

**THE HIGH COURT
JUDICIAL REVIEW**

[2022] IEHC 423
[2021 894 JR]

BETWEEN

X.T.

APPLICANT

AND

**THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL, THE
MINISTER FOR JUSTICE AND EQUALITY, IRELAND AND THE
ATTORNEY GENERAL**

RESPONDENTS

JUDGMENT of Mr. Justice Heslin delivered on the 12th day of July, 2022

Introduction

1. In the present proceedings the principal relief sought by the applicant is an order of *certiorari* quashing the decision of the first named respondent ("IPAT" or "the Tribunal") dated 3 September, 2021 ("the Decision") made under s. 46 of the International Protection Act, 2015 ("the 2015 Act") and communicated to the applicant under cover of a letter dated 7 September, 2021. The impugned decision affirmed an earlier decision which had been made by the International Protection Office ("IPO") which recommended, pursuant to s.39 (3) (c) of the 2015 Act, that the applicant be denied refugee status and subsidiary protection. It is not in dispute that a challenge to the decision was required to issue within 28 days, namely, by 5 October 2021, whereas the relevant application was made on 26 October, 2021 i.e. 21 days late. On 1 November 2021 an order was made (Meenan J.) granting leave for the applicant to apply by way of judicial review for the reliefs set out at para. [d] on the grounds set out at para. [e] of his 26 October, 2021 statement of grounds. Para. [d] 4 thereof seeks an extension of time.

Application to extend time

2. At para. 8 of the affidavit sworn by Ms. Mary Trayers, solicitor for the applicant, on 26 October, 2021, she makes the following averments:
"8. I say that insofar as an extension of time is required, the applicant immediately instructed my office upon receipt of the decision to express his dissatisfaction with same and ask if it

could be challenged. The decision was received on or about the 7th September, 2021 and was furnished to counsel on the 8th September, 2021. Counsel responded on the 12th September to indicate an opinion that there may be substantial grounds to challenge the validity of the decision by way of an application for judicial review and that the applicant's final instructions should be obtained in light of said advice. These instructions were obtained and were communicated to counsel on the 13th September, 2021. The within pleadings were furnished to our office by counsel on the 19th October, 2021, with an indication that the break and then an existing workload and commitments associated with the start of the new term, made earlier delivery of same difficult. I say that the applicant is not at fault in respect of the delay which has arisen and has maintained continual contact with my office in relation to pursuing the matter. He swore his proceedings on the 21st October, 2021 and an appointment was made with the central office to file the proceedings on the 27th October, 2021, following the bank holiday weekend."

3. In submissions, Ms. Dempsey for the respondents indicated that, although the respondent's position is to the effect that statutory time limits should always be complied with, "*no strenuous objection*" was being made in respect of the delay point. In light of the foregoing, coupled with the averments made by Ms. Trayers, I am satisfied that the justice of the situation is met by extending time.

Legal grounds

4. The relief sought by the applicant is on the basis of the legal grounds set out at para. [e] 1 which begins as follows:

"The Tribunal erred in law by failing to give reasons for its decision. Accordingly, the Tribunal acted in breach of the general obligation on administrative bodies and Tribunals to provide reasons for their decisions. The Tribunal's assessment of the facts and circumstances of the applicant's claim - which it is required to carry out pursuant to s. 28 of the International Protection Act, 2015 - commences at Part [4] of the decision. It is accepted that the Tribunal at paras. [4.4] [a] to [e] sets out a somewhat comprehensive summary of the applicant's evidence in chief, along with his responses in cross examination, and that given in respect of the Tribunal's own question, with certain timely citations or references to the record. However, at para. [f] therein, it is stated that '[O]n the basis of the evidence heard and the documentation submitted and considered the Tribunal finds on the balance of probabilities that the appellant was not threatened by members of the Democratic Party'. Insofar as the prior paras [a] to [e] do not identify any inconsistencies, much less any adverse conclusions drawn from same, the conclusion reached at para. [f] can only be bereft or devoid of reasoning, unless this be patent from the evidence cited, which the applicant contends is not so patent ..."
5. It is fair to say that the essence of the applicant's claim is that when one reads the Tribunal's decision and looks at the conclusion reached, no reasons or no patent reasons can be identified. There is no challenge in the present proceedings to the rationality or reasonableness of any of the Tribunal's findings and the net issue revolves around reasons.

Factual grounds

6. The factual grounds comprise a setting out of basic information concerning the applicant, as well as the procedural history of his claim. Matters can be summarised as follows.
7. The applicant, who was born in 1994, is an Albanian national and his parents and younger brother continued to live in that State. He left Albania on 12 June 2019 and, having travelled via Prague, Brussels and Amsterdam, he arrived in this State on 19 June 2019. He applied for international protection on arrival and was interviewed by the IPO, pursuant to s. 13 (2) of the 2015 Act.
8. The applicant submitted an Application for International Protection Questionnaire ("the Questionnaire") on 20 July 2019. He was interviewed by the IPO, pursuant to s. 35 of the 2015 Act, on 20 December 2019 and on 20 July 2020.
9. In a report pursuant to s. 39 of the 2015 Act, dated 4 May 2021, and communicated to the applicant on 10 May 2021, the IPO recommended that the applicant be given neither a refugee declaration, nor be eligible for subsidiary protection.
10. On 12 May 2021, the applicant submitted a notice of appeal to the Tribunal. On 24 May 2021 further submissions were furnished to the Tribunal on behalf of the applicant.
11. Pursuant to s. 43 of the 2015 Act, the applicant's appeal was deemed suitable for an 'accelerated' procedure. The applicant's appeal was ultimately heard by the Tribunal on 16 August 2021. It proceeded by way of a hearing *de novo* at which the applicant gave sworn evidence.
12. The decision which is challenged in the present proceedings is dated 3 September 2021 and was communicated to the applicant on 7 September 2021. It affirmed the earlier recommendation by the IPO. It affirmed the earlier recommendation by the IPO.

The Questionnaire

13. At part 7 of the applicant's questionnaire he set out the basis for his application for international protection in the following terms:

"The reason why I came here to ask for asylum is closely connected with the years 1997. Even though I was a little child back then, the consequences of that year still haunt me today. This is why I am requesting a political asylum in your State.

