014-2017 identifies the achievement of the *highest professional standards* in decision making and maintaining *our quality standards by the training and development of Tribunal Members*, as high level goals for the Tribunal in the years ahead. In that context, the Tribunal has been working closely with the UNHCR in devising a comprehensive training programme for our new members. Central to this programme was the design and introduction of a new decision template for use by the members. I am confident that the use of this template will result in the production of more legally robust decisions with an attendant reduction in the number of Judicial Reviews taken against the Tribunal. I would like to thank the UNHCR for their assistance in developing this template and in implementing the comprehensive training programme for members.

The Offices of the Chief State Solicitor and of the Attorney General consistently and promptly provide the Tribunal with excellent legal services and high quality advice and I gratefully acknowledge this contribution.

I would like also to thank the staff of the Tribunal for their dedication and hard work throughout the year and for their efforts in developing and implementing these reforms.

The Immigration, Residence and Protection Bill and the consequent changes to the structure and work of the Tribunal will pose welcome challenges in the years ahead. I very much look forward to the introduction of the single procedure for the assessment of Refugee and Subsidiary Protection applications and to the Tribunal's contribution to the creation of a more equitable and efficient protection system.

Yours sincerely,

**Barry Magee**  
**Chairperson**  
**Refugee Appeals Tribunal**

# **1. Introduction**

## **[1.1] Establishment**

The Refugee Appeals Tribunal (“the Tribunal”) was established on 4 October, 2000, in accordance with Sections 14 and 15 of the Refugee Act, 1996 [as amended by Section 11(1) of the Immigration Act, 1999 and Section 9 of the Illegal Immigrants (Trafficking) Act, 2000], to consider and decide appeals against recommendations of the Refugee Applications Commissioner that applicants should not be declared to be refugees. The Refugee Act, 1996 was implemented on 20 November, 2000 and the work of the Tribunal commenced on that date.

The Tribunal consists of a Chairperson and such number of Members of the Tribunal as the Minister for Justice and Equality, with the consent of the Minister for Finance, considers necessary for the expeditious dispatch of the business of the Tribunal.

## **[1.2] Mandate**

Section 2 of the 1996 Act (as amended) defines a “refugee” as a person who, owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

The Mandate of the Refugee Appeals Tribunal is to investigate appeal applications from persons seeking a declaration of refugee status and to issue appropriate recommendations to the Minister for Justice and Equality. The primary function of the Tribunal is to affirm or set aside a recommendation

made by the Refugee Applications Commissioner with regard to a declaration of a person as a refugee.

The Tribunal is tasked also with determining appeals under the Dublin procedure, which determines the appropriate European country to determine an asylum application, as well as Subsidiary Protection appeals.

### **[1.3] Mission Statement**

The Tribunal will strive to determine all appeals:

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

### **[1.4] Members of the Tribunal**

The Tribunal consists of a Chairperson and such ordinary members as are appointed by the Minister for Justice and Equality. Mr Barry Magee, Solicitor, was appointed Chairperson for a five year term in August, 2013 following an open recruitment process conducted by the Public Appointments Service.

Ordinary members are appointed by the Minister for Justice and Equality under Paragraph 2 of the Second Schedule of the 1996 Act. Details of members who served in 2013 and members appointed in 2013 are set out in Chapter 3.

## **[1.5] Applications for Protection**

Applications for Refugee Status in Ireland have been steadily declining since their peak of 11,634 in 2002. There were 946 applications in 2013 at first instance which is close to the 2012 figure of 956. This has resulted in a consequential reduction in the number of appeals that the Tribunal has received with 651 appeals received in 2013 (see Chapter 4).

In November 2013 the Tribunal was tasked with hearing appeals from refusals for Subsidiary Protection<sup>1</sup>. By the end of 2013 no appeals had been received.

## **[1.6] Proposed Legislative Changes**

The most significant proposed change will be the introduction of the Immigration, Residence and Protection Bill which is expected to be enacted in 2014. One of the most significant changes for the Tribunal in this legislation will be the introduction of a single procedure for the determination of eligibility for Refugee Status and Subsidiary Protection.

The other major anticipated legislative change is the proposed enactment of the Freedom of Information Bill which will bring the Tribunal under its provisions.

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<sup>1</sup> See the European Union (Subsidiary Protection) Regulations 2013. S.I. 426 of 2013.

### **[1.7] Staff of the Tribunal**

In accordance with the Second Schedule of the 1996 Act, the Minister may appoint such and so many persons to be members of the staff of the Tribunal as he considers necessary to assist the Tribunal in the performance of its functions. Members of the staff of the Tribunal are civil servants within the meaning of the Civil Service Regulation Act, 1956. Staff are currently assigned to the Tribunal from the Department of Justice and Equality.

On 31<sup>st</sup> December, 2013 the staff complement was 47 (42.3 full-time equivalent, see Chapter 6).

### **[1.8] Legislation Relevant to the Tribunal**

All legislative instruments relevant to the Tribunal are listed in Appendix 1.

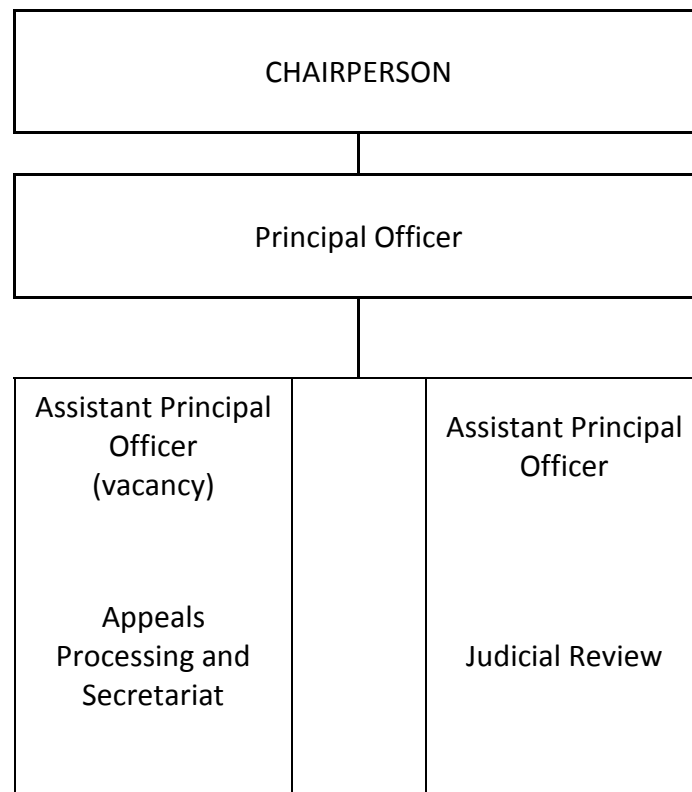


## 2. Tribunal Operations and Support

### [2.1] General

The administrative structure of the Tribunal is set out below. The present structure reflects the Tribunal's continuing response to the decreasing workload arising from the fall in the number of appeals received in recent years.

### ORGANISATION CHART



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 Refugee Applications Commissioner (the Commissioner), the United Nations High Commissioner for Refugees (“the UNHCR”), legal representatives and applicants
- arranging receipt of the applicants’ files from the Office of the Refugee Applications Commissioner when an appeal is received
- preparation of appeal case files, and formal assignment of cases to Members by the Chairperson.

