



An Binse Achomhairc Fostaíochta
Employment Appeals Tribunal

Employment Appeals Tribunal

Annual Report

2010

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Our Mission

The Employment Appeals Tribunal remains an independent body established to provide a timely, inexpensive and relatively informal means for the adjudication of disputes on employment rights under the body of legislation that comes within the scope of the Tribunal. It is our continuing goal that customers using the services of the Tribunal will be satisfied overall with the service they have received from the Tribunal. The Tribunal remains as committed today, as it did on its establishment day, to the impartial adjudication of disputes between parties.

Our Mandate

The Tribunal was established under Section 39 of the Redundancy Payments Act 1967 and, up to 1977, was known as the Redundancy Appeals Tribunal. In 1977, under Section 18 of the Unfair Dismissals Act 1977, the name of the Tribunal was changed to the Employment Appeals Tribunal.

The Tribunal was originally set up to adjudicate in disputes about redundancy between employees and employers and between employees or employers and the Minister for Labour (now Enterprise, Trade and Innovation) or a Deciding Officer. The scope of the Tribunal was extended over the years and now, in addition to disputes under the **Redundancy Payments Acts 1967 to 2007**, it also deals with disputes under the following legislation:

Minimum Notice and Terms of Employment Acts 1973 to 2005;
Unfair Dismissals Acts 1977 to 2007;
Maternity Protection Acts 1994 and 2004;
Protection of Employees (Employers' Insolvency) Acts 1984 to 2004;
Payment of Wages Act 1991;
Terms of Employment (Information) Acts 1994 and 2001;
Adoptive Leave Acts 1995 and 2005;
Protection of Young Persons (Employment) Act 1996;
Organisation of Working Time Act 1997;
Parental Leave Acts 1998 and 2006;
Protections for Persons Reporting Child Abuse Act 1998;
European Communities (Protection of Employment) Regulations 2000;
European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003;
Carer's Leave Act 2001;
Competition Act 2002;
Consumer Protection Act 2007; and the
Chemicals Act 2008.

The Employment Appeals Tribunal maintains an accessible, informative and updated website at www.eatribunal.ie.

Chairman's Submission to Minister Bruton Minister for Enterprise, Trade and Innovation

Dear Minister

I am pleased to submit the Annual Report of the Employment Appeals Tribunal for the year 2010 to you, in accordance with Section 39 (18) of the Redundancy Payments Acts 1967 to 2007. This is my first report to you as Minister for Enterprise, Trade and Innovation and my tenth Report as Chairman of the Employment Appeals Tribunal.

The Tribunal is an independent quasi-judicial body. Uniquely among all employment bodies, it exclusively deals with individual employment rights issues. It has jurisdiction under eighteen pieces of legislation to deal with issues that arise either during the course of employment or on the termination of the employment relationship.

Claims arising from the termination of the employment relationship are made directly to the Tribunal. These include claims for unfair dismissal, redundancy and minimum notice. Complaints against the Decision of the Minister on employees' rights when an employer had been declared insolvent are also made directly to the Tribunal. Finally, claims in respect of holiday entitlements existing at the time of the termination of the employment relationship may be included with any other claim, appeal or complaint instituted before the Tribunal.

The Tribunal also has an appellate function, adjudicating on appeals from the recommendations or decisions of Rights Commissioners under fifteen pieces of employment rights legislation.

Unusually, claims for unfair dismissal can be made in the first instance either to the Tribunal or to a Rights Commissioner and in the latter case an appeal lies from the recommendation of a Rights Commissioner to the Tribunal.

After two years of unprecedented growth in the referral of cases to a high of 9,458 in 2009 (which amounted to a trebling of its workload over that period) there was a slight drop to 8,778 in 2010. In 2010, the number of redundancy referrals has remained high at 2,951, as did referrals under the Unfair Dismissals Acts, which were 2,157.

Due to the increase in redundancy appeals referred to the Tribunal over recent years, it took the initiative to streamline the hearing of redundancy claims in areas of the high demand. This was a pilot scheme and as a result, the Tribunal disposed of 2,431 redundancy appeals which were 1,000 more cases than disposed of the previous year. Under the Croke Park Agreement the Department has seconded three additional secretaries to the Tribunal to enable it to continue with this initiative during 2011.