In 1997 my country of origin, Albania, was involved in a civil war. The war has serious consequences for our society. Albania had just been through the communist regime. This civil war lasted for about 1 year and everything was out of control. There was no State and no one had power. The State was in the hands of the criminal gangs or other armed groups who were in control of some local areas. This was (sic) had many consequences. Many lost lives, destroyed families, lost people and above all the social trauma. Every family was affected by this. During this period, my father, B.T. was working in the Guard of the Republic. He was responsible for the protection and the safety of the President of the Republic, Mr. Sali Brisha. During his service, he was in the city of Tepelena, together with some other colleagues. My father was sent there to serve his duty. There he was taken and kidnapped by an armed local group, who were in control of that area. His kidnapping war (sic) recorded and was transmitted in all the regional media and European media. In the moment when they were caught and kidnapped, there was an extreme psychological pressure. The rebel

group were pointing the guns at them and they asked them to offend and say bad things publicly and on camera about the President of the Republic. This event was transmitted in all the media because they were the Republic's guard's employees and this proved that the State had stopped existing. I can mention that such news was published in the newspaper "Albania, French newspaper "Ruter". But there were also some articles from "associated press" with the author Santiago Lyon who documented everything.

After many attempts, after so much anxiety, afraid for their life, after the unhuman treatment and under the threats and unhuman treatment and under the threats and guns, my father was able to get out of there. He got out alive and only with some small physical injuries that these people had caused to him. Like that was not enough, we still had other problems. My father had gone through hell and that situation had so many consequences for our family. This was the start of many other problems for our family.

After this event, our family started receiving threats. Different people took advantage of the situation and used this situation to pressure us. My father was a loyal employee who worked for the safe and security of the Republic and now he was being called a "traitor" by the activist of the party, who were on the side of the President of the Republic. They used the recordings which were filmed while they were threatened with a gun. These members of this party used this to pressure our family psychologically. They haunted us and the family is still suffering the consequences. It was impossible to file a report against them because the State structures did not work. My father and almost the whole family stayed closed inside for more than 6 months."

14. In response to question 65d on the Questionnaire, the applicant confirmed that he reported nothing in his home state and it is not disputed that he is someone who has never sought protection in Albania.
15. Before leaving the Questionnaire, it is uncontroversial to say that is replete with statements which emphasis the central importance of completing it fully. The following examples suffice:
 - "If you do not mention something relating to the claim in the Questionnaire but seek to rely on it later, it may damage the credibility of your claim" (para. 13, internal p. 4);
 - "Inconsistencies between the information that you provide in this Questionnaire and your answers at interview, or other information or representations that you provide, may raise questions about the credibility of your claim." (para. 18, internal p. 5):
 - "It is important that you answer all of the questions in this Questionnaire fully and truthfully. If necessary, please use additional pages to detail further relevant information". (para. 21 (i), internal p. 5)

The IPO decision

16. Having interviewed the applicant on two occasions, the IPO set out the applicant's claim in its s. 39 report, in the following terms (with "s.35 (1)" referring to the information provided by the applicant during the *first* interview, held 20 December 2019, and "s.35 (2)" referring to the *second* interview, held 20 July 2020):
 - " - The applicant's father joined the Albanian army in or around 1991 or 1992. During the civil war, in 1997, the applicant's father was employed in the army as a protection

officer for the President of the Republic of Albania (s.35 (2), Q.7). In 1997, his father was kidnapped by an armed group and forced at gunpoint to denounce the President on television (Questionnaire, Q. 62; s. 35 (1), Q. 18; s. 35 (2), Q. 22). The applicant's father was held hostage for two months (s. 35 (2), Q. 2), but was able to escape imprisonment.

- The applicant's father was denounced as a traitor by members of the community as a result of this televised event. The applicant's father tried to leave Albania but was unable to get the requisite funds to take his family out of the country (s. 35 (1), Q. 15).
 - During the 2013 general election, when the applicant was eighteen, he joined the Socialist Party (s. 35 (1), Q. 32). As a result of his decision to join the Socialist Party, and because of his father's actions in 1997, the applicant received verbal threats and taunts from supporters of the Democratic Party (s. 35 (1), Q. 15; s. 35 (2), Q. 16, Q. 27). The applicant was a volunteer for the party, and managed social media for the party during the election (s. 35 (2), (Q. 16).
 - The applicant left Albania on 12 June, 2019 and arrived in Ireland on 19 June, 2019, via Prague and Belgium (Questionnaire, Q. 54-61)
 - The applicant fears that everything that happened to his father will come back to him in the same way if he returns to Albania."
17. At this juncture, it is appropriate to note that the applicant's claim is one with a historical aspect. In other words, the premise for his claim goes back to his father's involvement in events of 1997 in Albania.
18. The credibility of the applicant's claim was considered by the IPO from p. 5 onwards of its 23-page decision. As can be seen therefrom, the IPO's consideration and the framing of its decision was under three categories which it identified in the following terms:
- The applicant's nationality and personal circumstances;
 - During the civil war, the applicant's father was kidnapped and forced to denounce the President on television;
 - The applicant was threatened by members of the Democratic Party as a result of his Socialist Party membership.
19. As to the first of those three categories, the IPO accepted what might be described as the applicant's 'non-material' circumstances. In other words, the IPO accepted that the applicant is a national of Albania; a single man with no children or other dependents; and someone who is not a member of any religious faith.
20. From pages 6 to 8, inclusive of the IPO's s. 39 report, the second of the three categories was examined, and reference was made, *inter alia*, to certain media reporting. The analysis of the second aspect concluded in the following terms as can be seen from internal page 8 of the IPO's decision:
- "It is therefore possible, on the balance of probabilities, to accept the applicant's claim that his father was employed by the President of Albania during the civil war and was kidnapped by rebels during this period, and accordingly it is accepted as a material fact."
21. With regard to the third aspect or category, the IPO accepted that, in 2013, the applicant was a member of the Socialist Party. From p. 9 to 13, inclusive of the IPO's s. 39 report, it considered

whether the applicant was threatened by members of the Democratic Party and it came to a negative conclusion.

22. The IPO summarised its conclusion on the third aspect of the applicant's claim, namely, that he was threatened by members of the Democratic Party (at para. 5 on internal p. 13 of the IPO's decision) in the following terms: -

"This element of the applicant's claim is not accepted as credible. The applicant has not provided a credible account for why he did not report these issues to the police, and nor is his explanation for not seeking protection from harm elsewhere in Albania or in Europe for six years accepted as plausible. It is not accepted, therefore that the applicant received verbal threats of the seriousness claimed by the applicant.

For the reasons outlined above, I find that only some of the material elements of the applicant's claim are credible on the balance of probabilities coupled with, where appropriate, the benefit of the doubt. However, the facts/aspects of the applicant's claim that have been accepted as credible will be considered for the purposes of assessing whether there is a well - founded fear of persecution/real risk of serious harm. The accepted facts are: -

- The applicant's nationality and personal circumstances;
- During the Civil War, the applicant's father was kidnapped and forced to denounce the president on television;
- The applicant was a member of the Socialist Party."