### **Scheduling and Reception**

Scheduling involves arranging the attendance of Members, Presenting Officers, the Applicant, legal representatives and where appropriate interpreters, witnesses and HSE staff at hearings. Reception duties include the servicing of oral hearings and the processing of correspondence and submissions.

### **Decisions**

This involves:

- Preparing and issuing Decisions to the applicant, the legal representative (if any) and notifying the Refugee Applications Commissioner, the Minister for Justice and Equality and the United Nations High Commissioner for Refugees (UNHCR) in accordance with the Appeals Regulations
- Recording and tracking of Decisions

- Processing of correspondence and queries from applicants, legal representatives and Members
- 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] Secretariat**

The Secretariat is responsible for:-

- Co-ordinating activity between the Tribunal, the Commissioner 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 external 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 2013 by the Tribunal are outlined in Chapter 3. Further information concerning Human Resources/Personnel is contained in Chapter 6.

### **[2.4] Judicial Review**

The Judicial Review Unit considers the response to judicial review proceedings. It records and monitors progress of all judicial reviews, considers all legal documents received and co-ordinates a response with the Chairperson, the Attorney General's Office, the Chief State Solicitor's Office and the Members.

The CSSO informed the Tribunal of 75 applications filed for judicial review during 2013 in which the Tribunal was a Respondent. The Tribunal had 812 Active judicial reviews on 31<sup>st</sup> December, 2013. While the number of new judicial reviews received has fallen significantly in recent years the Tribunal continues to actively manage its judicial review caseload by early intervention and negotiating to keep costs to a minimum thereby contributing to a reduction of the numbers in the High Court Asylum List.

The Tribunal has continued to work closely with the Irish Naturalisation and Immigration Service (INIS) and the Chief State Solicitors Office to achieve the best possible outcomes to legal challenges. The Tribunal is using the AISIP computer system to improve communications with INIS and to identify cases where Applicants may have obtained an alternative status in the State. Subsequent contact with the legal representatives for the Applicant has resulted in the withdrawal of a number of such cases.

There has been a significant reduction in the number of new judicial reviews in recent years filed against the Tribunal from 462 in 2010 to 81 in 2013, which reflects, inter alia, the fall in asylum applications at first instance.

The following table shows the processing time of Tribunal judicial reviews by year. The average and median times are rounded to the nearest month. As can be seen from the table, the processing time in the Courts from when a new judicial review is filed to a court ruling has been steadily increasing. The current median time is 3 years and 3 months. The majority of judicial review cases being heard by the High Court in 2013 were filed in 2009 and 2010.

<b>Year Finalised/ Closed</b>	<b>Average (months)</b>	<b>Median (months)</b>	<b>Number of Case Finalised</b>
2008	16	18	332
2009	19	19	301
2010	21	24	178

2011	25	30	121
2012	30	36	110
2013	35	39	342

## [2.5] Legal Costs

The tribunal is supported by the offices of the Attorney General and the Chief State Solicitor in the defence of Judicial reviews. There is no cost to the Tribunal for this service. The Tribunal is liable to pay the costs of applicants who successfully apply for judicial review in the High Court.

The legal costs incurred by the 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

In order to reduce legal costs to a minimum, in August 2013 the Tribunal commenced an examination of all pending judicial reviews. This identified cases that were suitable for settlement without the necessity for a full hearing before the High Court. In most cases where offered, a settlement was successfully negotiated. This limited the Tribunal's exposure as the costs payable were substantially less than those which would have been payable after a successful hearing. This review was ongoing at the end of the year and is expected to be completed in the first quarter of 2014.

In cases where the Tribunal successfully defends a judicial review it will normally obtain an order that the unsuccessful applicant pay their legal costs.

However, there is usually little prospect of the Tribunal recovering costs from unsuccessful applicants.

### **3. Members of the Tribunal**

#### **[3.1] Introduction**

The 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 an alphabetical list of members of the Tribunal who held office during 2013.

Ben Garvey, BL
Bernadette Cronin, BL
Bernard McCabe, BL
Conor Gallagher, BL
David Andrews, SC
Donal Egan, BL
Doireann Ní Mhuirchartaigh, BL
Eamonn Barnes, BL
Eamon Cahill, SC
Elizabeth O'Brien, BL
Evelyn Leyden, Solr.
Fergus O'Connor, BL
Hilkka Becker, Solr.
John Cheatle, BL
Laura McKenna, BL
Majella Twomey, BL
Margaret Levey, BL
Michael O'Kennedy, SC

Michelle O’Gorman, BL
Olive Brennan, BL
Patrick Hurley, Solr
Paul Christopher, BL
Paul Gormley, BL
Ricardo Dourado, BL
Ronan Maguire, BL
Samantha C. Callaghan, BL
Susan Nolan, Solr
Terence Coghlan, BL

### [3.3] List of Members appointed in 2013

The Tribunal members as at 31<sup>st</sup> of December, 2013 are shown in the table below. All were appointed on the 11<sup>th</sup> of November, 2013 for a three year term<sup>2</sup>.

Member	Date of Appointment
Bernard McCabe, BL	11/11/2013
Doireann Ní Mhuirchartaigh, BL	11/11/2013
Evelyn Leyden, Solr.	11/11/2013
Hilkka Becker, Solr.	11/11/2013
John Cheatle, BL	11/11/2013
Terence Coghlan, BL	11/11/2013

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<sup>2</sup> Subject to the introduction of the Immigration Residence and Protection Bill, in which case their term of office will be automatically terminated.



### **[3.4] Training and Seminars for Members of the Tribunal**

The 1996 Act requires the Chairperson to make provision for training programmes for Members of the Tribunal. With the appointment of Members in November, 2013 the Tribunal engaged with the UNHCR in devising a comprehensive training programme for the Members to be delivered in December, 2013 and January, 2014.

Training delivered in 2013 was as follows:

<b>Training seminars</b>	<b>Date</b>
Mr. Niall Maher, Refugee Documentation Centre 'Country of Origin Information Resources'	06/12/2013
Ms. Sophie Magennis, Mr. Mike Ross, UNHCR 'Refugee Status Determination/Asylum Appeals Decisions'	06/12/2013
Mr. Greg Stratton, SPIRASI 'The Role of SPIRASI'	06/12/2013

### **[3.5] Statutory Meetings**

Paragraph 12 of the 2<sup>nd</sup> schedule of the Refugee Act 1996 requires the Chairperson to convene a meeting of the Members of the Tribunal at least twice a year to review the work of the Tribunal. The following meetings took place:

#### **First Statutory Meeting 2013**

<b>Date</b>	<b>Venue</b>
6th December 2013	The Refugee Appeals Tribunal, 6-7 Hanover Street East, Dublin 2
21st December 2013	The Refugee Appeals Tribunal, 6-7 Hanover Street East, Dublin 2

### [3.6] Members' Fees

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

Type	2013
<b>Substantive Appeal</b>	<b>€</b>
Oral Hearing	476
Oral Hearing - Husband & Wife similar cases	714
Oral Hearing - Husband & Wife different cases	952
On Papers	248
On Papers - Husband & Wife similar cases	372
On Papers - Husband & Wife different cases	496
No Show / Withdrawal	137
Adjournment / Postponement	0
<b>Accelerated Appeal</b>	
Determination	248
Husband & Wife similar cases	372
Husband & Wife different cases	496
<b>Dublin Convention/Regulation/Manifestly Unfounded</b>	
Determination	166
Husband & Wife similar cases	249
Husband & Wife different cases	332

### [3.7] Members' Fees paid and Decisions 2013

Members fees paid and number of decisions completed for 2013 is set out in the following table.

