



## **ADMINISTRATIVE PRACTICE NOTE**

### **APPEALS BEFORE THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL**

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

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

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

#### **Tribunal Sittings**

Tribunal hearings take place at the offices of the International Protection Appeals Tribunal, 6/7 Hanover Street, Dublin 2.

All parties appearing before the Tribunal are asked to attend punctually to ensure that hearings can commence at the assigned time; delays may impact adversely on other appeal hearings scheduled for the same day.

Tribunal hearings take place Monday – Thursday inclusive throughout the year (save for public holidays). Tribunal hearings will not take place at certain dates during the year and these dates will be posted on the Tribunal website.

## **Communications with the Tribunal**

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

Documentation may be submitted to the Tribunal by way of email to the following address: info@protectionsappeals.ie. Documentation may also be submitted by way of post to the International Protection Appeals Tribunal, 6/7 Hanover Street East, Dublin 2, D02 W320 or by the safe delivery of hard copy documentation to this address. It is the policy of the Tribunal to acknowledge receipt of all correspondence received and it is a matter for the party submitting the documentation to provide proof of posting otherwise.

Appellants and their legal representatives are reminded to ensure that, either in the relevant Notice of Appeal or in a Schedule accompanying such Notice of Appeal, they list all the documents that accompany the notification of recommendation issued to them by the International Protection Office, or any other body whose decision is the subject of the appeal, as well as all other documents and / or records, upon which it is proposed to rely for the purposes of the appeal. It should be noted that the Regulations<sup>1</sup> provide that a party may not lodge any additional documents with the Tribunal later than 10 working days prior to the date fixed for the oral hearing except (a) with the written consent of the Tribunal, or (b) on the direction of the Tribunal. This issue is covered in more detail later in the Practice Note under the heading "Submission of material / documentation to the Tribunal".

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

## **International Protection Notices of Appeal**

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

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

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

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<sup>1</sup> S.I. No. 116/2017 - International Protection Act 2015 (Procedures and Periods for Appeals) Regulations 2017

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

Appellants are also required to indicate in the Notice of Appeal whether they wish to have an oral hearing as per Section 41(2)(b) of the 2015 Act.

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

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

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

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

### **Accelerated appeal procedures in certain cases**

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

### **Statutory provisions for according priority to any application**

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

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

### **Notice of Appeal pursuant to section 21 of the 2015 Act**

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

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

### **Notice of Appeal pursuant to section 22 of the 2015 Act**

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

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

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

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

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

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

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

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

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

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

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

### **Taking evidence on oath or affirmation**

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

The following religious texts are available in the Tribunal: Old Testament Bible, New Testament Bible, Quran. If an appellant prefers, they may use their own personal religious text if the religious texts provided by the Tribunal are not in accordance with their religious beliefs.

## **Submission of material / documentation to the Tribunal**

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

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

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

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

If a party to a hearing before the Tribunal wishes to submit material by way of USB stick, CD, or other similar format, the Tribunal's attention must specifically be drawn to this request in a timely manner to enable the necessary security checks to be carried out on the USB stick or similar format.

All written submissions in all single procedure appeals should be submitted in electronic word format and should ideally, in ease of the Appellant and the Tribunal, follow the following template and address the following issues which, where relevant and applicable, will be addressed by the Tribunal Member in their decision:

- (i) Introduction, to include chronology;
- (ii) Nationality;
- (iii) Factual background and identification of those facts which the Appellant believes to be material;
- (iv) Nature of persecution / serious harm feared;
- (v) Convention ground or nexus;
- (vi) Objective basis;
- (vii) State protection;
- (viii) Internal protection alternative;
- (ix) Grounds upon which serious harm, in the contest of subsidiary protection, is feared;
- (x) State protection and / or IPA if different from above;
- (xi) Exclusion (if relevant)

- (xii) Submissions addressing *de novo* arguments which may not have been addressed at first instance (if applicable);
- (xiii) Conclusion.

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

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

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

## **Adjournments and Postponements**

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

If an appellant seeks a postponement of an appeal before the Tribunal because of pending judicial review proceedings, his or her appeal will only be postponed if the High Court (or Court of Appeal or Supreme Court where relevant) has granted a stay or injunction on the appeal, or made general directions which would affect the processing of an appeal

**2 APRIL 2019**