



THE HIGH COURT
JUDICIAL REVIEW

[2026] IEHC 563

Record No. 2026 904 JR

BETWEEN

O. M. M. I. A.

APPLICANT

AND

THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL

RESPONDENT

**PRELIMINARY RULING of Ms. Justice Siobhán Phelan, delivered on the 30th of July,
2026**

INTRODUCTION

1. This is my preliminary ruling on an application for leave to proceed by way of judicial review, on a substantial grounds basis, to seek orders of certiorari in respect of the decision of the International Protection Appeals Tribunal (hereinafter “the IPAT”) dated

the 11th of June, 2026 affirming the recommendation that the Applicant be refused refugee status and subsidiary protection status, which decision was communicated by letter dated the 15th of June, 2026.

2. In essence, the Applicant's claim appears to be that he is a political dissident who faces persecution in Egypt, that the IPAT wrongly treated his case as involving criminal conduct rather than political activity, that important evidence and country information were not properly considered and that the IPAT's decision should therefore be quashed by way of judicial review.
3. The Applicant appeared before the High Court in person seeking leave and was not legally represented. A significant difficulty in assessing the leave application is that the Statement of Grounds is not pleaded properly and fails to identify the basis for the various and different legal claims asserted. These are pleaded at a high level of generality. There is substantial non-compliance with the Rules of Court and Practice Direction HC140 and the Applicant has failed to exhibit relevant material pertaining to the decision-making process under the International Protection Act, 2015 ("the 2015 Act") in his case. In addition, written legal submissions in accordance with Practice Direction HC140 have not been filed.

PRESENTATION OF LEAVE APPLICATION

4. This application for leave was initially listed before Dunne J. on the 13th of July, 2026, but was adjourned due to the inadequate state of the papers and the failure to even exhibit the decision which the Applicant sought leave to impugn in these proceedings. Dunne J. directed the filing of an affidavit exhibiting the said decision.
5. The matter was relisted before me on the 27th of July, 2026, by which time the Applicant had provided a copy of the written decision of the IPAT in his case dated the 11th of June, 2026 in soft copy to the Registrar, albeit it is unclear to me whether it was produced as an exhibit to an affidavit or otherwise due to the wholly incomplete nature of the papers. In this regard, it bears note that no hard copy papers were lodged and the only papers available to me at the hearing were those received in soft copy in a

fragmented and difficult to navigate fashion. I have, however, taken the precaution of double checking the soft copy files available to Dunne J. on the 13th of July, 2026 to confirm that I am not overlooking papers lodged in support of this application because of the way the papers have been presented. I am satisfied that I have access to all papers lodged in support of the application.

6. When the leave application was listed for the second time on the 24th of July, 2026, the Applicant appeared before me by video link and was not present in court to address issues of concern regarding missing papers. In response to a query directed to his non-compliance with the Practice Direction, he said he was not aware of the Practice Direction. The Practice Directive is published on the Court website and guides the presentation of an application for leave in the asylum and immigration list.
7. While delivering a copy of the IPAT decision to the Court during the period of the adjournment granted by Dunne J., the Applicant did not provide other documents relating to the processing of his protection claim. Specifically, I have not seen his original application (Questionnaire), the record of the interview conducted under s. 35 of the 2015 Act, the s. 39 report prepared in his case by the IPO or the Notice of Appeal lodged on his behalf to the IPAT.
8. I am satisfied that these documents, although not disclosed by the Applicant in support of this application in accordance with established practice and rules governing the presentation of leave applications and the disclosure obligations on applicants coming before the court *ex parte*, exist. I can be so satisfied because they are referred to in the IPAT decision and no issue has been raised by the Applicant regarding this element of the IPAT decision and its accuracy has not been disputed.
9. Indeed, it appears from the history outlined in the IPAT decision in respect of which no controversy arises that the Applicant completed a questionnaire on the 2nd of August, 2022, was interviewed under s. 35 on the 6th of November, 2023 and a report issued pursuant to s. 39 of the 2015 Act on the 14th of December, 2023, recommending that the Appellant be given neither a refugee declaration nor a subsidiary protection declaration.

10. It further appears that the Applicant was informed by letter dated the 9th of April, 2024, that the International Protection Office (“the IPO”) recommended, pursuant to s. 39(3)(c) of the 2015 Act, that the Applicant should be given neither a refugee declaration nor a subsidiary protection declaration.
11. While I have not seen the Notice of Appeal lodged, the grounds of appeal identified are summarised in the IPAT decision, from which I surmise that the Applicant was legally represented when the Notice of Appeal was lodged. It appears from the summary contained in the IPAT decision that all elements of the IPO decision were challenged, albeit no specific findings, other than the finding that the Appellant was not entitled to refugee status, is identified in the summary provided by the Tribunal member.
12. It appears from the written IPAT decision on appeal that an oral hearing was convened and that the Applicant was represented by solicitor and counsel for the purpose of the appeal. He also had the assistance of an interpreter. A list of documents relied on by the Applicant in support of his appeal is set out at paragraph 33 of the IPAT decision. The papers lodged by the Applicant in soft copy in support of this leave application contain some, but not all, of the documents relied upon in support of his appeal. I note that the IPAT decision records that submissions were lodged by counsel supported by COI on the 13th of April, 2026 in support of the appeal but these submissions and COI relied upon in them have not been exhibited in support of this application.
13. It appears from the IPAT decision that the IPO had also submitted COI for the purpose of the appeal and COI is identified in the IPAT decision but this COI is not before me on this application.
14. In the letter advising the Applicant of the IPAT decision, which has been produced, he was also advised that he could make further submissions to the Minister for Justice in relation to the Minister’s consideration whether to give him permission to remain in the State under section 49 of the 2015 Act. He was advised that the period within which any such submissions would have to be made was prescribed in S.I. No. 664/2016 - International Protection Act (Permission to Remain) Regulations 2016 and was then 5 days following the receipt by him of the enclosed decision. He was further advised that under section 48 of the 2015 Act he had the option of returning voluntarily to your country of origin. It is not clear from the papers before me whether the Applicant has