Member	Fees €	Decisions
Ben Garvey	28,754.17	68
Bernard McCabe	11,019.67	32
Conor Gallagher	7,351.02	16
David Andrews	3,847.68	10
Donal Egan	1,610.00	1
Elizabeth O'Brien	11,408.00	25

Fergus O'Connor	11,087.03	25
Majella Twomey	30,923.94	73
Margaret Levey	22,416.01	56
Michelle O'Gorman	51,079.77	122
Olive Brennan	5,911.00	0
Patrick Hurley	529.98	1
Paul Christopher	37,473.66	86
Paul Gormley	15,330.77	54
Ronan Maguire	529.00	1
Susan Nolan	3,703.00	9
<b>Total</b>	<b>242,974.70</b>	<b>579</b>

It should be noted that the fees paid to members in a calendar year does not necessarily correspond with the number of decisions completed in a particular year and may relate to decisions made in a previous calendar year. Any fees received for training purposes are included in above.

## 4. Summary of the Work of the Tribunal for 2013

### [4.1] Executive Summary for 2013

	2012	2013	% change
<b>Appeals Received</b>	686	660	-5%
<b>Cases Scheduled</b>	661	424	-36%
<b>Decisions Issued</b>	691	584	-15%
<b>Completed Appeals</b>	746	604	-19%
<b>Live Appeals on Hand at Year End</b>	602	661	8%

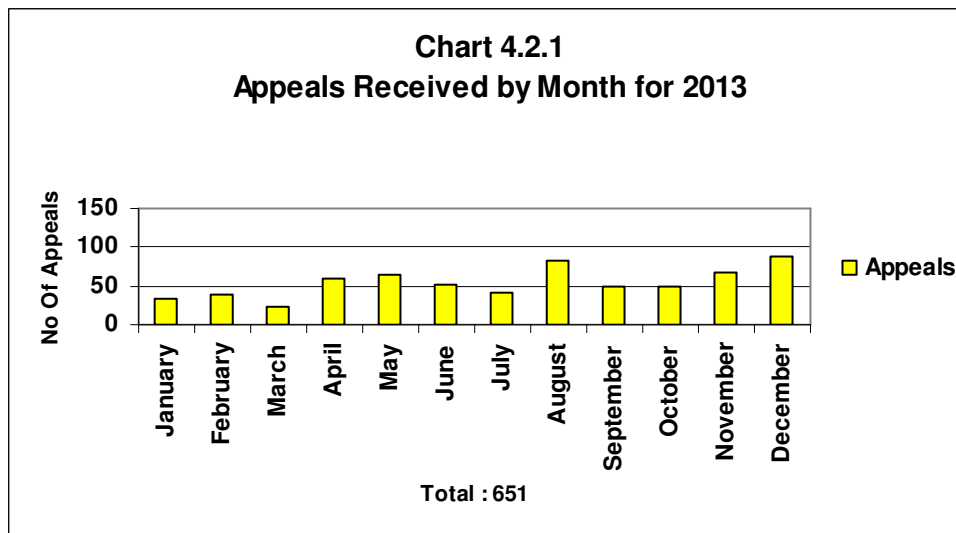
### [4.2] Appeals Received<sup>3</sup>

Tables 4.2.1 & 4.2.2 sets out the number of Substantive/Substantive 15-Day, Accelerated and Dublin II Regulation appeals received in the years 2012 and 2013.

**Table 4.2.1  
Total Appeals Received**

Month	2012	2013
January	49	33
February	71	38
March	74	24
April	54	59
May	50	65
June	59	53
July	80	41
August	62	83
September	36	50
October	69	49
November	51	68
December	31	97
<b>Total</b>	<b>686</b>	<b>660</b>

<sup>3</sup> See definitions Appendix 2



**Table 4.2.2**  
**Total Appeals Received by Year and Type**

	<b>2012</b>	<b>2013</b>	<b>% Change</b>
Substantive/ Sub 15 Day	451	513	13%
Accelerated	190	117	-38%
D II Regulation	45	30	-42%
<b>Total</b>	<b>686</b>	<b>660</b>	<b>-5%</b>

**Table 4.2.3**  
**Substantive/Substantive 15-Day Appeals Received**

<b>Month</b>	<b>2012</b>	<b>2013</b>
January	27	28
February	42	28
March	54	20
April	40	46
May	43	54
June	40	46
July	36	27
August	40	61
September	28	35
October	45	42
November	33	52
December	23	74
<b>Total</b>	<b>451</b>	<b>513</b>

**Table 4.2.4**  
**Accelerated Appeals Received**

<b>Month</b>	<b>2012</b>	<b>2013</b>
January	21	3
February	26	9
March	18	4
April	9	13
May	0	10
June	17	7
July	34	12
August	18	17
September	7	12
October	21	5
November	13	9
December	6	16
<b>Total</b>	<b>190</b>	<b>117</b>

**Table 4.2.5**  
**Dublin II Regulation Appeals Received**

<b>Month</b>	<b>2012</b>	<b>2013</b>
January	1	2
February	3	1
March	2	0
April	5	0
May	7	1
June	2	0
July	10	2
August	4	5
September	1	3
October	3	2
November	5	7
December	2	7
<b>Total</b>	<b>45</b>	<b>30</b>

**[4.3] Number of Appeals Scheduled for Hearing**

Cases are scheduled for oral hearing following an examination of the file by a Member of the Tribunal under Section 16(6) and (7) of the Act. An appeal file is extensive. It includes the initial application for asylum, a detailed questionnaire completed by the applicant. In addition to the written notes of an applicant's interview, conducted by an officer of the Refugee Applications Commissioner's Office, Section 11 report (pre-15 September, 2003 cases), and Section 13 reports on the questionnaire and interview notes prepared by the Refugee Applications Commissioner's Office. It includes also the Recommendation of the Refugee Applications Commissioner. The appeal file includes the Notice of Appeal, observations made to the Tribunal by the Refugee Commissioner and/or the UNHCR, country of origin information and all submitted documentation.