23. No challenge has been made in these proceedings to the IPO's decision, but if one reads pp. 9 - 13, inclusive, it is clear that the premise for the negative conclusions reached by the IPO included, in particular, the following: -

(i) That ". . . what he had experienced was simply a normal part of a hotly contested election, where accusations and threats are made between supporters of different political parties . . ." (IPO decision p. 11, para. 4) and "the applicant did not claim that the threats he received went beyond gossip and name - calling from members of the opposition party. The applicant stated that he was able to walk away from such name - calling and able to avoid confrontation by leaving the area" (IPO decision p. 13, para. 1);

(ii) "the applicant confirmed that he had not reported these issues to the police" (IPO decision p. 12, para. 2);

(iii) That Albania ". . . is considered a safe country of origin. ." and that ". . . there is a functioning police service in Albania to whom he could have reported these threats and that such threats would be investigated" (IPO decision p. 12, para. 3);

(iv) "Why, if the threats had occurred in 2013, he waited until 2019 to leave Albania". (IPO decision p. 12, para. 4)

The tribunal's decision

24. It is fair to say that the approach taken by the tribunal member ("the Tribunal") was not dissimilar to that employed by the IPO in that, as para. [4] of the decision makes clear, the facts and circumstances of the applicant's claim were considered with respect to the following three issues: -

- In 1997, during the Civil War, the appellant's father was kidnapped and forced to denounce the president on television;
 - The appellant was a member of the Socialist Party;
 - The appellant was threatened by members of the Democratic Party
25. At para. [4.2] the tribunal considers the first aspect of the applicant's claim and finds, on the balance of probabilities, that in 1997, during the Civil War in Albania, the applicant's father was kidnapped and forced to denounce the president on television. That is confirmed at para. [4][c].
26. At para. [4.3] the second aspect of the claim is considered and, although the tribunal pointed out that it had no mechanism of verifying the documentation furnished by the applicant, it went on to find that, on the basis of the evidence heard and the documentation submitted and considered, on the balance of probabilities the applicant was a member of the Socialist Party. The foregoing is confirmed at para. [4.3] [b].
27. Of central relevance to the present proceedings is para. [4.4] of the Tribunal's decision wherein the Tribunal considered and rejected the applicant's claim that he was threatened by members of the Democratic Party. It is fair to say that the applicant directs his criticism at para. [4.4] [f] of the decision which states the following: -
- "[f] On the basis of the evidence heard, and the documents submitted and considered, the tribunal finds on the balance of probabilities that that the appellant was not threatened by members of the Democratic Party".
28. The essence of the applicant's claim is that the foregoing sets out a finding without setting out the reasons for it. In addition, the applicant claims that the rationale for any reasons underpinning the foregoing conclusion can be found nowhere else in the Tribunal's decision.

Duty to give reasons

29. There is no dispute between the parties with regard to the duty on an administrative decision maker to provide reasons. See, for example, the Supreme Court decision (Clarke J. as he then was) in *EMI Records (Ireland) Ltd & Ors v. Data Protection Commissioner* (paras. 6.1 – 6.12). What emerges from the analysis in *EMI* includes:
- the decision should at least disclose the essential rationale on foot of which it was taken (see *Meadows v. Minister for Justice* [2010] 2 IR 710 per Murray C.J.);
 - the decision must give the affected party sufficient information to enable them to assess whether it was lawfully made and, if challenged, give the court sufficient information to determine that lawfulness (see *Rawson v. Minister for Defence* [2012] IESC 26, per Clarke J. (as he then was) at para. 6.8);
 - if the process is fair, open and transparent and the affected person has been enabled to respond to the concerns of the decision-maker, there may be situations where the reasons for the decision are obvious (see *Mallak v. Minister for Justice, Equality & Law Reform* [2012] IESC 59, per Fennelly J. at para. 66);
 - the question is whether the party affected by a decision could be in any reasonable doubt as to what the reasons actually were (see para. 6.9 of the *EMI* decision).

Later in this judgment I will refer to other relevant authorities which speak directly to the duty to give reasons in the context of international protection applications. For the moment, it is appropriate to focus on the decision itself beginning by highlighting the following point. It is wholly impermissible

to look at the single sentence which appears at para. [4.4] [f] of the decision, entirely divorced from the context in which it appears. The Tribunal's decision must be read as a whole and, for present purposes, the finding at sub-para. [f] must be read in the context of what the decision maker stated in sub paras. [a] to [e] of para. [4.4] which preceded it. These appear between internal pages 8 and 16, inclusive, of the Tribunal's very detailed decision. Given how fundamentally important they are to the present claim, it is appropriate to set them out *verbatim* and I shall now begin to do so, as follows:

"[4.4] The appellant was threatened by members of the Democratic Party

[a] The IPO did not accept this element of the appellant's claim.

2013

[b] The Appellant's legal representative asked the appellant to tell the Tribunal about the form of threats he had mentioned receiving in 2013. The appellant stated *'it started in the campaigning period when in particular these issues ...a lot of people ... I was with other Socialist Party supporters and the opposition party and they know I was the son of a traitor and they straight away say bad words and threats and say they will come after you and kidnap you like your father did. This is the problem connected to me they say the sum of the traitor who say bad words about our leader... afraid the same will happen to me as my Dad.'*

The legal representative asked the appellant for more details. The appellant said *'when the speech was held in a big crowd. They know my name is X.T., name on a list, and came to me and talked bad words in front of me and threaten me to do bad things but they could do nothing because it was in front of cameras and since then I could not do anything it came bad for me.'*

At this point in the appellant's evidence in chief the Tribunal requested the Appellant, who had been answering in English, to make full use of the Albanian interpreter to ensure his best evidence could be heard.

