

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ADDITIONAL ESTIMATES 2017-18

Administrative Appeals Tribunal

Question Number and Title: AE18-092 - Immigration Assessment Authority

Senator Nick McKim asked the following question on 14 March 2018:

1. How many Immigration Assessment Authority (IAA) decisions have been appealed (to date) and what are the outcomes?
2. What is the outcome of all decisions to date made by IAA, broken down by nationality?
3. For the top 5 countries with the highest affirm rates since the commencement of the IAA, please provide the outcomes from the same countries from the non-fast track process at the Migration and Refugee Division of the AAT.
4. How many referred applicant have received legal assistance, broken down by nationality?
5. In what percentage of decisions has the IAA requested (as opposed to accepted) new information from applicants or third parties under section 473DC and the percentage of decisions where the IAA has obtained its own new information under section 473DC?
6. In what percentage of decisions has the IAA decided NOT to consider 'new information' on the basis that it was not satisfied there were exceptional circumstances to justify considering the new information? Broken down by nationality and reason if possible.
7. In what percentage of decisions has the IAA considered such 'new information'? Broken down by nationality and reason if possible.

The response to the honourable senator's question is as follows:

1. From the date of first referrals to 27 February 2018, the total number of Immigration Assessment Authority (IAA) decisions appealed to the courts was 2,279. As at 27 February 2018, 346 appeals had been determined by the Federal Circuit Court of Australia with 153 of those appeals the subject of a further appeal to the Federal Court of Australia. A subsequent 10 appeals finalised by the Federal Court have been appealed to the High Court of Australia. In three further cases an application has been made directly to the High Court in its original jurisdiction.

As at 27 February 2018, there were 68 successful judicial review applications resulting in a remittal to the IAA for further reconsideration. 49 of these appeals were remitted by consent of the parties and 19 by judgment, after consideration by the Court. Six (6) of those judgments were the subject of a further appeal. Of the remaining appeals that have been finally determined, 162 were either dismissed or withdrawn.

2. The following table sets out for the period 18 April 2015 to 27 February 2018, the number of referrals finalised by the IAA broken down by nationality and outcome.

Nationality	18 April 2015 to 27 February 2018			
	Set Aside	Affirmed	Otherwise finalised*	Total no. of cases
Sri Lanka	135 (8%)	1,519 (92%)	6 (0%)	1,660
Iran	150 (30%)	352 (70%)	3 (1%)	505
Iraq	69 (22%)	251 (78%)	0 (0%)	320
Afghanistan	51 (18%)	234 (81%)	5 (2%)	290
Vietnam	10 (7%)	121 (90%)	3 (2%)	134
Bangladesh	4 (4%)	101 (96%)	0 (0%)	105
Pakistan	19 (23%)	64 (77%)	0 (0%)	83
Lebanon	1 (2%)	39 (83%)	7 (15%)	47
Myanmar	6 (38%)	9 (56%)	1 (6%)	16
India	0 (0%)	15 (100%)	0 (0%)	15
Nepal	0 (0%)	9 (100%)	0 (0%)	9
Egypt	1 (14%)	5 (71%)	1 (14%)	7
Sudan	1 (14%)	6 (86%)	0 (0%)	7
Albania	0 (0%)	6 (100%)	0 (0%)	6
China (PRC)	0 (0%)	6 (100%)	0 (0%)	6
Algeria	0 (0%)	3 (75%)	1 (25%)	4
Ethiopia	3 (100%)	0 (0%)	0 (0%)	3
Nigeria	0 (0%)	2 (100%)	0 (0%)	2
Fiji	0 (0%)	1 (100%)	0 (0%)	1
Kenya	0 (0%)	1 (100%)	0 (0%)	1
Kuwait	0 (0%)	1 (100%)	0 (0%)	1
Papua New Guinea	0 (0%)	1 (100%)	0 (0%)	1
Tonga	0 (0%)	1 (100%)	0 (0%)	1
Turkey	0 (0%)	1 (100%)	0 (0%)	1
TOTAL	450 (14%)	2,748 (85%)	27 (1%)	3,225

*Otherwise finalised refers to all matters that were referred to the IAA in error by the Department of Home Affairs (formerly the Department of Immigration and Border Protection).

3. The following table sets out for the period 18 April 2015 to 27 February 2018:

- the number of referrals finalised by the IAA for the top five countries with highest affirm rates under Part 7AA of the *Migration Act 1958*, and
- the number of affirmed protection (refugee) visa cases for the corresponding countries finalised by the Administrative Appeals Tribunal's Migration & Refugee Division under Part 7 of the *Migration Act 1958*.

Nationality	18 April 2015 to 27 February 2018					
	IAA			AAT		
	Total no. of cases	Affirmed	% affirmed	Total no. of cases	Affirmed	% affirmed
India	15	15	100%	760	557	73%
Bangladesh	105	101	96%	392	309	79%
Sri Lanka	1,660	1,519	92%	992	767	77%
Vietnam	134	121	90%	286	208	73%
Lebanon	47	39	83%	225	168	75%
TOTAL	1,961	1,795	92%	2,655	2,009	76%

4. The IAA does not maintain data on whether an applicant has received legal assistance. The IAA does record whether a person has appointed another person to act as their representative. From the date of first referrals to 27 February 2018, of the 4,358 matters referred to the IAA, a person was appointed by the applicant to represent them and act on their behalf in relation to their case (for part or all of the review) in 62% (2,697) of cases.

Regarding providing a breakdown of representation by nationality, this data is not readily available.

5. For the period 18 April 2015 to 27 February 2018, the IAA has recorded that it has requested new information or comments on new information from applicants or third parties in 7% of finalised cases and has obtained its own information in 22% of finalised cases.

6. The IAA does not maintain data on the basis for not considering new information (whether exceptional circumstances or otherwise). Rather, the IAA records whether or not any part of new information provided, requested or obtained was considered. For the period 18 April 2015 to 27 February 2018, 55% of finalised cases did not consider new information.

The IAA does not have readily available data giving a breakdown by nationality of these cases nor the reasons for not considering new information. Obtaining this information would be an unreasonable diversion of resources.

7. For the period 18 April 2015 to 27 February 2018, 45% of finalised cases considered new information.

The IAA does not maintain data on the breakdown of nationality or reasons for considering that new information. Obtaining this information would be an unreasonable diversion of resources.