in fact made any further submissions in respect of permission to remain under s. 49 of the 2015 Act.

15. Whatever about the position in relation to his application for permission to remain in respect of which I have no information at all, it appears that the Applicant proceeded immediately and seemingly without the assistance of the lawyers who appeared on his behalf before the IPAT, to file papers in support of a judicial review application on the 22nd of June, 2026 (within seven days of the date of the letter communicating the negative IPAT decision).
16. It is unclear to me why the Applicant presents this application without legal assistance and I do not know whether he has sought legal advice or representation. I appreciate that the legal aid system is significantly under-resourced and in my experience in hearing leave applications in the Asylum and Immigration List over a period of almost two years, I recall only one case in which an applicant was represented by a solicitor in the employment of the Legal Aid Board. Considering the statistically significant number of meritorious challenges which are conceded weekly in the asylum and immigration list, this must be a matter of serious and fundamental concern.
17. In the absence of a functioning legal aid system capable of providing legal assistance and representation within statutorily prescribed time limits applicable in this area, it is not possible to be reassured that legal remedies are effectively available to protection applicants notwithstanding the important, fundamental rights in issue thereby undermining constitutional safeguards and the rule of law which the courts seek to uphold and preserve. It seems to me that it also means that if applicants are compelled through lack of accessible legal representation to present applications themselves, despite linguistic difficulties and other vulnerabilities (and acknowledging that this may not in fact be such a case), then inevitably additional court and other public resources are deployed in the assessment of the leave application, in turn imposing a cost on the public purse which could better be used to fund a properly functioning legal aid service.
18. Far more troubling than the fact that court system incurs cost and time at the expense of other litigants in ensuring the proper assessment of cases where applicants are not legally represented, be they meritorious or unmeritorious, is the prospect that

meritorious cases never present to the Court because applicants in this area are simply not equipped to endeavour to vindicate a right of access to the court without professional legal assistance.

19. Against the background of these introductory observations, a striking feature of this case is that the IPAT in its decision accepted that the Applicant was likely to face arrest and prosecution in proceedings lacking basic due-process guarantees with resulting exposure to a system associated with torture and custodial abuses but nonetheless concluded that he did not qualify for international protection. This conclusion does not mean that the decision is properly amenable to judicial review because such a decision may be perfectly sustainable on a fair and proper assessment of the evidence and application of the law, but it does serve to illustrate the high stakes nature of what is involved for individual applicants and the importance of careful decision making and the accessibility of remedies where a proper basis exists for contending that the decision is legally flawed.

20. As I now have the IPAT decision, I have proceeded to consider this application for leave having regard to the grounds of challenge identified in the Statement of Grounds and without the benefit of other relevant documents. I embarked on a consideration of this application without access to these documents with the intention of determining the application on the papers available, if possible, to fairly and justly do so.

BACKGROUND

21. As summarised in the IPAT decision the Applicant made a claim for international protection to the Minister for Justice, Home Affairs and Migration (hereinafter called “the Minister”) on the 2nd of August, 2022, on the basis that if returned to Egypt, he would face persecution for reasons of his political opinion and a genuine risk of serious harm in Egypt by reason of death penalty or execution, or torture or inhuman or degrading treatment or punishment. The Applicant claimed that he was involved with protests against the current Egyptian government, who had ousted the previous regime of the Muslim Brotherhood. He claimed that the Muslim Brotherhood subsequently aided him in leaving Egypt for Sudan.

22. A summary of the Applicant's claim is provided from paragraphs 6 to 33 of the IPAT decision. It is stated that the Applicant advanced that he, his father and male siblings had been engaged in the protests. He claimed that protestors were arrested and detained and some were killed. He further advanced that detainees in the course of detention provided names of other protestors. Those named were then tracked down for arrest and included the Applicant's friends. The Applicant claimed that certain age groups were being targeted for arrest and in order to avoid such an arrest the Applicant claims to have stayed with a cousin. He claimed that he was fortunate not to be at his cousin's house when that property was subject to a search.
23. The Applicant claimed that his father and a younger brother were arrested two weeks apart. He also claimed that his father was arrested during an active protest. The Applicant claimed that during his detention his younger brother was questioned about the Applicant's whereabouts. The Applicant claimed that his father was charged with other detainees and that the Applicant, although not detained, had also been included as an accused in respect of these charges. The Appellant claimed that the court cases were political.
24. The Applicant next claimed that he had decided to join and joined the Egyptian Military before his father and brother were arrested. He claimed that had he completed his military service he would have been issued with a passport. He claimed that when he joined the Egyptian Military, the government systems in Egypt were not working coherently and that when he was in the military, he was in a different department and was not involved in policing protests.
25. He claimed that two months into his military service, he discovered his younger brother had informed the authorities that he was in the military. He claimed that one day while in uniform in a government building, he was summoned by an officer to an office on the building's fifth floor and fearing he would be arrested, he left the building instead of going into the office. He claimed that after leaving the building he contacted a friend who helped him change out of his military uniform into civilian clothes. He claimed he thought he had been summoned to be arrested as his younger brother had been moved after a period of torture to a large room with

other detainees. He claimed that it was through contact with detainees in that environment that he became aware that his brother had disclosed his location in the military.