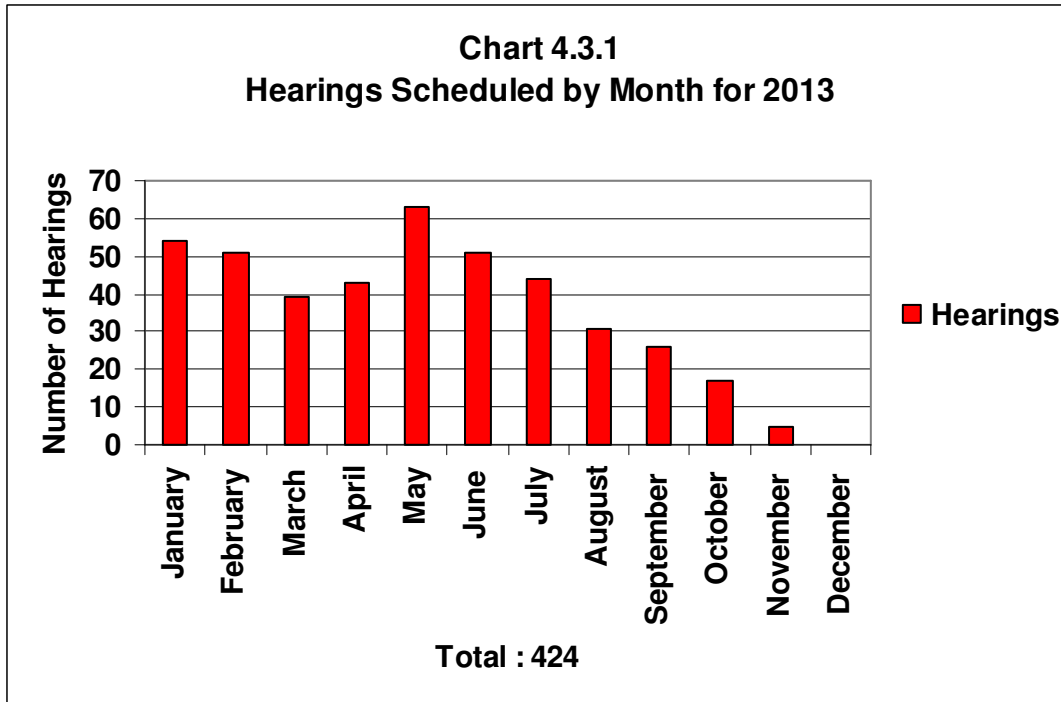
The oral hearing is held in private in accordance with Section 16(14) of the Refugee Act. Under Section 16(15) the UNHCR may be present at an oral hearing for the purpose of observing the proceedings.

The parties in attendance at the oral hearing are the applicant, his/her legal representative, interpreter (if required), the Presenting Officer (authorised officer of the Refugee Applications Commissioner) and the Member of the Tribunal. Witnesses may also be present, subject to the approval of the Member.

**Table 4.3.1**  
**Number of Hearings Scheduled**

<b>Month</b>	<b>2012</b>	<b>2013</b>
January	65	54
February	64	51
March	66	39
April	40	43
May	53	63
June	77	51
July	50	44
August	47	31
September	65	26
October	47	17
November	50	5
December	37	0
<b>Total</b>	<b>661</b>	<b>424</b>





The fall off in hearings towards the end of the year was as a result of Member’s terms of office expiring. New Members were appointed in November, 2013. These members required training prior to hearing cases which resulted in no hearings taking place in December.

#### **[4.4] “No Shows” and Withdrawals**

##### **Failure of applicant to attend oral hearing**

Where an applicant fails to attend an oral hearing without reasonable cause and fails to furnish the Tribunal with an explanation 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

- (a) if the appeal is one to which Section 16(2A) of the original Act applies (pre-15 September 2003), the Tribunal affirms the recommendation of the Commissioner under section 13, or
- (b) if the appeal is one to which Section 16(2A) of the amended Act applies (post-15 September 2003), the appeal is deemed withdrawn.

In 2013, the number of “No Shows” was 23, which represented just over 5% of the total number of cases scheduled.

An applicant may withdraw his/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 Commissioner stands. Table 4.4.1 sets out the number of “No Shows” and Withdrawals in 2012 and 2013.

**Table 4.4.1**

**Number of “No Shows” and Withdrawals in 2012 and 2013**

<b>Year</b>	<b>2012</b>	<b>2013</b>
<b>“No Shows”</b>	32	23
<b>Withdrawals</b>	55	20
<b>Total</b>	<b>87</b>	<b>43</b>

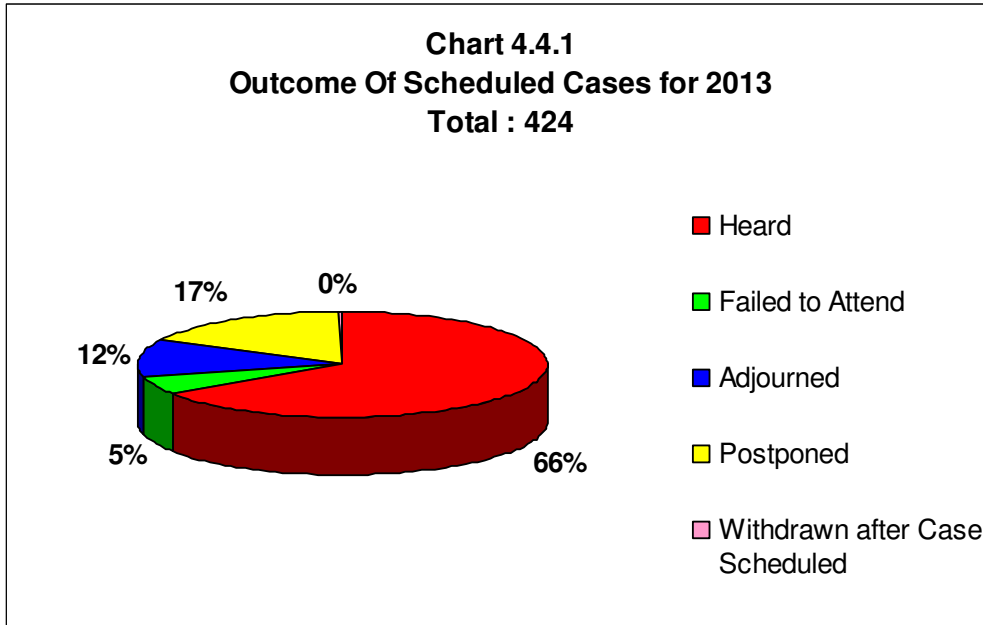
**[4.5] Postponements and Adjournments**

**Table 4.5.1**

**Number of Postponements and Adjournments**

<b>Year</b>	<b>2012</b>	<b>2013</b>
<b>Adjournments</b>	78	49
<b>Postponements</b>	134	73
<b>Total</b>	<b>212</b>	<b>122</b>

29% of scheduled cases were either postponed or adjourned which is lower than the 2012 figure which was 32%.