The legal representative asked the appellant again about the threats received in 2013. The appellant said *'so when he canvasses we go and listen to his speeches. So it was a rule that when he was making a speech we go and attend the speech. It was not compulsory but we did, just a thing we did. So at those gatherings there would be Democratic Party people to see what was going on. So those Democratic members look around to see who were the members of the Socialist Party. They would find out the names, who were the members and that's how they find out my past, my name, who was my father. So I was identified as the son of a traitor who spoke badly of our leader. So they approached me and started to threaten me verbally...So the same as your father did talking badly, doing the same as your father did saying bad things about the leader at the time. Then they start to threaten me they will come after me and kidnap me and do horrible things to me. That's basically the beginning of everything that happened to me.'*

The legal representative asked the appellant to try to be more specific regarding these threats. The appellant said *'the first time at the gathering as I was leaving they started following me and I started running to get away from them. I was trying to avoid any physical encounter. I saw I was in danger. After that I saw cars.'*

The legal representative asked what was the threat made. The appellant said *'they started to threaten to kill, kidnap and do horrible things to me.'* The legal representative asked the appellant what exactly was said to him, as best as he could recall. The appellant said *'the first time I was with other people there were cameras around and they can do nothing. They said the same things ... kill, kidnap... support the same cause as your father, he spoke badly of the leader.'*

The legal representative asked the Appellant if there was anyone around to support him. The Appellant said *'the people I was with were just random people, not members, it was a big crowd there and the members were scattered around.'*

The legal representative asked the Appellant if he spoke with his father after he got home. The Appellant said *'yes, of course. I told him ... do the same thing. I did stay indoors for a period of time. That is what my father told me.'* The legal representative clarified that the reaction of the Appellant's father was to stay indoors for a period of time. The Appellant said *'yes'*. The legal representative asked what period of time. The Appellant said *'for as long as I would be safe. While at home I would be safe. My father continued to work but he is armed and he is safe. This is the only way I be safe at that time.'*

The presenting officer confirmed with the Appellant that the threats he received originated from Democratic Party supporters. The presenting officer then said that the Appellant had said that the threats were that *"they could kidnap me and do bad things to me'* while in his s. 35 interview he had said:

Section 35 interview [2] page 8

Question: tell me what were the threats like?

Answer: *they said they would find me and follow me, and said all bad words about me.*

The Appellant said *'it's probably just a misunderstanding. I say bad words, curses and they threaten me.'*

The Presenting Officer said that what the Appellant had described seemed to be the normal accusations and threats made between supporters during election time. The Appellant said *'it's not the same thing they came to me only personally.'*

The Presenting Officer asked the Appellant to confirm that the threats were verbal and that he avoided any confrontation in the area. The Appellant said *'nothing physical went on there public gathering cameras around and I left.'*

30. It is appropriate to pause at this juncture to make the following observations. There is no complaint made by the applicant in relation to the way in which the Tribunal assessed his evidence, nor is there any suggestion that the Tribunal has not set out the evidence in a detailed and entirely accurate manner.
31. On any objective analysis the Tribunal set out the applicant's evidence very comprehensively. This included the various efforts by the applicant's legal representative to try and get the applicant to provide more details and more specifics in relation to his claim, particularly concerning the threats which the applicant claimed to have received. This court's role is not to conduct an appeal on the merits. Nor is it appropriate for this court to "step into the shoes of" the decision maker. Nevertheless, what emerges from the very detailed setting out of the evidence in the Tribunal's decision is that the following was patently obvious:

- The applicant's claim that he was known as the son of a traitor related to his father's actions in 1997;
 - The applicant did not assert that he received any threats in the 16 - year period 1997 to 2012, inclusive;
 - the threats he complains of were made in 2013 in the context of attending political rallies where members of two rival parties were present;
 - such threats as were made were verbal only and the applicant was able to leave the Democratic Party supporters who made the threats;
 - the Presenting Officer characterised what the applicant had described as seeming *"to be the normal accusations and threats made between supporters during election time"*;
 - the applicant had not mentioned his fear of being kidnapped during his earlier s. 35 interview;
 - leaving that issue aside, the height of what the applicant said in respect of the threats by Democratic supporters is that *"they **could** kidnap me and do bad things to me"*. (emphasis added)
32. Having examined with great care the evidence in relation to the threats allegedly made in 2013, the decision proceeded to deal with the evidence in respect of the 6-year period which followed. This was dealt with from para. [4.4] [c] in the following terms:

"Post 2013

[c] The legal representative asked the appellant about the six years i.e. from 2013 to 2019 when he left Albania. He asked the appellant the sequence of events which followed on from 2013, the threats etc. received. The appellant said *'I did try to get out and come here four or five years ago but it was not possible for me to come here.'*

The legal representative asked the appellant to outline any further events or threats made to him. The appellant said *'it could happen to me followed by a group that's why need protection of this country. So they would follow me whenever I go out ... I feel followed by cars and could not wait around till they killed me. If they caught me and I would not be able to come here and seek protection.'*

The legal representative said to the appellant that all the evidence so far was that he was followed home from a gathering in 2013 and nothing since then. He explained that he was asking the appellant to outline what happened since 2013. The appellant said *'in 2018/19 the situation was similar to 1997 it started to develop similar to the civil war. So that when I decided I had to do something kind of political war in Albania. The political situation was becoming worse and heading towards a civil war. My fear and anxiety doubled and not helped by avoiding going out and staying indoors.'*

The legal representative said to the appellant that between 2013 and 2019 his father said stay indoors. He asked the appellant what he did in those six years. The appellant said *'I stayed indoors for a long period of time. Then I tried to start my life again but constantly in fear and anxious. Then I registered in a school 50 metres from my father's job because I wanted to be as safe as possible. I thought my father and his friends would keep me safe'*

there being near to them. Even then I was absent a lot of the time. I would miss classes and that's why I not finish it.'

The legal representative confirmed with the appellant that he had completed the application for international protection questionnaire himself and that it outlined the period of timing question. The appellant said *'yes the way I described it that's the way it was.'*

The legal representative indicated that sufficient detail had been heard about the first threat and asked the appellant if there was anything else he wanted to say. The appellant said *'during those six years I regularly see cars come to our neighbourhood with blackened windows. I go back in, I not go out. I not know what happened to me. I constantly stressed out not know what to do to me.'*

The legal representative asked the appellant if anything happened to him. The appellant said *'no I tried to avoid and if anything happen I not seek asylum.'*

33. I pause at this juncture to say that as a result of the comprehensive setting out of the evidence by the Tribunal in its decision, which included questions put to the appellant by his legal representative on the issue as to whether he received any threats *after* 2013 the following is patently obvious:

- on the appellant's account he received no further threats after 2013;
- the appellant never experienced any physical violence, be that in 2013 or in the 6 years which followed;
- although he claims to have stayed indoors for much of the 6-year period, he also registered with, and attended, an educational institution, although he asserted that he missed classes;
- the furthest the applicant went as regards threats experienced by him during the 6-year period after 2013 was to say that, while out of doors, he regularly saw cars in his neighbourhood with blackened windows which caused him to go back inside;
- as well as making clear that in that 6-year period he experienced neither any threats nor any physical violence, the height of his claim regarding the period from 2013 to 2019 was that what he says was said to him at political gatherings in 2013 *"could happen"*;

In objective terms the state of the evidence before the Tribunal, with regard to the position which pertained in 2019 (when the applicant sought international protection in this State) was that, on his case, threats had been made by members of an opposing political party at political gatherings in 2013 which threats never involved a physical aspect and which threats had never been repeated in the six years up to 2019.