26. The Applicant then claimed that he moved to another city in Egypt and stayed there for two or three months. He claimed that subsequently, the Muslim Brotherhood aided him in leaving Egypt for Sudan. It was further submitted on the Applicant's behalf that he later learned that he was being prosecuted by the Egyptian government for his association with the Muslim Brotherhood. It was submitted on his behalf that he is not himself a member of or actually associated with the Muslim Brotherhood.
27. The Applicant claimed that his younger brother and his father were in prison when he left Egypt and that his younger brother remains in prison but his father, due to being old was released from prison.
28. He claimed that he stayed in Sudan for a one and a half months. He then went to Malaysia for two and a half months.
29. The Applicant claimed that he became aware that he had been sentenced in four cases in his absence to periods of custody and fines. He claimed that one case and sentence related to a false passport. The Applicant stated that he had left Egypt using a false passport in the name of his older brother and used this false passport to travel to China then to Hong Kong then to Sudan. The Applicant claimed that he was made aware the Egyptian authorities knew he was travelling on the false passport. The Applicant claimed that on his return to Sudan he evaded arrest in the airport and returned into Egypt where he remained for nine or ten months. He claimed that an attempt at arrest was made by breaking into his home and that at that stage he decided to make another false passport.
30. The Applicant claimed that he accessed lost identity materials and searched for a person that he could use as a name for another false passport, that he picked a person and made falsified documents. He claimed that he then travelled then to Dubai to Georgia to Turkey to Korea.

- 31.** The Applicant claimed that he applied for and was granted international protection in Korea but that he left Korea as he said he found Koreans to be racist against foreigners. He claimed that he was one of the first people to get asylum in Korea, but it lacked rules after the grant of protection or a pathway to residency. He claimed to have left Korea as he could not adapt and integrate. He claimed that he then travelled to the UK where he stayed for one week and did not apply for refugee status.
- 32.** The Appellant maintained that if he returned to Egypt, he would be arrested and killed.

TRIBUNAL DECISION

- 33.** The IPAT rejected the Applicant's claim because while accepting some parts of the Applicant's account, it did not accept the core claim that he was at risk of persecution in Egypt because of his political opinion or any association with the Muslim Brotherhood.
- 34.** The IPAT accepted that the Applicant attended demonstrations in 2013 and 2014 and went into hiding afterwards and feared arrest. It also accepted that he joined the Egyptian military and later left it without completing service. It was accepted that he created and used false passports and would likely face arrest and prosecution on return because of the passport offences and military matters.
- 35.** The IPAT also rejected a number of central elements of the claim. In particular, the IPAT did not believe the Applicant was targeted because of his political opinions. The IPAT found that, although he attended demonstrations, there was insufficient evidence that he held genuine anti-government political views. It considered his attendance at demonstrations might have been for many reasons and was not necessarily evidence of a political commitment. The IPAT also found that his own evidence suggested he feared arrest because young men generally were being targeted, not because of his political beliefs.

- 36.** It was considered by the IPAT that his decision to join the Egyptian military undermined his claim. A significant factor in this regard was that the IPAT considered it implausible that someone genuinely hiding from the State and fearing political persecution would voluntarily enlist in the Egyptian military. The IPAT held that joining the military was an objective indication that the Applicant no longer feared the authorities at that time.
- 37.** The IPAT did not accept that the Applicant left the military because he feared political arrest. While the Applicant claimed he fled after being summoned by a superior officer and feared arrest, the IPAT considered this explanation implausible and found no evidence that he was about to be arrested.
- 38.** The IPAT was not persuaded that the criminal cases against the Applicant were political cases. The IPAT regarded this as a major credibility problem. The Applicant said he had been sentenced in absentia in four cases, but when asked to explain the charges IPAT decision says he could not clearly identify them. The IPAT found this lack of detail unsatisfactory. The IPAT decision records that the translated court documents referred to allegations including assault, vandalism, force and violence, carrying petrol bombs and possession of weapons for intimidation. The IPAT concluded that it could not be satisfied that the proceedings were politically motivated and considered it more likely that the State was interested in the Applicant because of ordinary criminal allegations and passport offences.
- 39.** The IPAT rejected any meaningful connection to the Muslim Brotherhood noting as an inconsistency that on one hand, the Applicant claimed not to be a member or supporter of the Muslim Brotherhood while on the other hand, it was argued on his behalf that his difficulties arose from support for the Muslim Brotherhood and that the organisation helped him leave Egypt.
- 40.** Ultimately, the IPAT found that he was not connected to, supportive of, or perceived to be connected to the Muslim Brotherhood. Accordingly, the IPAT did not accept that the Applicant would be persecuted for a Convention reason. The IPAT expressly rejected the proposition that his fear on return arose because of his political opinion. It noted, among other things, that during the hearing he expressed

no significant political views and that he had voluntarily returned to Egypt after previously leaving it, which it regarded as inconsistent with a genuine fear of political persecution.