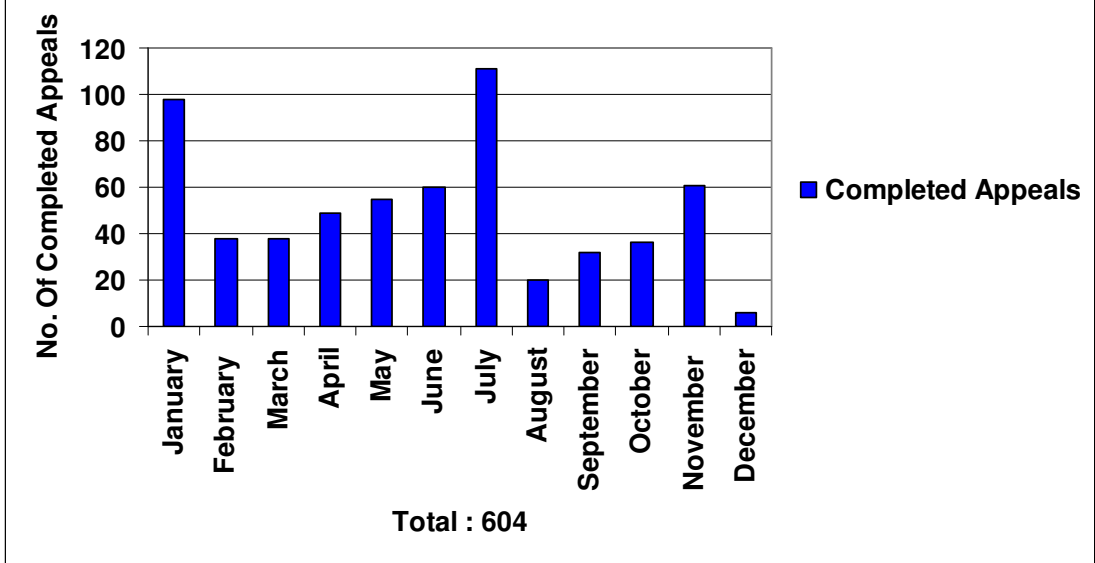
**[4.6] Appeals Completed and Decisions of Members**

The Tribunal completed 604 appeals including withdrawals from 1 January, 2013 to 31 December, 2013.

**Table 4.6.1**  
**Total Completed Appeals**

Month	2012	2013
January	63	98
February	53	38
March	69	38
April	63	49
May	75	55
June	58	60
July	60	111
August	50	20
September	57	32
October	95	36
November	53	61
December	50	6
<b>Total</b>	<b>746</b>	<b>604</b>

**Chart 4.6.1  
Completed Appeals by Month for 2013**



**Table 4.6.2  
Total Decisions Issued**

Month	2012	2013
January	60	94
February	47	37
March	61	36
April	62	47
May	68	52
June	54	58
July	54	108
August	46	20
September	54	30
October	86	35
November	50	61
December	49	6
<b>Total</b>	<b>691</b>	<b>584</b>

**Table 4.6.3**

**Substantive/Substantive 15-Day Completed Appeals**

<b>Month</b>	<b>2012</b>	<b>2013</b>
January	44	79
February	36	26
March	39	34
April	35	40
May	60	42
June	43	52
July	46	90
August	29	14
September	23	28
October	74	32
November	26	37
December	39	0
<b>Total</b>	<b>494</b>	<b>473</b>

**Table 4.6.4**

**Accelerated Completed Appeals**

<b>Month</b>	<b>2012</b>	<b>2013</b>
January	19	13
February	13	9
March	30	3
April	21	9
May	12	13
June	12	8
July	13	18
August	21	6
September	21	4
October	17	3
November	21	24
December	11	6
<b>Total</b>	<b>211</b>	<b>116</b>

**Table 4.6.5  
Dublin II Regulation - Completed Appeals**

<b>Month</b>	<b>2012</b>	<b>2013</b>
January	0	7
February	4	3
March	0	1
April	7	0
May	3	0
June	3	0
July	1	3
August	0	0
September	13	0
October	4	1
November	6	0
December	0	0
<b>Total</b>	<b>41</b>	<b>15</b>

**[4.7] Appeals on Hand at 31st December, 2013**

A total of 651 live appeals were on hand at the 31st December, 2013 compared to 602 appeals on hand at 31 December, 2012 an increase of 8%.

**Table 4.7.1  
Summary of “live appeals” in the Tribunal at 31st December 2013**

<b>Total number of appeals on hand</b>	
Substantive/ Substantive 15 Day	501
Accelerated	124
Dublin II Regulation	36
<b>Total number of appeals on hand at 31<sup>st</sup> December 2013</b>	<b>661</b>

## **[4.8] Duration of Appeal Process**

### **Substantive Appeals**

A priority for the Tribunal is to reach those people in need of international protection quickly. In this regard analysis shows that the median length of time taken by the Tribunal to process and complete Substantive 15 day appeals was approximately 18 weeks in 2013 based on a sample of 343 cases.

### **Accelerated Appeals**

The median length of time taken by the Tribunal to process and complete Accelerated appeals was approximately 12 weeks in 2013 based on a sample of 108 cases.

### **Dublin Appeals**

The median length of time taken by the Tribunal to process and complete Dublin appeals was approximately 10 weeks in 2013 based on a sample of 14 cases.

<b>Appeal Type</b>	<b>Median Processing Time</b>
Substantive	18 weeks
Accelerated	12 weeks
Dublin	10 weeks

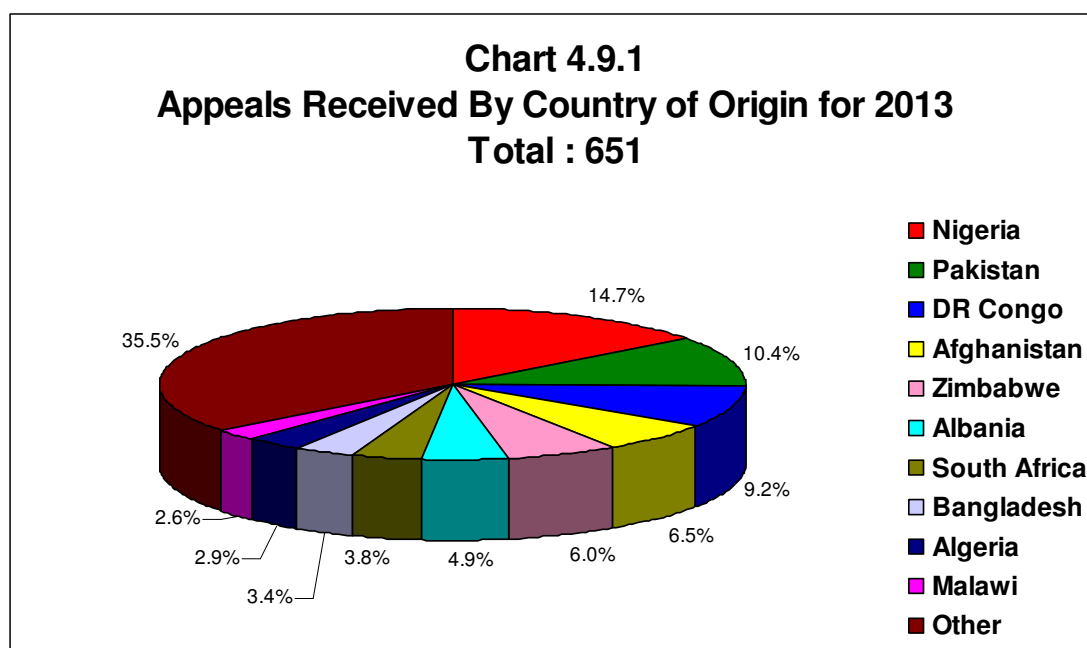
## **[4.9] Country of Origin of Applicants 2013**

Nigerian nationals represented the highest proportion of applications received by the Tribunal. Nigerian nationals also represented the highest proportion of applicants in the case of Substantive/Substantive 15-Day appeals, followed by Pakistan, DR Congo, Afghanistan and Zimbabwe. In Accelerated appeals the highest representations of applicants were from Nigeria and Pakistan. In Dublin II Regulation appeals the majority of applicants were from Bangladesh and Afghanistan.

