

## **QUESTION TAKEN ON NOTICE**

**BUDGET ESTIMATES HEARING: 27- 28 May 2013**

IMMIGRATION AND CITIZENSHIP PORTFOLIO

**(BE13/0417) PROGRAM – 4.1: Visa Compliance and Status Resolution**

Senator Cash (Written) asked:

How many Irregular Maritime Arrivals who have completed their independent merits reviewer review and have a negative refugee status assessment are seeking further review in the courts or the Refugee Review Tribunal? Who is paying their legal expenses?

*Answer:*

We understand your question to be referring to the Irregular Maritime Arrivals who have sought judicial review of independent merits reviewer recommendations and also to the Irregular Maritime Arrivals who, following the move to the single statutory Protection visa process from 24 March 2012, have sought merits review at the Refugee Review Tribunal and subsequent judicial review of the Protection visa refusal decisions.

### **Review**

#### *Merits review by Refugee Review Tribunal*

Irregular Maritime Arrivals who arrived between 24 March 2012 and 13 August 2012 had their claims assessed through a single Protection visa process. Under this process, the Department recommended to the Minister to lift the bar and allow Irregular Maritime Arrivals to apply for a Protection visa and have their claims for protection processed within the statutory environment. These decisions are subject to merits review by the Refugee Review Tribunal.

As at 31 May 2013, the Refugee Review Tribunal has received a total of 1,571 applications for review from Irregular Maritime Arrivals since 24 March 2012.

#### *Judicial review*

As at 31 May 2013, 753 applications for judicial review of independent merits reviewer recommendations had been filed in the Federal Circuit Court (formally known as the Federal Magistrates' Court).

As at 31 May 2013, 130 applications for judicial review of Refugee Review Tribunal decisions concerning Irregular Maritime Arrivals had been filed in the Federal Circuit Court.

## **Funding**

Under a scheme called the Legal Advice Scheme, some Irregular Maritime Arrivals seeking judicial review in New South Wales and Western Australia receive legal advice funded by the Department. This legal advice is provided by members of a panel of independent legal practitioners and does not include legal representation before the courts. There is no specific Department budget amount for this scheme and, in relation to people who have accessed the scheme, there is no specific data on Irregular Maritime Arrivals.

Apart from any legal advice provided under the Legal Advice Scheme the Department does not pay the legal expenses of Irregular Maritime Arrivals who have applied for judicial review unless the court makes costs orders requiring them to be paid. A significant proportion of applicants for judicial review are not legally represented. Those who are legally represented may have engaged their own representation at their own expense or successfully sought access to Legal Aid or community legal centres; or the court may have appointed representation for them on a no fee basis.