41. The IPAT concluded that there was no reasonable chance that he would suffer persecution for a Convention reason if returned to Egypt. Therefore, he did not qualify for refugee status.
42. Although the IPAT accepted that the Applicant may face military disciplinary proceedings for leaving the military and prosecution and imprisonment for passport offences and other convictions, it considered that this amounted to prosecution rather than persecution. The IPAT found that the Applicant had not shown a real risk of death, torture, or other serious harm within the meaning of the subsidiary protection provisions.
43. In short, the IPAT rejected the claim because it found that the Applicant's real difficulty was likely to be prosecution for military and passport-related offences, not persecution on account of political opinion or any connection to the Muslim Brotherhood.
44. The IPAT decision on the subsidiary protection claim was limited to one paragraph, with the balance of that part of the decision focussing on the Applicant's admission to creating and using two false passports which the IPAT considered sounded like admissions to offending. Having raised the issue, the IPAT did not consider further whether the Applicant should be excluded from eligibility for subsidiary protection because the issue had not been raised by the IPO and the Applicant had not had an opportunity to address the issue by submission.

CHALLENGE BY WAY OF JUDICIAL REVIEW

45. In his papers prepared to ground his application for leave to proceed by way of judicial review the Applicant repeats claims made before the IPAT that he fled Egypt because of political criticism and fear of persecution. He maintains that any actions attributed to him by the Egyptian authorities were political expression and

not ordinary criminality and that he feared imprisonment or death if returned to Egypt.

46. From a reading of his grounding affidavit and the statement of grounds document together, it appears that the Applicant maintains that the Tribunal mischaracterised his political activity and contends that the Tribunal wrongly treated his conduct as criminal rather than political. He argues that the Tribunal failed to appreciate the context of his criticism of government officials and consequently misapplied refugee and international protection law.
47. The Applicant maintains that the Tribunal failed to consider relevant evidence. He says there was extensive documentary and digital evidence supporting his claim, including social media posts, videos and public commentary. He argues that this evidence demonstrated his political opinions and the reasons for the adverse attention he received from authorities.
48. The Applicant further maintains that there was a breach of fair procedures in the assessment of his claim and he alleges that the IPAT's assessment was procedurally unfair because relevant evidence was overlooked or discounted. He further argues that the Tribunal relied on assumptions and selective interpretation of evidence. The Applicant complains that the Tribunal failed to engage properly with independent country-of-origin information regarding political dissent, repression and human rights conditions in Egypt.
49. In summary, the affidavit and accompanying statement of grounds assert that the Tribunal decision involved error in law and fact, failure to assess political opinion risk, failure to consider family political profile, breach of fair procedures, failure to assess country information properly, error in the persecution analysis, all resulting in an unreasonable decision.

SUBSTANTIAL GROUNDS THRESHOLD

50. The impugned decision is subject to s. 5 of the Illegal Immigrants (Trafficking) Act 2000 (hereinafter “the 2000 Act”). Accordingly, leave may only be granted where substantial grounds are demonstrated.

51. The applicable principles are well established. The Applicant must establish an arguable, weighty and reasonable legal challenge rather than one which is merely tenuous or speculative.

DISCUSSION AND DECISION

52. It is apparent from the terms of the IPAT decision that the claim for international protection on grounds of political opinion or imputed political opinion was rejected on personal credibility grounds. It is also clear that the IPAT undertook a detailed assessment of the Applicant's claim under s. 28 of the 2015 Act and repeatedly measured the Applicant's account against the consistency of his evidence, the coherence of his explanations, the plausibility of his account and whether it was consistent with available documentary information before rejecting the claim.

53. Indeed, the IPAT found the Applicant generally credible regarding his identity, age, family background and Egyptian nationality, attendance at demonstrations in 2013–2014, going into hiding after the demonstrations, fearing arrest at that time and creating and using false passports. He was also found credible in his account of travelling internationally using those false passports and obtaining refugee status in South Korea. The IPAT described much of this evidence as "*consistent, coherent and plausible*."

54. However, the IPAT considered that the most important parts of the protection claim lacked credibility. The Applicant's claim to have joined the Egyptian military, for example, was considered to undermine the claim of political persecution. The IPAT regarded this as a significant inconsistency. It did not accept as credible that the Applicant was in hiding and fearful of arrest by the Egyptian authorities, yet he voluntarily enlisted in the Egyptian military. The Tribunal considered this inherently implausible because military service would expose him to government scrutiny and vetting.

55. The IPAT concluded that a person genuinely fearing political arrest would not voluntarily place himself within the military system. It regarded his enlistment as an

"*objective indicator*" that he no longer feared the authorities at the time he joined the military.