However, adjudicating on unfair dismissal cases remains the most complex work carried out by the Tribunal in terms of the time spent on hearings and it also involves extra background work in preparing Determinations for issue to the parties.

The number of appeals from and the implementations for the Recommendations/Decisions of Rights Commissioners rose to 912 in 2010 compared to 808 in 2009, which is an increase of 13%.

The good news is that the number of cases disposed of increased by 30% (29.57%) to 6,064 in 2010 as against 4,680 in 2009.

The Tribunal's policy is to provide an accessible, inexpensive, fair and informal forum for the resolution of employment rights disputes. The increase in the number of appeals to the Tribunal has had the unfortunate consequence of increasing the waiting time it takes for a claimant to have his or her case heard. As already outlined the Tribunal has and continues to take steps to deal with this situation.

The Tribunal is a member of the European Association of Labour Court Judges. This body provides the forum for building upon the working relationship that already exists between employment rights bodies of Europe. It also develops a greater understanding of the statutory employment rights conferred on workers in Europe and the various systems for the vindication of those rights. Representatives of the Tribunal participated in a conference co-ordinated by the Association on "Protecting Marginal Workers" in June 2010 in Rome.

The Tribunal congratulates you, Minister Bruton, on your appointment as Minister for Enterprise, Trade and Innovation and looks forward to a good working relationship with you in our common effort to provide the best service to both employees and employers.

I want to thank both Minister O'Keeffe and Minister Calleary for their support to the Tribunal over 2010.

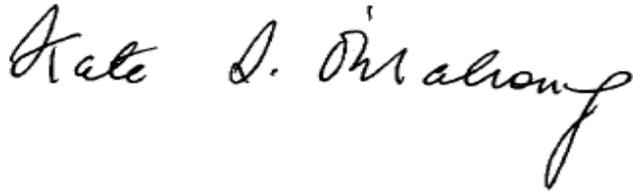
The Department's support is also much appreciated and I look forward to its continuing support to deal with the Tribunal's increasing workload.

The new term for the membership of the Tribunal began in early 2010. A significant change in the membership was introduced this year in that the general term of membership was increased from 3 to 5 years. I welcome the new members who were appointed to the Tribunal in January 2010 and I hope your relationship with the Tribunal will be a happy and fruitful one. I thank all members of the Tribunal whose willingness to deal with extra cases at sittings has enabled the Tribunal to increase its throughput of cases. As usual, your commitment and dedication to the work of the Tribunal is much appreciated.

A special word of thanks to the outgoing Secretary to the Tribunal, Mr Dominic McBride, whose contribution and support to the Tribunal were inestimable. I, on behalf of the Tribunal, wish him a happy retirement. I would like to welcome the new Secretary to the Tribunal, Mr David Small. Secretaries bring their unique gifts to this role. The Tribunal considers itself fortunate in the Secretaries appointed to it.

I thank the staff of the Secretariat for their continuing support and commitment to the work of the Tribunal and for their unfailing courtesy to the users of the Tribunal and its members.

Yours sincerely

A handwritten signature in black ink that reads "Kate T. O'Mahony". The signature is written in a cursive, flowing style.