34. Furthermore, a significant feature of the evidence put before the Tribunal by the applicant related to the effect on his health of his fears arising from the threats made in 2013. That the applicant returned to that issue repeatedly is clear from the passage of the decision which I have quoted but, for ease of reference, it included the following evidence by the applicant:

- *"My fear and anxiety doubled and not helped by avoiding going out and staying indoors"* (decision p. 11, 3rd para.);
- *"I stayed indoors for a long period of time then I tried to start my life again but constantly in fear and anxious."* (decision p. 11 5th para.);
- *"I constantly stressed out..."* (decision p. 12, 12th para.).

35. In the manner I will presently come to, the applicant submitted documentation concerning his health which, in objective terms, offered no support whatsoever for the foregoing assertions all of which spoke to his 'core' claim of being in fear of persecution.

36. For present purposes it is appropriate to continue looking at para. [4.4] (c) of the decision, which proceeded as follows:

"The legal representative said that the IPO in the s. 39 report had raised the point against the appellant - that he had waited around six years before he left the country. The appellant said *'I did tell them I did try to get out but it was not easy. When I got the opportunity I did leave.'* The legal representative asked what opportunity came about in 2019 that was different to before that. The appellant said *'Before you were not able to travel to Europe with an Albanian passport and then in 2019 you could travel with an Albanian passport and no longer needed a visa.'*

The legal representative asked the appellant where his father was now. The appellant said *'in Albania'*. The legal representative then asked why the appellant needed protection and his father does not. The appellant said *'my father is surrounded by armed people. He is armed himself. I don't have that privilege. His colleagues are armed people. I am not trained to defend myself. He is'*.

The legal representative asked the appellant if there was anything else he wanted to say. The appellant said *'I am not able to return to Albania. It is not safe there. How can I return when threatened with death. No one would go back to a situation like that.'*

The Presenting Officer said to the appellant that from the threats in 2013, then the appellant left the party in his s. 35 interview and in evidence before the Tribunal he had not mentioned any escalation in his experiences. The appellant said *'because I stayed indoors to avoid any harm... human nature to avoid when could be in danger.'*

The Presenting Officer confirmed with the appellant that he lived in the same house all his time in Albania. He also asked the appellant if he was able to attend university. The appellant said *'I did register at university. I not go that much. I went seldom and only reason why I registered was near my father's workplace. That building is supervised by my father's colleagues working around that area.'*

The Presenting Officer said that the appellant never went to the police about his problems and that Albania has a working police force and asked the appellant to comment. The appellant said *"I could not go to the police they would not be able to protect every individual and not able to protect me all the time. There are so many murders all the time it is impossible to protect all the time. At the police station they have employees from Socialist Party and Democratic Party. So I could not go to complain to a person who is a member of the Democratic Party."* The Presenting Officer pointed out that the appellant had not given the police a chance to investigate his case. The appellant said *"I couldn't go. If I went to the police it would have made matters worse for me and even stopped me leaving the country. A lot of people have died'."*

37. The careful setting out by the Tribunal of the foregoing evidence in its decision means the following was manifest:

- the applicant did not in fact leave Albania until 2019.

- he asserts that he tried to leave Albania sooner but it was “*not easy*” and, on his account, what made his departure from Albania in 2019 possible was that he “*no longer needed a visa*”;
 - although the premise for the applicant’s claim relates directly to his father’s actions in 1997, his father remains in Albania to this day;
 - the applicant described his father as armed, surrounded by armed colleagues and trained to defend himself, whereas he is not;
 - despite the fact, confirmed by the applicant that in the 6 years (2014 to 2019 inclusive) no verbal threat was ever made to him and he experienced no physical violence whatsoever, he considered himself to be someone “*threatened with death*” who could not safely return to Albania;
 - on his account, due to the threats he received from members of the Democratic Party in 2013, the appellant left the Socialist Party and he gave no evidence of any escalation in his experiences thereafter;
 - the appellant put the foregoing down to staying indoors and avoiding harm, but he simultaneously confirmed that he did register at university and did attend, albeit infrequently, ascribing his safety to the proximity of his father’s workplace and supervision of the building by his father’s colleagues “*working around that area*”;
 - despite Albania having a working police force, the applicant never in fact reported anything;
 - the applicant gave no evidence of being in fear of the police.
 - as well as no evidence of threats or harm from 2013 onwards, the applicant was someone who lived in the same house throughout his entire time in Albania.
38. Paragraph [4.4] [d] of the decision continued in the following terms:
- “[d] The Tribunal asked the appellant if there were any threats made to anyone else in his family. The appellant said “*no my brother is small he is not involved. I was the only target.*” The Tribunal referred the appellant his (sic) answer in his application for international protection questionnaire, question 62 which stated *inter alia*:
- “... *they started approaching us more and more every day. One day we found my father’s car all scratched and the tyres were down. I was facing these facts and my life was clearly in danger day after day...*”
- The appellant said “*there was a situation where the car was scratched and the tyres were down. We thought it was a warning.*” The Tribunal asked the appellant why he had not mentioned it at the hearing. The appellant said “*I was not asked about threats in my family*”.
39. The careful setting out by the Tribunal member of the foregoing evidence in the decision makes the following perfectly clear:
- the applicant’s evidence to the Tribunal was that no threats were made to anyone else in his family;
 - in the applicant’s questionnaire he referred to a single instance of his father’s car having been scratched and the tyres let down;
 - the applicant gave no evidence of anything which, in objective terms, connected a single act of vandalism of his father’s car to (i) a threat having been made; or (ii) to any such threat

having been made to him, as opposed to his father; or (iii) to any such threat having emanated from any identifiable party (e.g. supporters of a political party).

40. Paragraph [4.4] [e] of the decision dealt with documentation submitted by the applicant in support of his claim and it is appropriate to set that section of the decision out *verbatim* as follows:

“[e] **Documents submitted**

[i] The Appellant submitted a document from the university he attended. Confirming he was attending third year. It states, *inter alia*:

'Republic of Albania

Polytechnical University of Tirana

Faculty and Mechanical Engineering

Attestation

Mr. X.T. is a student in the Bachelor program in the academic year 2018-19, III year, in the Faculty of Mechanical Engineering, the study program; Material engineering, part time system'.”