56. His explanation for leaving the military was also rejected. The Applicant said he left after being summoned by a superior officer because he feared imminent arrest. The IPAT found this explanation implausible because there was no evidence he had been ordered arrested, he was not detained and he had previously maintained that the military was a safe environment for him. The IPAT therefore rejected his claim that he fled the military because of political persecution.
57. The IPAT placed weight on the Applicant's inability or unwillingness to explain the charges for which he claimed to have been convicted in absentia. The IPAT noted that he referred generally to "*political cases*" but he could identify only one conviction as relating to false passports and when asked to explain the other allegations, he did not engage with the issue in any meaningful way.
58. The IPAT described this lack of engagement as "*deliberate*" and found that it undermined his credibility. The documentary evidence submitted by the Applicant was considered by the IPAT. The translated court materials relied upon by the Applicant appeared to refer to allegations including assaults, vandalism, violence, petrol bombs, intimidation with weapons. The IPAT considered that if the Applicant was relying on these proceedings as evidence of political persecution, he should have been able to identify precisely which charges were politically motivated. His failure to do so weakened his credibility considerably.
59. The IPAT also found an internal inconsistency in the case advanced. On one hand, it was argued that the Applicant's difficulties arose because of an actual or perceived association with the Muslim Brotherhood. On the other hand, the Applicant insisted that he was not a member of, and had no connection with, the organisation. The IPAT held that this inconsistency undermined his general credibility.
60. The Applicant's evidence regarding his father's release was found unreliable. The Applicant said his father was released from prison because of old age. However, the IPAT considered that the translated court documents suggested instead that his father

had been acquitted on appeal. The IPAT therefore found the Applicant's explanation inconsistent with the documents he himself had produced.

61. The IPAT also regarded the Applicant's decision to return voluntarily to Egypt after leaving it as an important credibility indicator. It considered that someone genuinely fearing political persecution would be unlikely to return so soon. The return journey therefore weakened the reliability of his claimed fear of persecution.
62. The Applicant's use of false passports had a mixed effect on credibility. The IPAT accepted that he had used false passports because it found his evidence on this issue detailed, candid and consistent. It noted that he was "*exceptionally forthcoming*" about using his brother's identity to create a passport, later creating a second false passport, how he obtained personal information for that purpose and how he used the documents to travel internationally. The IPAT found that he had been consistent in his account throughout the questionnaire, interview and oral hearing and therefore accepted that he falsified passports and that he travelled to and from Egypt using those false passports.
63. The passport evidence, however, weakened the argument that he was being pursued for political reasons. The IPAT concluded that the strongest evidence explaining why the Egyptian authorities would want him was not his political activities but his admitted passport offences. It found credible evidence that the authorities had discovered at least one false passport and that he therefore faced arrest and prosecution on return. The IPAT expressly accepted:

"the Appellant, given his actions in falsifying passports, faces arrest upon return to Egypt."

64. The IPAT regarded the creation and use of false passports as serious criminal conduct. It observed that passport offences are serious offences and found that the Applicant had engaged in deliberate, dishonest and illegal acts. Having examined the evidence, the IPAT concluded that if he were arrested on return to Egypt, it would most likely be because of passport offences, military disciplinary matters arising from leaving military service and other criminal proceedings rather than because of his political opinions.

- 65.** It is clear therefore that while the Applicant was accepted as credible on elements of his claim, it was found that he was not credible on the central issue of the case, namely, that he faced persecution because of political opinion or an actual or imputed association with the Muslim Brotherhood. The IPAT's overall conclusion was that the evidence pointed to a person who might face prosecution for military and passport-related offences, rather than a person at risk of political persecution.
- 66.** I do not consider the claim that the IPAT decision contains errors in law and fact or a mischaracterisation of the Applicant's claim to be made out to a substantial grounds threshold having regard to the terms of that decision and on the basis of what is before me in evidence, although this is obviously incomplete. Furthermore, the IPAT having rejected the Applicant's claim to risk on political or imputed political grounds on a reasoned basis which is supported by findings on the evidence which were reasonably open to the IPAT, it seems to me that the Applicant has not identified substantial grounds for contending that the IPAT failed to assess risk arising from the Applicant's political opinion as contended.
- 67.** As for the pleaded claim that the IPAT failed to consider the Applicant's family political profile, I note that the IPAT clearly referred to the father's and brother's arrests and detentions in its summary of the claim. It also discussed the father's arrest and subsequent release, the brother's detention, the allegation that the brother disclosed the Applicant's whereabouts and court proceedings involving members of the family. It therefore cannot reasonably be said that the IPAT failed to consider the existence of the family evidence.
- 68.** Even if the claim were reframed from that pleaded as instead a failure to adequately assess whether the Egyptian authorities would attribute a political identity to the Applicant because of his father and brother, it seems to me that this argument is fundamentally undermined by the IPAT's finding that the Applicant's account of the alleged political cases was not credible, the proceedings appeared related to offences such as violence and vandalism rather than demonstrated political persecution, his father's release was inconsistent with the Applicant's account, one brother had completed military service and obtained a passport and the Applicant was not shown to be associated with the Muslim Brotherhood. Accordingly, on the

basis of the papers before me, I am not satisfied that substantial grounds are made out to challenge the IPAT decision because of a failure to assess the claim with reference to the Applicant's connection with family members.