**Table 4.9.1**

**Substantive/Substantive 15-Day Appeals, Accelerated Appeals and Dublin II  
Regulation Appeals received in 2013 by country of origin.**

Nationality	Total Appeals Received	%	Substantive 15-Day	%	Accelerated	%	Dublin II Reg	%
Nigeria	96	15	61	12	35	30	0	0
Pakistan	68	10	57	11	11	9	0	0
DR Congo	60	9	55	11	3	3	2	7
Afghanistan	42	6	34	7	3	3	5	17
Zimbabwe	40	6	33	6	6	5	1	3
Albania	33	5	31	6	0	0	2	7
South Africa	27	4	24	5	3	3	0	0
Bangladesh	22	3	12	2	4	3	6	20
Algeria	19	3	13	3	6	5	0	0
Malawi	18	3	12	2	6	5	0	0
Other <sup>4</sup>	235	36	181	35	40	34	14	46
<b>Total</b>	<b>660</b>	<b>100</b>	<b>513</b>	<b>100</b>	<b>117</b>	<b>100</b>	<b>30</b>	<b>100</b>



<sup>4</sup> Other covers 55 countries and includes Georgia, Cameroon, Sudan, Russia and Mauritius in relation to all of which the number of applicants ranges between 1 and 16.



## **[4.10] Outcome of Appeals/Recommendations of the Refugee Applications Commissioner**

Tables 4.10.1, 2 and 3 show the trend in the number of Recommendations made by the Commissioner which were affirmed on appeal by the Tribunal since 2001 (excluding withdrawals and abandoned cases).

**Table 4.10.1**

### **Analysis of Substantive/ Substantive 15-Day Decisions Recommendations of Commissioner Affirmed**

<b>Year</b>	<b>Total</b>	<b>Affirmed</b>	<b>% Affirmed</b>
2001	1942	1461	75
2002	4698	3601	77
2003	4486	3658	82
2004	4235	3587	85
2005	2452	2021	82
2006	1594	1354	85
2007	1406	1212	86
2008	1919	1656	86
2009	2672	2422	91
2010	2045	1922	94
2011	872	809	93
2012	446	401	90
2013	455	405	89

**Table 4.10.2**

**Analysis of Manifestly Unfounded/ Accelerated Decisions**

**Recommendations of Commissioner Affirmed**

<b>Year</b>	<b>Total</b>	<b>Affirmed</b>	<b>% Affirmed</b>
2001	723	549	76
2002	130	81	62
2003	252	225	89
2004	1893	1824	96
2005	1468	1385	94
2006	271	261	96
2007	330	318	96
2008	398	368	92
2009	583	565	97
2010	643	637	99
2011	366	358	98
2012	205	205	100
2013	114	110	96

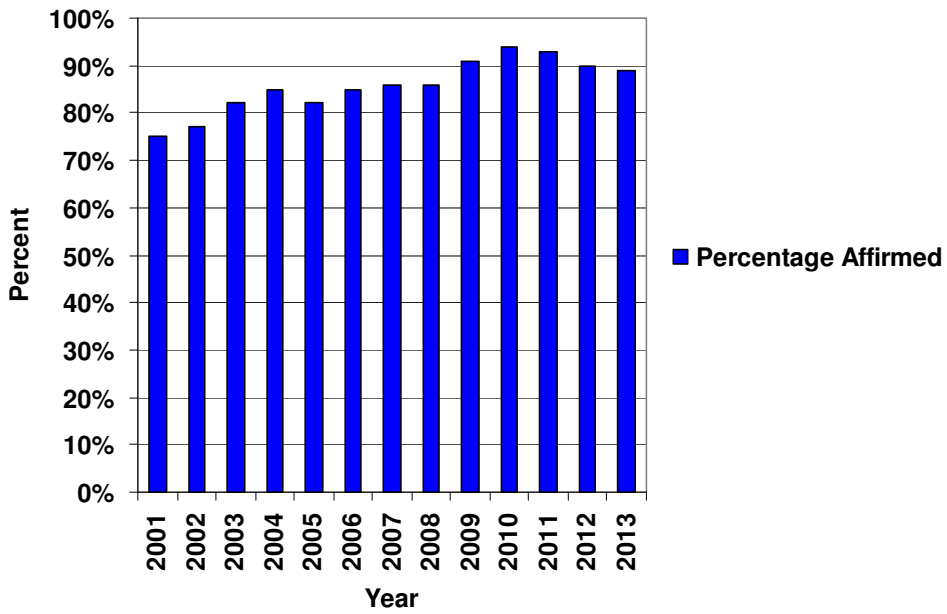
**Table 4.10.3**

**Analysis of Dublin Convention/ Dublin II Regulation Decisions**

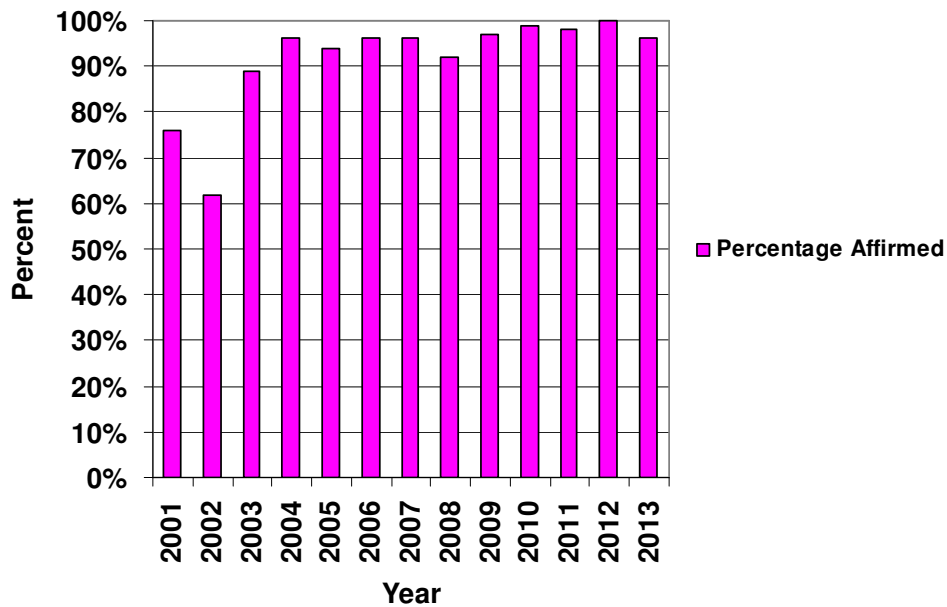
**Recommendations of Commissioner Affirmed**

<b>Year</b>	<b>Total</b>	<b>Affirmed</b>	<b>% Affirmed</b>
2001	151	150	99
2002	118	110	93
2003	104	102	98
2004	212	186	88
2005	233	216	93
2006	225	225	100
2007	270	269	99
2008	137	137	100
2009	171	171	100
2010	93	93	100
2011	87	82	94
2012	40	38	95
2013	15	14	93