41. I pause at this juncture to observe that the foregoing evidence proffered by the applicant made clear that, however sporadic his attendance at university might have been arising out of the fear for his life he claimed to have and the stress and anxiety he maintained it provoked, he in fact made it to the third year of his university course. Paragraph [e] [ii] continued as follows:

“[ii] The appellant submitted his bank statement from Tirana Bank. It covered the period 01/04/16 to 16/04/18.

The document showed 27 monthly salary credits:

“*Transfer for salary*

Professional marketing

Albania Shpk/pagat”.

It also showed numerous cash withdrawals.

This document appears to support the appellant's answer in his application for international protection questionnaire, question 20:

Work history

20. How many years have you been employed/self-employed?

“3 years”

From	To	Name and address of cmpy	Type of work
2016	2017	ProMarketing	Operator
2017	2019	Assist	Operator”

42. From the foregoing evidence the following is perfectly clear:

- despite the fears which the applicant claims to have had, he not only remained in Albania for 6 years after the alleged threats were made, he was in gainful employment in Albania for three years between 2016 and 2019.

Paragraph [e] [iii] of the decision then stated the following:

"[iii] The appellant submitted a document regarding his health. It stated, *inter alia*:

Tirana 09.07.2019

Attestation for the personal chart

The patient X.T., born on In the personal chart results that: the patient has not suffered any infective illness during his childhood until now. He was regularly vaccinated according to the vaccination calendar. He does not suffer from any chronic condition. On 05.03.2018 he has suffered from a Gastritis for which he was treated and the (sic) recovered. On 15/05/2019 the patient had an intervention for appendectomy but without any complications. It is issued this epicrisis attestation upon the request of the interested ...[sic].

The Tribunal referred the appellant to the part of his answer in the application for international protection, questionnaire, question 87 which states *inter alia*:

"... lately in Albania I had the symptoms of anxiety and post-traumatic stress. I suffered from panic attacks, insomnia, headache. I could not breathe, accelerated heartbeat, continuous nausea and lately I was even hospitalised..."

The Tribunal said that document submitted did not appear to confirm what the applicant was saying. The appellant said *'that document writes about my appendix and I have other problems'.*

43. In the foregoing manner the Tribunal referred to the applicant's account that he was suffering from extremely serious health difficulties which he ascribed to his 'core' claim. Just as the decision records, the applicant's response to question 87 in his questionnaire was by no means the only time the applicant claimed to have suffered serious health difficulties related to his core claim. He gave similar evidence at the hearing before the Tribunal wherein the applicant referred to his "*fear and anxiety*"; being "*constantly in fear and anxious*"; and being "*constantly stressed out*".
44. It is a matter of fact that the document which the applicant chose to submit with regard to his health offers no support for the range of assertions which the applicant made as to the adverse effect on his health of his core claim. On any objective analysis the document regarding the applicant's health undermines the assertions made. To say this is not for a moment to approach matters *qua* decision-maker. It is simply to look at what is patent from the evidence to which the Tribunal member referred with such care.
45. On the one hand, the applicant asserts *inter alia* that he was suffering from "*post-traumatic stress*" yet, on the other hand, the medical document confirms that "*he does not suffer from any chronic condition*".
46. Similarly, the applicant asserted that his panic attacks, insomnia, headache, breathing difficulties, accelerated heartbeat, continuous nausea and anxiety were such that he was "*even hospitalised*", yet the document concerning his health wholly undermines that the foregoing was the cause for his hospitalisation. This is in circumstances where the document is very

specific about the cause of his hospitalisation mainly an "appendectomy" in May 2019 as well as treatment, in March 2018, for "gastritis".

47. For the sake of clarity, the applicant in the present proceedings does not assert that the Tribunal was incorrect in its assessment of the medical document compared to the various assertions made by the applicant with regard to his health.
48. It is fair to say that, during the course of the hearing, counsel for the applicant skilfully attempted to 'downplay' this adverse finding by the Tribunal, suggesting that it was of peripheral significance and could not validly form the basis of an adverse credibility decision by the Tribunal. I take a different view. The applicant's repeated assertions with regard to the adverse effect on his health spoke directly to his core claim. Despite this, the documentary medical evidence was to the contrary. This was not, of course, the only reason for the decision which the Tribunal member put succinctly at para. [4.4] [f] of the decision wherein the Tribunal held that: "*On the basis of the evidence heard and the documents submitted and considered the Tribunal finds on the balance of probabilities that the appellant was not threatened by members of the Democratic Party.*"
49. In the foregoing manner the Tribunal made perfectly clear that the decision was based on (i) "*the evidence heard*" and (ii) "*the documents submitted and considered*" by Tribunal. The Tribunal's very careful consideration of both the evidence and the documents can be found from para. [4.4] [a] to [e] inclusive. What emerges from the Tribunal's careful consideration of both the evidence and the documents is patent and obvious from the said consideration. These are very obviously the reasons which underpin the finding at para. [4.4] [f].
50. The principles to be applied by a decision maker when assessing the credibility of an applicant for international protection are well settled and it is useful at this juncture to refer to the oft quoted decision of Cooke J. in *I.R. v. Minister for Justice, Equality & Law Reform* [2009] IEHC 353 wherein (at para. 11) the learned judge made the following clear:
 - "11. ...*the following principles might be said to emerge from that case law as a guide to the manner in which evidence going to credibility ought to be treated and the review of conclusions on credibility to be carried out:*
 - 1) *The determination as to whether a claim to a well founded fear of persecution is credible falls to be made under the Refugee Act 1996 by the administrative decision-maker and not by the Court. The High Court on judicial review must not succumb to the temptation or fall into the trap of substituting its own view for that of the primary decision-makers.*
 - 2) *On judicial review the function and jurisdiction of the High Court is confined to ensuring that the process by which the determination is made is legally sound and is not vitiated by any material error of law, infringement of any applicable statutory provision or of any principle of natural or constitutional justice.*
 - 3) *There are two facets to the issue of credibility, one subjective and the other objective. An applicant must first show that he or she has a genuine fear of persecution for a Convention reason. The second element involves assessing whether that subjective fear is objectively justified or reasonable and thus well founded.*
 - 4) *The assessment of credibility must be made by reference to the full picture that emerges from the available evidence and information taken as a whole, when rationally analysed and fairly*

weighed. It must not be based on a perceived, correct instinct or gut feeling as to whether the truth is or is not being told.

5) A finding of lack of credibility must be based on correct facts, untainted by conjecture or speculation and the reasons drawn from such facts must be cogent and bear a legitimate connection to the adverse finding.