Alleged Failure to Properly Assess COI

69. In an international protection appeal, country-of-origin information ("COI") must generally be considered when assessing whether the applicant's account is plausible, whether persons with the applicant's profile are at risk and whether there is a real chance of persecution or serious harm on return. The extent to which it is necessary to engage with specific elements of COI turns on the nature of the claim and when it is rejected on personal credibility grounds, the nature of the credibility findings and the relevance of COI to those findings.

70. In this case, the IPAT expressly stated that it had considered and relied upon the country reports before it, including the US State Department reports, Freedom House material and the BBC material concerning the Muslim Brotherhood. It is true that the IPAT did not refer in great detail to COI but the difficulty for the Applicant insofar as he complains that there was a failure to consider his application in the light of COI was that the IPAT rejected the core factual premise of the claim on grounds related to inconsistencies and implausibility in his narrative account. It is significant in this regard that the IPAT did not accept that he was being sought for political reasons, it did not accept that he was associated with the Muslim Brotherhood and it did not accept that he would be persecuted because of political opinion. Once those central facts were rejected, much of the COI concerning the treatment of political dissidents and Muslim Brotherhood supporters became less material to the outcome.

71. The IPAT's reasoning was essentially that even if Egypt has poor human-rights conditions and treats Muslim Brotherhood supporters harshly, the Applicant has not established that he is such a person or would be perceived as such.

72. This notwithstanding, it is apparent that the IPAT did engage with the COI in several respects in its decision. The IPAT referred to the BBC material indicating that punishment was directed at persons who belonged to, financed or promoted the Muslim

Brotherhood. It then found that the Applicant had not shown that he fell into any of those categories. At paragraph 54 of its decision, the IPAT expressly refers to the BBC report submitted by the Applicant:

"The Appellant advances that he is not a member of the Muslim Brotherhood. The BBC report submitted on his behalf indicated that it was only '... those who belonged to the group, financed it or promoted its activities would face punishment.'"

73. The IPAT then applied that country information to the Applicant's circumstances at paragraph 55:

"The Tribunal considers that by the Appellant advancing that he has nothing to do with the Muslim Brotherhood, by not engaging in activities since leaving Egypt that could be construed as actions of belonging to, financing or promoting its activities and by his voluntary and practical act of joining the Egyptian Military and his decision to return to Egypt from China (via Sudan) are all objective indicators that he is neither supportive of the Muslim Brotherhood nor has he been involved with them in any way, nor would he be perceived as such by the Egyptian authorities."

74. The IPAT had already reached a similar finding in its credibility assessment at paragraph 47(M)(iv):

"The Tribunal considers the Appellant is not connected to nor supportive of the Muslim Brotherhood and there are objective indicators to that effect."

75. The chain of reasoning discernible in the IPAT decision is clear and it is that the BBC COI stated that punishment is directed at persons who belong to, finance, or promote the Muslim Brotherhood. The Applicant himself maintained that he was not a member of the Muslim Brotherhood. The IPAT found no evidence that he belonged to, financed, promoted, or would be perceived as supporting the Brotherhood. Therefore, the COI concerning punishment of Muslim Brotherhood members did not establish a risk to him personally.

76. Notably, the IPAT also relied on the US State Department material and accepted that military proceedings in Egypt may lack fair-trial guarantees. It considered that, as a person who left military service and used false passports, the Applicant might face military proceedings on return. The IPAT referred to the US State Department material at paragraph 57 of the decision stating:

“The position of the Appellant though, as a national that walked out on the Egyptian Military given the contents of both US State Department, Country Reports, would objectively suggest that upon return to Egypt the Appellant would have to face trial before a military court, that is unlikely to meet basic standards for due process and with a lack of fair trial assurances.”

77. Even though the US State Department Country Reports indicated that a returned military deserter would likely face a military court and such proceedings were unlikely to meet basic standards of due process and lacked fair-trial assurances, the IPAT concluded that:

“the Appellant faces prosecution, not persecution.”

78. As it rejected the Applicant's claim to be a political dissident or Muslim Brotherhood associate, the IPAT regarded the COI on persecution of those groups as having limited relevance to the ultimate outcome. Its conclusion was that the Applicant faced

prosecution for military and passport offences, not persecution for a Convention reason, and it assessed the country information through that lens.

79. Insofar as the IPAT expressly accepted a risk of trial before a military court lacking basic due process standards, yet still concluded that this did not reach the threshold of persecution or serious harm, it is clear that while the IPAT accepted that some risks existed because the Applicant had left the Egyptian military without completing service and had used and created false passports and would likely therefore face arrest upon return and also would likely face military and criminal proceedings, it did not consider the threshold of risk to rise to one of persecution or “*serious harm*”.
80. The IPAT acknowledged country information showing credible reports of torture, deaths in custody, torture of detainees, increased use of the death penalty and concerns about due process. The IPAT accepted that the feared treatment, death penalty, torture, inhuman treatment, imprisonment, would, if established, amount to persecution (para. 52). However, it found that the Applicant had not objectively established that such outcomes were likely for him personally. Thus, at paragraphs 59–61, it concluded the feared harms were not objectively grounded in the accepted facts, there was no reasonable chance of persecution and there was therefore no well-founded fear.
81. The IPAT then separately considered whether the Applicant faced a real risk of serious harm under Article 15(a), (b) or (c). It concluded:

"there are no substantial grounds for considering that the Appellant will face a real risk of serious harm under Article 15 (a), (b) or (c)."