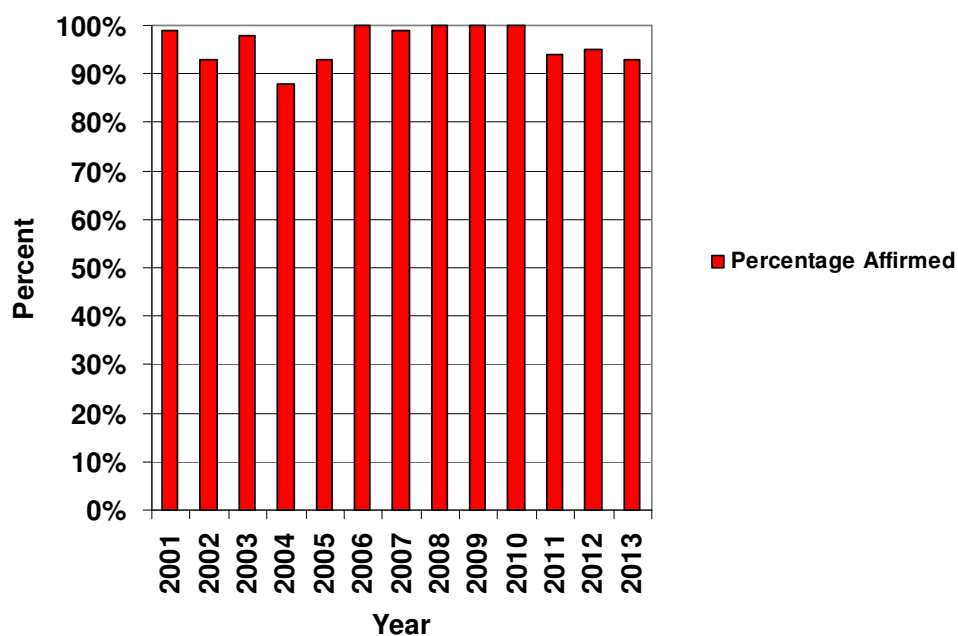
**Chart 4.10.1**  
**Analysis of Substantive/ Substantive 15 Day Decisions**  
**Recommendations of Commissioner Affirmed**



**Chart 4.10.2**  
**Analysis of Manifestly Unfounded/ Accelerated Decisions**  
**Recommendations of Commissioner Affirmed**



**Chart 4.10.3**  
**Analysis of Dublin Convention/ Dublin II**  
**Regulation Decisions**  
**Recommendations of Commissioner Affirmed**



**Table 4.10.4**

**Summary of Substantive/Substantive 15-Day and Accelerated Appeals by**  
**Nationality Affirmed and Set Aside from 1<sup>st</sup> January 2013 to 31<sup>st</sup> December 2013**

<b>Nationality</b>	<b>Affirmed</b>	<b>Set Aside</b>	<b>Total</b>	<b>Total Set Asides as % of Total Decisions</b>
Nigeria	94	5	99	5
Pakistan	64	10	74	14
DR Congo	61	5	66	8
Zimbabwe	29	6	35	17
Afghanistan	32	1	33	3
Algeria	21	1	22	5
Albania	20	0	20	0
Others <sup>5</sup>	194	26	220	12
<b>Total</b>	<b>515</b>	<b>54</b>	<b>569</b>	<b>9</b>

<sup>5</sup> Other covers 55 countries and includes Malawi, Georgia, Cameroon, Sudan and Bangladesh.

## **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 we have continued this policy in 2013. Meetings were held with each of the following organisations, among others, during the year.

- Office of the United Nations High Commissioner for Refugees
- Office of the Refugee Applications Commissioner
- Refugee Documentation Centre
- Department of Justice and Equality
- Office of the Chief State Solicitor
- Office of the Attorney General
- SPIRASI
- Independent Law Centre
- United Kingdom Upper Immigration Tribunal
- EASO, European Asylum Support Office

### **[5.2] Circulation of Statistics**

Our monthly statistics were circulated to the following agencies and organisations during the year:

- American Embassy
- Comhlamh (Returned Development Workers)
- Department of the Environment, Community and Local Government
- Department of Justice and Equality
- Department of Social Protection
- Economic and Social Research Institute
- Garda National Immigration Bureau

- Irish Congress of Trade Unions
- Irish Commission for Justice and Peace - Refugee Project
- Irish Refugee Council
- National Consultative Committee on Racism and Interculturalism
- Office of the Refugee Applications Commissioner
- Refugee Documentation Centre
- Refugee Information Service
- Refugee Legal Service
- SPIRASI – The Centre for the Care of Survivors of Torture (CCST)
- The Irish Times
- The Irish Examiner
- The Irish Independent
- Vincentian Refugee Centre
- United Nations High Commissioner for Refugees

### **[5.3] Conferences Attended**

The Chairperson attended the following conferences during the year:

- Academy of European Law Annual Conference on EU Asylum Law 2013, Trier, 28-29<sup>th</sup> October 2013
- On the Borders of Refugee Protection? The Impact of Human Rights Law on Refugee Law - Comparative Practice and Theory, Institute of Advanced Legal Studies, London 13-14<sup>th</sup> November 2013
- International Association of Refugee Law Judges, European Chapter Conference in Göteborg, 21-22<sup>nd</sup> November 2013
- European Migration Network Ireland, Conference on Challenges and Responses to Identifying Victims of Trafficking, Dublin, 29<sup>th</sup> November 2013.
- UNHCR, “CREDO” – Improved Credibility Assessment in EU Asylum Procedures, Dublin, 5<sup>th</sup> December 2013.

#### **[5.4] Guidelines Issued**

The Chairperson issued the following guidelines pursuant to paragraph 17 of the second schedule of the Refugee Act 1996, as amended, during 2013.

- UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-seekers from Afghanistan – 29<sup>th</sup> August 2013.
- Assigning Appeals to Members of the Tribunal – 9<sup>th</sup> October 2013

These are available on the Tribunal website [www.refappeal.ie](http://www.refappeal.ie).

#### **[5.5] Procedures and Documentation**

A review of the Tribunal's procedures and documentation was commenced in September 2013. By the end of 2013 this has resulted in:

- the issuing of Guidelines, as detailed in paragraph 5.4
- a decision to revise the decision template used by the Tribunal
- preliminary work on the 3 year Strategy Statement of the Tribunal, due to issue in quarter 1 of 2014
- The commencement of a comprehensive examination of all Judicial Reviews on hand
- The setting up of a Tribunal Users Group which consists of the Chairperson, the Principal Officer and two nominees each of the Law Society of Ireland and the Bar Council.

## 6. Personnel

### [6.1] Staffing

On 31st December 2013 the number of staff serving in the Tribunal was 47 (of whom 12 workshare). This corresponds to 42.3 full-time equivalents (FTE).

The breakdown of staff by grade is as follows:

Grade	Number of Posts
Chairperson	1
Principal Officer	1
Assistant Principal Officer	1
Higher Executive Officer	3
Administrative Officer	0
Executive Officer	8 (1 Workshare)
Staff Officer	4 (2 Workshare)
Clerical Officer	24 (9 Workshare)
Services Officer	5
<b>Total</b>	<b>47 (42.3 FTE)</b>

### [6.2] Staff Training

Since January 2013 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
- Health and Safety Training
- Pre-retirement Training



### [6.3] Accommodation

The Tribunal is located at 6/7 Hanover St. East, Dublin 2. In addition to workspace for administrative staff, there are Hearing Rooms for appeals and consulting rooms for clients and their representatives.

