

**THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL**  
**REGULATION 21 OF THE EUROPEAN COMMUNITIES (RECEPTION CONDITIONS)**  
**REGULATIONS 2018**

**APPEAL AGAINST REFUSAL OF LABOUR MARKET ACCESS PERMISSION**

**CASE DATA**

**ATLM NUMBER:** 1909398-ATLM-19  
**PERSON ID:** 1060394-18  
**APPELLANT:** XXXXXXXXXXXX  
**NATIONALITY:** Georgia  
**SOLICITORS FOR THE APPELLANT:** N/A  
**TRIBUNAL MEMBER<sup>1</sup>:** Cindy Carroll

**INTRODUCTION**

1. The within Decision concerns an appeal against a refusal of a Review Officer to grant the Appellant a labour market access permission. It is not certain when the Appellant made her initial application for a labour market access permission pursuant to Regulation 11 (3) of the European Communities (Reception Condition) Regulations, 2018 (hereinafter "the Regulations"), or when that application was refused by the Labour Market Access Unit. The Appellant herself sought a review of this refusal by letter dated 30 May 2019 and the Review Officer refused the application by letter dated 21 June 2019. The decision of the Review Officer was re-issued on 11 July 2019 because the Appellant had not received the original decision.
2. The Appellant herself submitted an appeal to the International Protection Appeals Tribunal (hereinafter "the Tribunal") pursuant to Regulation 21 of the Regulations. The Notice of Appeal was signed by the Appellant on 23 July 2019, and was received by the Tribunal on 26 July 2019.
3. The Tribunal acknowledged the Notice of Appeal by letter dated 29 July 2019 and requested the Appellant to submit any documentation showing the date on which she had applied for international protection in the State – the decision of the Review Officer stated that the Appellant had applied for international protection in the State on 19 July 2019, whereas the Appellant's own letter to the Tribunal in support of her

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<sup>1</sup> Designated pursuant to reg.21(3) of the European Communities (Reception Condition) Regulations, 2018.

appeal advised that she had arrived in the State on 17 July 2019. The Tribunal requested that this documentation be submitted by 2 August 2019; it was received by the Tribunal on 1 August 2019.

4. The Tribunal undertook to issue its determination by 16 August 2019. The Tribunal also informed the Appellant that, although her correspondence also referred to her husband, the determination of the Tribunal would only be in respect of her appeal.
5. This Decision has been determined within 15 working days from the date on which the appeal was received by the Tribunal as provided for in Regulation 21 (4) (a) of the European Communities (Reception Conditions) 2018.

### **CASE FACTS AND DOCUMENTS**

6. The Appellant arrived in the State on 17 July 2018 and was initially refused leave to land pursuant to section 4 (3)(e), (g) and (k) of the Immigration Act 2004. She then applied for international protection and a preliminary interview was conducted pursuant to section 13(2) of the International Protection Act 2015.
7. It appears from the decision of the Review Officer that the Appellant received a negative recommendation from the International Protection Office on 1 April 2019. She currently has an appeal pending against that recommendation before the International Protection Appeals Tribunal.
8. The following documents have been submitted and all documentation has been considered:
  - Schedule 7 Notice of Appeal;
  - Decision of the Review Officer dated 21 June 2019 and re-issued on 11 July 2019;
  - Notices pursuant to section 4(4) of the Immigration Act 2004 advising the Appellant of the reasons why she was refused permission to enter the State pursuant to section 4(3) of the Immigration Act 2004;
  - Interview pursuant to section 13(2) of the International Protection Act and appointment letter for 18 July 2018;
  - Documentation in relation to the Appellant's qualification to work;
  - Letters written by the Appellant herself outlining her situation.
9. In her Notice of Appeal the Appellant has not set out any grounds of appeal and has just stated "*We want only labour right please*". No grounds were advanced as to why the decision of the Review Officer was wrong.

## **DECISION OF THE REVIEW OFFICER**

10. The Review Officer refused the Appellant's application on the basis that she had received her first instance decision within 9 months of the date of her application for international protection within the State. Accordingly, she did not meet the conditions for the granting of a labour market access permission pursuant to Regulation 11 (4) of the European Communities (Reception Conditions) Regulations 2018.
11. The Review Officer noted that the Appellant had stated that she had a health status that required special nutrition which the Appellant was unable to afford herself. The Review Officer advised that her legal representative would be able to inform her of additional supports available. The Tribunal echoes this advice.

## **RELEVANT LEGAL PROVISIONS**

12. Article 15 (Employment) of the Directive 2013/33/EU (Recast Reception Conditions Directive) provides as follows:

*1. Member States shall ensure that applicants have access to the labour market no later than 9 months from the date when the application for international protection was lodged if a first instance decision by the competent authority has not been taken and the delay cannot be attributed to the applicant.*

*2. Member States shall decide the conditions for granting access to the labour market for the applicant, in accordance with their national law, while ensuring that applicants have effective access to the labour market.*

*For reasons of labour market policies, Member States may give priority to Union citizens and nationals of States parties to the Agreement on the European Economic Area, and to legally resident third-country nationals.*

*3. Access to the labour market shall not be withdrawn during appeals procedures, where an appeal against a negative decision in a regular procedure has suspensive effect, until such time as a negative decision on the appeal is notified.*

This Article was transposed into domestic law and given effect in Regulation 11 of the Regulations. The relevant provision at issue in the within Decision is Regulation 11 (4) which provides as follows:

*The Minister may, on receipt of an application made in accordance with paragraph (3), grant a permission to the applicant where satisfied that – (a) ..... a period of 9 months, beginning on the application date, has expired, and by that date, a first instance decision has not been made in respect of the applicant's protection*

application, and (b) the situation referred to in subparagraph (a) cannot be attributed, or attributed in part, to the applicant.

#### **DETERMINATION OF THE TRIBUNAL**

13. In the instant case, the Appellant made an application for international protection in the State pursuant to section 15 of the International Protection Act 2015 on 19 July 2018, having indicated on 17 July 2018 that she wished to make such an application. She received a first instance decision from the International Protection Office on 1 April 2019. — just shy of 9 months

14. The Tribunal is satisfied that the Appellant received a first instance decision on her application from a competent authority within 9 months from the lodging of her application. Therefore, she does not meet the conditions set out in either Article 15 of Directive 2013/33/EU (Recast) or Regulation 11 (4) of the European Communities (Reception Conditions) Regulations 2018 and is ineligible to apply for a labour market access permission.

#### **CONCLUSION**

15. The Tribunal finds that the Appellant is not entitled to access the labour market and, under Regulation 21 (5) (a) of the Regulations, affirms the decision of the Review Officer dated 21 June 2019 and re-issued on 11 July 2019.

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Cindy Carroll

Designated Member of the International Protection Appeals Tribunal

7 July 2019