82. Notably, the IPAT did not deny that Egypt's military justice system and detention conditions give rise to serious concerns. Rather, it concluded that the Applicant had not shown that he personally would face execution, torture, inhuman or degrading treatment, or a sufficiently serious individualised risk. This is a finding which causes me some concern because the IPAT simply states, without explaining why, given its

conclusion that COI showed that as a detainee he would be exposed to such a system, that (at para. 59):

“the Tribunal considers the Appellant’s claim that he, as a national that walked out on the Egyptian Military and accepts he created and travelled on false passport, is exposed to harm in the form of the possibility of death penalty, execution, torture or inhuman or degrading treatment or punishment by the authorities of the Egyptian State the Tribunal is not objectively based on the accepted facts and the country information”.

- 83.** In this way, the IPAT concluded that the Applicant would likely face military disciplinary processes, prosecution for passport offences and enforcement of sentences imposed *in absentia* but the IPAT considered that appeal mechanisms existed and that the Applicant had not shown that any punishment would be discriminatory or disproportionate even though it appears to have been accepted that the military justice system and detention conditions give rise to serious concerns.
- 84.** In summary therefore the IPAT accepted that the Applicant would likely be arrested and prosecuted on return and acknowledged country information showing deficiencies in military trials and reports of torture and deaths in custody. However, it concluded that those risks did not translate into a sufficiently established risk of persecution or serious harm for this Applicant personally. It therefore assessed the anticipated consequences as ordinary criminal and military prosecution rather than persecution or Article 15 serious harm.
- 85.** Importantly, although the COI described serious concerns about military justice and detention conditions, it may be implicit that the IPAT did not find that the COI showed military deserters as a class automatically face persecution, torture, death penalty, or serious harm meeting the subsidiary protection threshold, I do not see this expressly stated in the IPAT decision and I do not have the benefit of the COI which was before the IPAT.

- 86.** The IPAT appears to have concluded that the COI indicated that a military deserter may face arrest, military trial, poor due-process protections, detention, and exposure to a system in which torture and custodial abuses are reported, but the IPAT considered that evidence insufficient to prove that this particular Applicant would face persecution or Article 15 serious harm. In this regard, the IPAT does not explain its decision with reference to COI which means that in the absence of this COI, I have left with a concern that the decision reached may not be adequately explained or supported on the COI. I accept that it is significant that the Applicant has not referred in grounding these proceedings to COI which tended to show otherwise, not considered by the IPAT, and indeed has failed even to exhibit the COI which was before the IPAT. This failure is problematic as the burden is on the Applicant at leave stage to satisfy the court as to the factual basis for the claim he asserts.
- 87.** If I were sufficiently persuaded by the terms of the IPAT decision and the consideration of the application throughout the process that no real risk of harm would result for an applicant, the failure to exhibit the COI relied upon to contend that the IPAT decision was inadequately supported and unsustainable would almost certainly justify me in refusing leave on this ground at *ex parte* stage without sight of the COI, the burden being on the Applicant to establish substantial grounds.

Breach of Fair Procedures

- 88.** The Applicant's fair procedures challenge appears to be based on the contention that the protection claim was misunderstood and mischaracterised, that relevant evidence and COI were not properly engaged with and that adverse credibility findings were reached in a manner that was unfair or inadequately reasoned. It seems to me that, in the main, the Applicant's challenge in this regard is really a disagreement with the IPAT's credibility findings and the evaluation of his evidence rather than a denial of procedural fairness.
- 89.** In the context of a fair procedures challenge it bears emphasis that the IPAT conducted an oral hearing on the 29th of April, 2026. The Applicant was represented by solicitor and counsel, gave evidence under oath, and had the assistance of an

interpreter. The IPAT expressly recorded that it heard his evidence on all material aspects of the claim.

90. Furthermore, the IPAT decision repeatedly states that all documentation supplied by the Applicant was assessed, all country information was assessed, all submissions were considered and the Applicant had an opportunity to comment on the material before the IPAT. The IPAT listed and reviewed an extensive body of documents, including the translated court materials, photographs, Korean refugee documents, passport materials and country reports. The rejection of evidence does not equate to a failure to fairly consider it.
91. Central to the refusal of this claim was the IPAT's credibility assessment. The IPAT did not simply state that it disbelieved the Applicant. It gave detailed reasons for doing so, including the inconsistency between claiming to fear the State and voluntarily joining the Egyptian military, his inability to explain the charges in the alleged political cases, inconsistencies regarding the Muslim Brotherhood, his return to Egypt after leaving it and discrepancies between his account and documents concerning his father's release. Whether those reasons are right or wrong is a merits issue. Fair procedures do not require the IPAT to accept the Applicant's evidence.
92. The IPAT records in its decision that the Applicant was specifically invited during the hearing to identify the accusations for which he claimed to have been convicted *in absentia* and to explain the nature of those cases. It found that he did not adequately engage with that question. The Applicant plainly had an opportunity to address this concern but did not do so.
93. It seems to me that there is no stateable basis for contending that the IPAT mischaracterised the claim. The decision demonstrates awareness of the Applicant's case that he attended demonstrations, his father and brother were arrested, he claimed to be wanted in connection with political matters and he claimed to fear persecution on grounds of political opinion. The IPAT expressly addressed those issues and rejected them after analysis. A rejection of a claim is not the same thing as a failure to understand it.