### [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 2013:

<b><u>Expenditure Heading (Non - Pay)</u></b>	<b>Expenditure 2013 Final €</b>
Travel & Subsistence	€5,718
Incidental Expenses	€27,239
Postal & Communication Services	€32,526
Office Machinery & Other Office Supplies	€15,681
Office & Premises Expenses	€219,874
Legal Costs	€1,625,972
Members' Fees	242,594
Members' Training	€381
Research	Nil
<b>Total</b>	<b>€2,169,984</b>

### **[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 Act 1988**

The Tribunal is registered with the Data Protection Commissioner as a data controller. The Commissioner reported to the Tribunal in 2011 on the audit it conducted in 2010 of Tribunal procedures and processes. The Commissioner commented on the strong organisational awareness of data protection principles and made a number of recommendations. The implementation of these recommendations continued in 2013.

### **[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 are made aware of their obligations under the Ethics in Public Office Acts 1995 to 2001 and have complied with the requirements.

## **Appendix 1:**

### **Legislation/ Statutory Instruments Relevant to the Tribunal**

- Refugee Act, 1996 (as amended by the Immigration Act, 1999 and Illegal Immigrants (Trafficking) Act, 2000) and the Immigration Act, 2003
- Refugee Act, 1996 (Appeals) Regulations, 2000, S.I. No. 342 of 2000
- Refugee Act, 1996 (Appeals) Regulations, 2002, S.I. No. 571 of 2002
- Refugee Act, 1996 (Appeals) Regulations, 2003, S.I. No. 424 of 2003
- Illegal Immigrants (Trafficking) Act 2000
- Refugee Act, 1996 (Section 22) Order 2003 (Dublin Convention II) S.I. No 423 of 2003
- United Nations Convention Relating to the Status of Refugees, 1951 (Geneva) and the 1967 Protocol (New York)
- Handbook on Procedures and Criteria for Determining Refugee Status, under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (Re-edited, Geneva, 1992)
- Refugee Act 1996 (Safe Countries of Origin) Order, 2003, S.I. No 422 of 2003
- Ministerial Direction dated 15 September 2003 under Section 12(1)(m) of the Refugee Act, 1996, as inserted by Section 7 of the Immigration Act, 2003 – prioritisation of applications from designated safe countries of origin
- Refugee Act, 1996 (Safe Countries of Origin) Order, 2004, S.I. No. 714 of 2004.
- European Communities (Eligibility for Protection) Regulations 2006, S.I. No. 518 of 2006.
- European Communities (Asylum Procedures) Regulation 2011, SI No.51 of 2011
- European Union (Subsidiary Protection ) Regulations, 2013, S.I. No. 426 of 2013

## **Appendix 2:**

# **Appeals Process: Procedures**

### **2.1 Introduction/Oral Hearings/On the Papers**

The Tribunal deals with three types of appeals: Substantive, Accelerated, and Dublin Regulation. The type of appeal is determined at first stage by the Refugee Applications Commissioner.

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. The hearing occurs before a Member of the Tribunal and generally involves the Applicant and his/her legal representative, an interpreter and a Presenting Officer from the Commissioner's office. Witnesses may also attend subject to the agreement of the Member. Experience to date shows that on average an oral hearing takes 1½ - 2 hours. Section 16(14) of the 1996 Act requires that an oral hearing be held in private. However, the UNHCR can attend for the purposes of observing the proceedings (Section 16 (15) of the 1996 Act). In the event that an oral hearing is not sought, the Substantive appeal will be decided on the papers by the Member.

#### **Accelerated Appeals - No Oral Hearing**

These arise where a report of the Commissioner made in pursuant to Section 13(1) includes a recommendation that an applicant should not be declared a refugee and includes any of the findings specified in Section 13(6). Such appeals are determined without an oral hearing and have shorter time limits for lodging the Appeal.

## **Dublin Regulation - No Oral Hearing**

Dublin appeals arise under the Refugee Act 1996 (Section 22) Order 2003 (S.I. No. 423 of 2003) which came into operation on 15 September 2003 and replaces the Dublin Convention agreement between Member States of the European Communities.

## **2.2 Procedure for Lodging an Appeal**

When an Applicant receives a Recommendation from the Commissioner s/he 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** appeal cases - Applicants have **15 working days** 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** appeal cases - Applicants have **10 working days** to complete and lodge the **Notice of Appeal**. They do not have the option of an oral hearing.
- **Dublin Regulation** appeal cases – Applicants have **15 working days** to complete and lodge the **Notice of Appeal**. Up until 31 December 2013 applicants do not have the option of an oral hearing and the lodging of an appeal does not suspend the transfer of the applicant to the relevant country. However, in accordance with the recast of the Dublin Regulation with effect from 1 January 2014 there will be the option of an oral hearing and the lodging of a Notice of Appeal will suspend the transfer of an applicant to the relevant country.

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 (if requested) in cases where the applicant requests 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. If it is outside the time limit, the Applicant and his/her legal representative (if any) are notified in writing that the appeal has been rejected.

The Notice of Appeal is acknowledged to the Applicant and his/her legal representative (if any). The Commissioner and the UNHCR Dublin are notified by e-mail on the same day of receipt of the appeal, distinguishing the appeal type. The Commissioner is also requested to furnish to the Tribunal the Applicant's original file. Copies of the Notice of Appeal and all associated documents submitted to the Tribunal are furnished to the Commissioner, as required under Section 16(4) of the Act.

### **2.4 Procedure for Assigning Cases to Members for Decision Making**

In September, 2013 the Assigning Policy of the Tribunal was published, which details how cases are assigned amongst the various members of the Tribunal. The Chairperson assigns a case to a Member of the Tribunal who examines the case to establish if any additional information is required and, in particular, whether further enquiries should be made under Section 16 (6) of the Act. The Member may, under Section 16 (7) of the Act, seek the Commissioner's observations on matters arising in the Grounds of Appeal. Similar provisions exist for Dublin Convention/Dublin Regulation appeals.

## **2.5 Procedure in relation to Oral Hearings**

Where an Applicant has requested an oral hearing, the Tribunal must give not less than 7 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 at least 2 weeks' notice to all Applicants. The Commissioner, 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.

## **2.7 Procedure for issuing Decisions**

An appeal against the recommendation of the Refugee Applications Commissioner is dealt with under Section 16(2) of the Refugee Act 1996 (as amended). Decisions of the Tribunal concerning the three types of appeal - Substantive, Accelerated (on papers only) and those falling under the Dublin II Regulation - are notified to the applicant, the legal representative (if any), the Refugee Applications Commissioner and the Minister for Justice and Equality. Notification of the making of the decision is communicated to the representative of the United Nations High Commissioner for Refugees. In line with procedure following the issuing of a Decision, the applicant's file is then forwarded to the Minister for further processing. These procedures apply to Decisions of the Tribunal whether affirming or setting aside the recommendation of the Refugee Applications Commissioner.

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 Office of the Refugee Applications Commissioner (ORAC) with the issue of the Commissioner'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.