6) The reasons must relate to the substantive basis of the claim made and not to minor matters or to facts which are merely incidental in the account given.

7) A mistake as to one or even more facts will not necessarily vitiate a conclusion as to lack of credibility provided the conclusion is tenably sustained by other correct facts. Nevertheless, an adverse finding based on a single fact will not necessarily justify a denial of credibility generally to the claim.

8) When subjected to judicial review, a decision on credibility must be read as a whole and the Court should be wary of attempts to deconstruct an overall conclusion by subjecting its individual parts to isolated examination in disregard of the cumulative impression made upon the decision-maker especially where the conclusion takes particular account of the demeanour and reaction of an applicant when testifying in person.

9) Where an adverse finding involves discounting or rejecting documentary evidence or information relied upon in support of a claim and which is prima facie relevant to a fact or event pertinent to a material aspect of the credibility issue, the reasons for that rejection should be stated.

10) Nevertheless, there is no general obligation in all cases to refer in a decision on credibility to every item of evidence and to every argument advanced, provided the reasons stated enable the applicant as addressee, and the Court in exercise of its judicial review function, to understand the substantive basis for the conclusion on credibility and the process of analysis or evaluation by which it has been reached."

51. It seems to me that the rejection of the fact that the applicant was threatened by members of the Democratic Party was legitimately made by the Tribunal by reference to the "full picture" which emerged from the evidence, in particular the facts highlighted in detail from para. [4.4] [a] to [e] of the decision.
52. There is no question of the Tribunal not having rationally analysed and fairly weighed the evidence and there is no question of the Tribunal having made any error of fact.
53. The Tribunal's decision was underpinned by what is patent and obvious from the paragraphs which preceded para [4.4] [f].
54. It was not a decision based on a "gut feeling" as to whether the truth was or was not being told. On the contrary, it was rational, reasoned and squarely based on the facts which are manifest from the careful analysis by the Tribunal of the evidence, both oral and documentary.
55. It is unnecessary to repeat those facts which are obvious from the Tribunal's decision and which I referred to when I looked closely at same. A summary includes the following:
 - that the alleged threats were made in 2013 only;
 - by supporters of a rival political party;
 - whereupon the applicant was able to walk away without harm;

- and never experienced any physical assault;
 - with no threats of any nature made during the following six years 2014 to 2019 inclusive;
 - throughout which period the applicant stayed living in the same house;
 - the applicant also engaging in education and reaching the third year of a degree course;
 - the applicant also working for a three year period;
 - the applicant never having reported anything to the police in Albania;
 - which is designated as a safe country of origin;
 - the very height of what the applicant said he feared from Democratic Party supporters in 2013 being that "*they could kidnap me and do bad things to me*";
 - none of which things ever in fact occurred;
 - and the very height of the applicant's claim in 2019 being, in essence, the same namely that what he feared "*could happen*" to him;
 - notwithstanding the fact that there had been no threats whatsoever made to him in the preceding 6 years.
56. It is perfectly clear from the foregoing facts, all of which are obvious from the Tribunal's decision, that the reasons for the decision confirmed at para. [4.4] [f] stemmed from the lack of evidence to warrant a fear of persecution coupled with adverse findings with regard to the so-called effects on the applicant's health of his core claim, when the medical document was considered.
57. In my view the process of evaluation of the evidence which the Tribunal engaged in can very clearly be understood as can the conclusion which the Tribunal reached and the basis for same. All of the foregoing is evident from the decision.
58. It is not for this court to re-assess credibility, nor is it for this court to dictate the way in which a decision maker expresses their decision. There was no requirement for the Tribunal to set out its reasons in any formalistic way.
59. In my view, this is a decision which can fairly be "*said to flow from the premises*" (per Henchy J. in *The State (Keegan) v. Stardust Compensation Tribunal* [1986] I.R. 642). It is not in my view a decision which "*plainly and unambiguously flies in the face of fundamental reason and common sense*" (per Henchy J. in *Keegan* at p. 658).
60. Having regard to the facts which are patent and obvious from the careful analysis of the evidence and documents conducted by the Tribunal, the facts taken at their very height, patently did not amount to threats or persecution of the applicant.
61. The Tribunal's decision was not based on inconsistencies in the applicant's evidence. Rather the decision maker found a consistent absence of evidence of persecution. In essence, what the Tribunal was presented with comprised no more than accusations and threats made in 2013 by supporters of a rival political party during election time, with no threat ever followed-through or repeated from 2013 to 2019 when the applicant left Albania of his own volition, leaving his father and family behind.
62. There is a very obvious relationship between the evidence cited by the Tribunal and the ultimate conclusion reached in this regard, even if one were to leave aside the adverse findings

concerning the medical document in the context of the long list of serious health difficulties the applicant claimed to have suffered from as a consequence of his core claim.

63. In my view the reasons for the Tribunal's conclusion are manifest from a reading of the decision as a whole. In my view they are discernible from any objective reading of the decision in particular the 8 pages comprising para. [4.4] to [f] inclusive. I also take the view that the reasons are "...*intelligible in the sense that the reasons should enable the reader to understand why the applicant for protection is disbelieved on a certain point and/or generally*". (per Mr. Justice MacEochaidh in *K & Ors v. Minister for Justice & Equality & Ors* [2013] IEHC 339 at para. 10). As MacEochaidh J. made clear at para. 10 of his decision in *RR (No. 2) v. Refugee Appeals Tribunal & Ors* [2013] IEHC 468:

"The duty to give reasons in administrative decision-making does not necessarily require an express reason to be stated for each finding made, as long as the reason for a finding is patent on the face of the decision..."

64. In my view the reasons for the decision in the present case are patent on its face. They are not at all apparent if one were confined to reading sub-para. [f], but it explicitly refers to the "*evidence heard*" and to the "*documents submitted and considered*" which consideration is set out in a detailed manner in the previous 8 pages of the decision.
65. It is also important to note that this was not a decision wherein the Tribunal member was required to determine conflicts of fact. On the contrary, the facts, taken at their height, very obviously and patently fell well short of evidencing persecution (as well as the medical document offering no support for and, in fact, undermining, evidence given by the applicant which related directly to his core claim).
66. In my view, the Tribunal's decision is not unlawful merely because the Tribunal member did not use the words "*there is an absence of evidence of persecution*" or words to that effect, in circumstances where the foregoing is manifest from the facts which are obvious from the evidence which the Tribunal member specifically referred to in the decision.
67. In my view the essential rationale for the decision is clear or capable of being inferred and there has been no transgression of any principle outlined by Clarke J. (as he then was) in the *EMI* decision.
68. It is fair to say that during the hearing before me, considerable focus was on the recent decision of Mr. Justice Ferriter in *K.M. v. International Protection Appeals Tribunal* [2021] IEHC 732. An aspect of the applicant's challenge to the lawfulness of IPAT's decision in that case was an asserted failure on the part of the Tribunal to justify its conclusion of a lack of credibility. At para. 32 of his judgment, Ferriter J. held as follows:
- "The court also rejects the contention that there was a failure by the Tribunal to link the inconsistencies to findings of fact such as to justify a conclusion of a lack of credibility. The inconsistencies identified by the Tribunal all went to the core elements of the applicant's claim. It is clear from an objective reading of the Tribunal's decision that the Tribunal was relying on those inconsistencies, along with the absence of any documentary proof in respect of the core

aspects of the applicant's claims to reach a finding of lack of credibility. There is nothing unlawful in that approach."