94. As set out above, the IPAT also expressly considered the BBC material, US State Department reports and Freedom House reports. It referred to those materials in its reasoning, including findings that military courts may lack due-process guarantees, reports exist of torture and deaths in custody and punishment of Muslim Brotherhood members is reported. The complaint is really that the IPAT gave the COI insufficient weight, not that it failed to consider it but a challenge on this basis is really a merits challenge. It seems to me that the Applicant impermissibly seeks to recast disagreement with factual findings as a procedural unfairness complaint.

95. Subject to a caveat with reference to my concern expressed at 86 above in relation to the assessment of COI with regard to exposure to a system in which torture and custodial abuses are reported, in circumstances where the Tribunal identified the issues, heard the Applicant, considered the documents, considered the COI and gave reasons for accepting some evidence and rejecting other evidence, I am satisfied on the basis of the IPAT decision that it cannot reasonably be maintained that there was a want of fair procedures in that decision.

Whether IPAT erred in distinguishing between prosecution and persecution

96. The IPAT accepted that the Applicant walked out of the Egyptian military, used false passports, would likely face arrest on return and would likely face military court proceedings. It accepted those military proceedings were “*unlikely to meet basic standards for due process and with a lack of fair trial assurances.*” It also acknowledged that the country information contained credible reports of torture, deaths in custody, and increased use of the death penalty. Despite this, the IPAT concluded “*the Appellant faces prosecution, not persecution.*”

97. As a matter of refugee law, prosecution can amount to persecution where the law is applied in a discriminatory manner, the punishment is disproportionate, the trial process is fundamentally unfair or prosecution is a pretext for punishing political opponents. The Tribunal recognised this in principle when it considered whether the proceedings or punishment were discriminatory or disproportionate. Although a trial before a court which is itself “*unlikely to meet basic standards for due process*” raises a concern as to whether it is prosecution and not persecution, the IPAT expressly acknowledges that trial before a military court is unlikely to meet basic standards for due process and

lacking fair-trial assurances but finds that undergoing such a trial process, in the view of the IPAT, does not meet the threshold of persecution.

- 98.** In circumstances where the IPAT repeatedly found that the Applicant had not proved political motivation, discriminatory treatment, imputed Muslim Brotherhood membership or disproportionate punishment, it cannot be reasonably maintained that the IPAT wrongly failed to make the distinction between prosecution and persecution. It appears clear that IPAT concluded that persecution was not established both because of the absence of a Convention nexus and because there was no evidence of discriminatory treatment or disproportionate punishment. The IPAT found as a fact that the Applicant was facing legitimate criminal and military proceedings and had failed to establish that they crossed the threshold into persecution. It seems to me that it is not established to a substantial grounds threshold that the IPAT erred in this regard by failing to appreciate that prosecution can constitute persecution.

CONCLUSION

- 99.** For the reasons set out above, I would have been satisfied to conclude that the Applicant has not established that most of the grounds advanced disclose substantial grounds for contending that legal error of sufficient substance to satisfy the threshold imposed by s. 5 of the 2000 Act on the basis of the IPAT decision and the limited documentation provided in view of the fact that the burden of establishing his case rests on the Applicant. I have some concerns as identified above in relation to adequacy of the reasoning of the IPAT in concluding that while it was accepted that there are credible reports of torture, deaths in custody and concerns about due process trials in Egypt (at para. 58 of the IPAT decision), those concerns are not borne out in the Applicant's case by country information, without further elaboration referable to the content of the COI.

- 100.** In the absence of the COI considered being available to the Court, I do not think I can safely conclude that there are not substantial grounds for contending that the basis for this conclusion is not supported by or open on the COI, based only on the terms of the IPAT decision and the limited documentation available to me. I have concluded that

it would be premature to decide this application without first considering all the material which was available to the IPAT because it seems possible that there may be grounds for contending that the assessment of COI about the risk faced on trial for military desertion or forged passports was not adequate. A conclusion in this regard must depend on what the COI before the IPAT demonstrates in this regard.

101. This application has already been adjourned due to inadequacy with the papers. This has not resulted in papers being presented to the Court in proper form. While I appreciate that the burden is on the Applicant to establish his case, I am not confident of the Applicant's ability to present all relevant material in a timely and accessible manner but I am equally not satisfied to reject the application as not properly grounded in view of the risk of refusing an application with potentially serious consequences for the Applicant when I have a concern about the decision.

102. Accordingly, rather than determine this leave application on an *ex parte* basis on foot of incomplete information, pursuant to my powers under Order 84 rule 24(1) of the RSC, I will instead direct that the application be brought on notice to the Minister and the IPAT. I will direct service of this application on the Chief State Solicitors Office and on IPAT and adjourn this matter to the first Monday leave list of the new legal term in October for further consideration of the application on notice to the Minister and the IPAT. I request that the Chief State Solicitor's Office assist the Court by ensuring that a complete set of papers is available to the Court a week in advance of the adjourned date and acknowledge in advance that this is not a burden which I could fairly impose where the Applicant was legally represented. I take this step because of the serious nature of the issues arising and the potentially negative impact of a decision on this application for the Applicant's protection claim.