Kate T O'Mahony
Chairman

Tribunal's Work during 2010

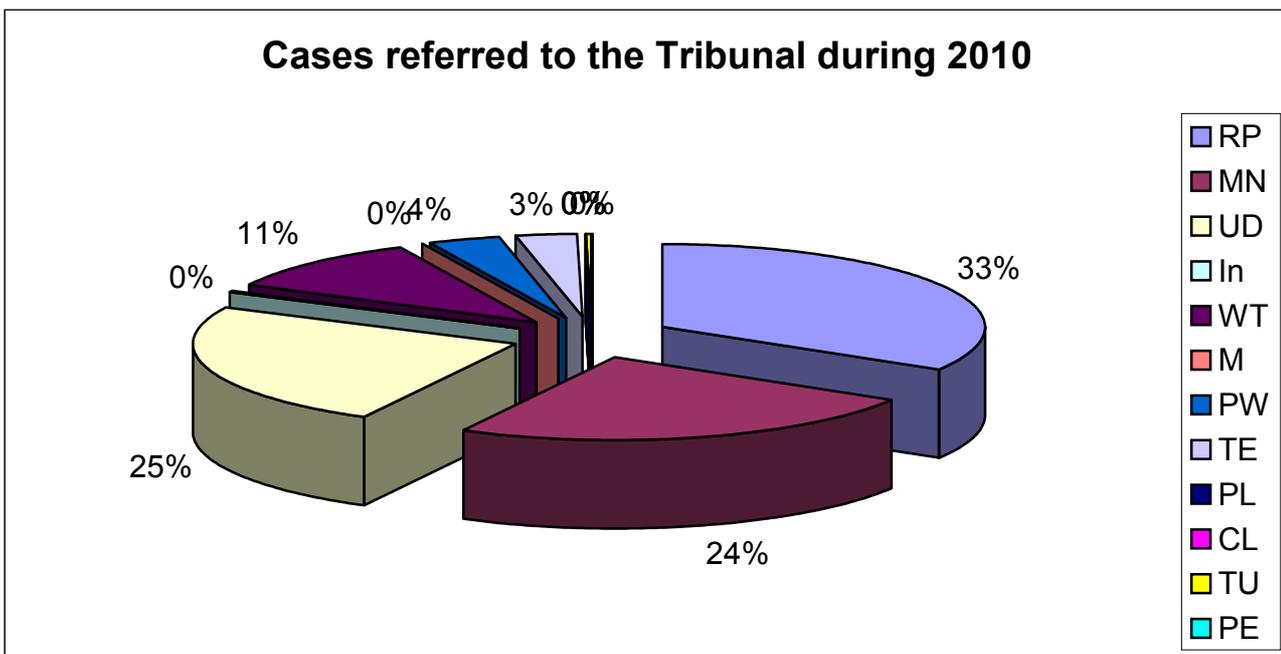
AN OVERVIEW

There were **1,436** sittings of the Tribunal, held at **36** separate locations, during 2010. Of these, **519** sittings took place in Dublin, and **917** sittings were held in provincial areas.

The total number of claims referred to the Tribunal either directly, on appeal from recommendations and Decisions of the Rights' Commissioner Service or implementation in 2010 was **8,778**. The Tribunal disposed of **6,064** claims during the year. This was a **30%** increase over the claims disposed of in 2009.

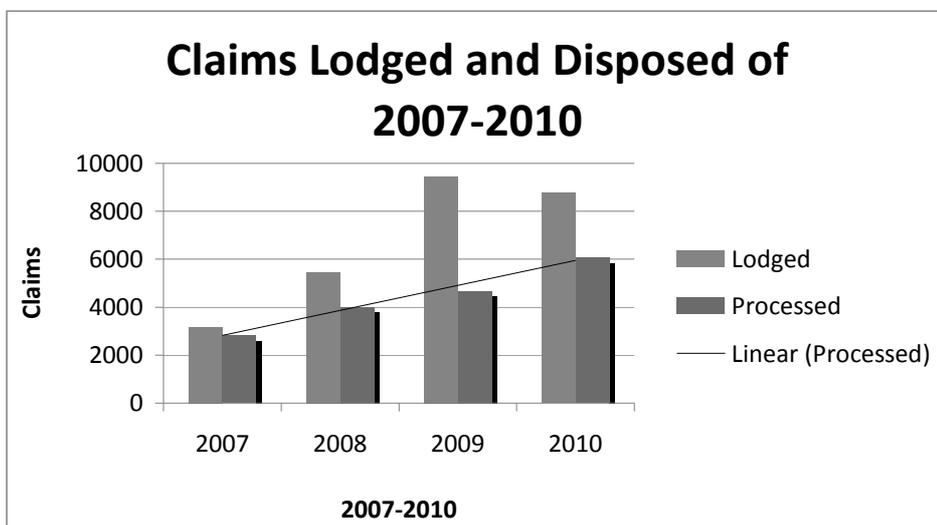
The annual average waiting period to have a claim heard was **58** weeks in Dublin, and was **55** weeks in provincial areas at year's end.

Details relating to the work of the Tribunal in 2010, and the statistical data upon which this Report is based are outlined in ***Statistical Appendices***.