69. At para. 13 of the applicant's written submissions, the following is asserted with respect to the decision in *K.M.*:

"Whilst on a somewhat superficial level, this decision may appear to have certain common features or aspects to that which was upheld by Ferriter J. in *K.M. v. International Protection Appeals Tribunal* [2020/672/J] (unreported, High Court, 23rd November, 2021), it was the court's view in that case that the narrative of the Tribunal (as per para. 31) identified "*clear and material inconsistencies in the applicant's various accounts, and attached weight to the absence of documentation to support the core elements of the applicant's claim*". That approach, held to be unimpeachable, does not emerge in the contested decision herein, for reasons of the foregoing."

70. It is certainly the case that in IPAT's decision which was challenged in *K.M.*, the Tribunal highlighted 8 inconsistencies which, as Ferriter J. noted, all went to the core elements of the applicant's claim. The Tribunal's decision in the present case does not revolve around inconsistencies. However, the identified aspects of the evidence noted with care by the Tribunal from paras. [4.4] [a] to [e] all related to core elements of the applicant's claim that he was persecuted and, on this evidence, the Tribunal was entitled to reach the finding of lack of credibility which it did reach.
71. Furthermore, whilst in *K.M.*, there was an absence of any documentary proof in respect of the core aspects of the applicant's claim, in the present case the applicant submitted a medical document which, in objective terms, offered no support for, but undermined, a core aspect of his claim (namely that he was in such fear for his life that he suffered *inter alia* constant fear and anxiety; constant stress; post-traumatic stress; panic attacks; insomnia; headache; breathing difficulties; accelerated heartbeat; continuous nausea; and that he was hospitalised).
72. Although it is true to say that the Tribunal member did not use the words "*the Tribunal is relying on the facts which are patent from the evidence analysed between sub paras. [a] to [e] of para [4.] including the adverse finding concerning the medical document submitted by the applicant*" the foregoing was very obviously relied upon by the Tribunal to reach its finding. Thus, a failure to use these or similar words does not render the decision unlawful. This is because the link between the evidence relied upon at sub paras. [a] to [e] and the conclusion at sub para. [f] of para. [4.4] is clear to any reader of the decision, including the applicant.
73. For these reasons, I cannot accept the proposition that the applicant does not understand why his claim was not accepted. In short, having regard to the evidence which was before the Tribunal, it was open to the Tribunal to make a finding that the applicant was not threatened by supporters of the Democratic Party. There was no unfairness in relation to the assessment of the evidence by the Tribunal. In my view the decision is clear as to *what* conclusion the Tribunal reached as well as *why* and *how* it came to that conclusion. It is also appropriate to note that, in the context of international protection applications, Mr. Justice Humphreys, in *MEO v. IPAT & Ors* [2018] IEHC 782 stated (at para. 23):

"The duty to give reasons is only a duty to give the main reasons; a decision-maker is perfectly entitled to identify only the main reasons for their decision."

74. In the present case it seems to me that the Tribunal has complied with the foregoing obligation. Humphreys J. went on to hold that where the applicant's credibility is rejected generally, the decision-maker does not need to engage in micro-specific analysis further to that. In support of the foregoing proposition, he referred to the decision in *Oguekwe v. Minister for Justice Equality and Law Reform* [2008] IESC 25 wherein Denham J. (as she then was) also commented on the lack of any need for a '*micro specific format*' in relation to reasons. It seems to me that the views I have expressed in the decision in the present case are consonant with the foregoing principles.
75. In his decision in *K. & Ors v. Minister for Justice & Equality & Ors*, MacEochaidh J. (at para. 16) referred to his earlier decision in *R. O. v. The Minister for Justice and Equality* [2012] IEHC 573, wherein the learned judge referred to credibility findings where the reason for the incredulity is patent, stating:
- "I need hardly add that the duty to give reasons on credibility findings is not automatically breached where the reason for the incredulity is patent and is therefore not expressly stated."
76. To my mind, the reasons for the adverse credibility finding at sub para. [f] are patent from what precedes it in sub paras. [a] to [e] of para. [4.4].
77. It is not in dispute that the onus of proof rests on an applicant seeking judicial review. For the reasons set out in this decision I am satisfied that the applicant has not discharged the relevant onus and I take the view that the decision challenged was one supported by evidence, lawfully reached and comprises conclusions predicated on facts which are patent from the evidence which the Tribunal member specifically referred to.
78. In my view the applicant has not demonstrated that the Tribunal erred in law by failing to give reasons for its decision in accordance with the requirements of natural and constitutional justice and/or by issuing a decision which was made without any evidential foundation for the conclusion reached. Thus, the applicant's claim is one which falls to be dismissed.
79. On 24 March 2020 the following statement issued in respect of the delivery of judgments electronically: "*The parties will be invited to communicate electronically with the Court on issues arising (if any) out of the judgment such as the precise form of order which requires to be made or questions concerning costs. If there are such issues and the parties do not agree in this regard concise written submissions should be filed electronically with the Office of the Court within 14 days of delivery subject to any other direction given in the judgment. Unless the interests of justice require an oral hearing to resolve such matters then any issues thereby arising will be dealt with remotely and any ruling which the Court is required to make will also be published on the website and will include a synopsis of the relevant submissions made, where appropriate.*"
80. In circumstances where the respondents have been entirely successful, my preliminary view with regard to costs is that the justice of the situation is best met by not departing from the 'normal' rule that 'costs' should 'follow the event'. The parties should correspond with each other, forthwith, regarding the appropriate form of order including as to costs which should be made and are invited to submit an agreed draft Order within 14 days. In default of agreement

between the parties on any issue, short written submissions should be filed in the Central Office within the same 14 - day period.