Cases referred and disposed of by the Tribunal under separate pieces of legislation in 2009 & 2010

Legislation	Cases Referred		Cases Disposed of	
	2009	2010	2009	2010
Redundancy Payments Acts 1967-2007	3,008	2,951	1,420	2,431
Minimum Notice and Terms of Employment Acts 1973-2005	2,324	2,118	1,274	1,482
Unfair Dismissals Acts 1977-2007	2,489	2,157	1,182	1,210
Protection of Employees (Employers' Insolvency) Acts 1984-2004	11	5		16
Organisation of Working Time Act 1997	1,059	937	479	619
Maternity Protection Acts 1994 and 2004	6	6	1	2
Payment of Wages Act 1991	257	316	169	138
Terms of Employment (Information) Acts 1994 and 2001	277	264	155	165
Parental Leave Acts 1998 and 2006	3	2		
Carer's Leave Act 2001	2			1
European Communities (Protection of Employees on Transfer of Undertakings) Regulations, 2003	22	21		
European Communities (Protection of Employment) Regulations, 2000	-	1		
TOTAL	9,458	8,778	4,680	6,064



The following gives a breakdown of the cases referred and disposed of by the Tribunal in 2010 under the different pieces of legislation.

Redundancy Payments Acts 1967 to 2007

2,951 appeals were referred under these Acts to the Tribunal in 2010.

Of the **2,431** claims disposed of **994** were allowed, **334** were dismissed, **178** were withdrawn during hearing and **925** were withdrawn prior to hearing.

Minimum Notice and Terms of Employment Acts 1973 to 2005

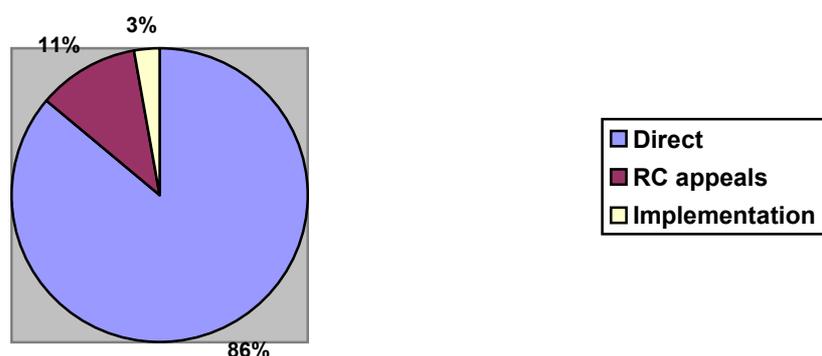
2,118 appeals and claims were referred to the Tribunal in 2010.

Of the **1,482** claims disposed of under the Minimum Notice and Terms of Employment Acts, **460** were allowed, **312** were dismissed, **197** were withdrawn during hearing and **513** were withdrawn prior to hearing.

Unfair Dismissals Acts 1977 to 2007

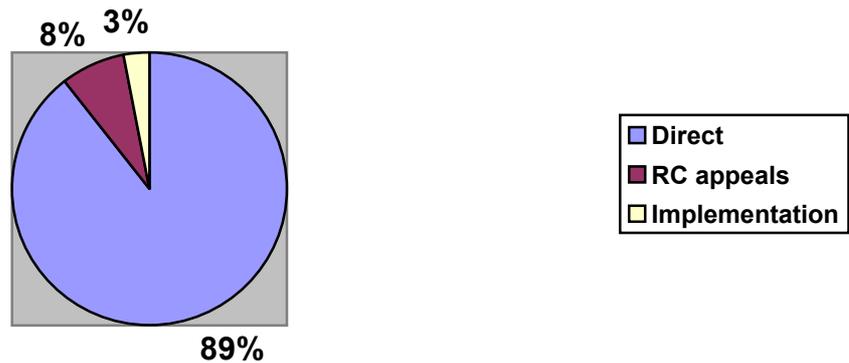
2,157 cases came before the Tribunal during 2010, 86% of which were direct claims. This figures includes **1,855** direct claims, **244** appeals received from the Rights Commissioners and **58** claims for implementation where the Recommendations of the Rights Commissioners were not carried out.

2010 Unfair Dismissal Appeals



1,210 claims were disposed in 2010, 89% of which were direct claims. This figure includes **1,081** direct claims, **92** from appeals to Rights Commissioners and **37** claims for implementation.

2010 Unfair Dismissal Claims Disposed



The breakdown of claims disposed of is as follows;

Of the total of **1,081** direct claims disposed of, **194** were allowed, **237** were dismissed, **215** were withdrawn during hearing and **435** were withdrawn prior to hearing.

Of the **92** appeals against the recommendations of RC referred to Tribunal disposed of, **28** were upheld, **13** were upset, **9** were varied and **42** were withdrawn, either during or prior to hearing.

Of the **37** claims for implementation disposed of where the recommendations of the Right Commissioner were not carried out, **24** claims were upheld and **13** withdrawn.

Forms of Redress

The Tribunal awarded compensation amounting to **€3,485,898.25** in **217** cases. The average compensation awarded by the Tribunal was **€16,064.05**. Re-instatement was ordered in **6** cases and re-engagement was ordered in **3** cases. The distribution of compensation awarded by the Tribunal is shown in Annexe 2.

Maternity Protection Acts 1994 and 2004

6 appeals were referred in 2010 and **2** withdrawn.

Protection of Employees (Employers' Insolvency) Acts 1984 to 2004

5 appeals were referred to the Tribunal in 2010 and **16** allowed.

Payment of Wages Act 1991

316 appeals were referred to the Tribunal in 2010. Of the **138** appeals disposed of by the Tribunal, **44** were upheld, **33** were upset, **12** were varied and **49** were withdrawn.

Terms of Employment (Information) Acts 1994 and 2001

264 appeals and claims were referred to the Tribunal in 2010.

Of the **105** appeals disposed of by the Tribunal, **25** were upheld, **18** were upset, **14** were varied and **48** were withdrawn.

Of the **60** claims for implementation **47** were upheld and **13** were withdrawn.

Organisation of Working Time Act 1997

937 appeals and claims were referred to the Tribunal in 2010. Of the **619** cases disposed of by the Tribunal, **134** were allowed, **122** were dismissed, **131** were withdrawn during and **232** were withdrawn prior to hearing.

Parental Leave Acts 1998 and 2006

There were **2** appeals to the Tribunal during the year ending 31st December 2010.

European Communities (Protection of Employment) Regulations 2000

There was **1** appeal to the Tribunal during the year ending 31st December 2010.

European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003

21 appeals and claims were referred to the Tribunal during the year ending 31st December 2010.

Carer's Leave Act 2001

There were no appeals to the Tribunal during the year ending 31st December 2010 and **1** case withdrawn.

There were no appeals to the Tribunal in 2010 under the following legislation;

- Adoptive Leave Acts 1995 and 2005
- Protection of Young Person (Employment) Act 1996
- Protection for Persons Reporting Child Abuse Act 1998
- Competition Act 2002
- Consumer Protection Act 2007
- Chemicals Act 2008

Average Waiting Period for Cases to be Heard

The unprecedented growth in the referral of cases arising from the turbulence in the Labour Market, which amounted to a trebling of the Tribunals workload over a 2-year period, has impacted on the waiting period.

The annual average waiting period for a case to come for hearing before the Tribunal was approximately **58** weeks in Dublin and **55** weeks in provincial areas. The Tribunal is actively working to reduce this.

Appeals to the High Court

Determinations of the Tribunal, under certain Acts, may be appealed on a point of law to the High Court and may also come before the High Court by way of Judicial Review.

In 2010 **3** such cases were lodged with the High Court.

Appeals to the Circuit Court

Determinations by the Tribunal in cases under the Unfair Dismissals Acts may be appealed to the Circuit Court within six weeks of the date on which the Determinations are communicated to the parties. The procedure for appealing Tribunal Determinations is set out in Circuit Court Rules (www.courts.ie). The regulations also provide a means for the Tribunal to be informed of the referral and result of cases appealed to the Circuit Court.

Approximately **183** cases were appealed to the Circuit Court. From the information received from Circuit Court Offices **8** were adjourned, **45** were pending, **25** struck out, **38** upheld and **2** withdrawn. No information was available in respect of the remaining **65** cases.

Number of Tribunal Sitzings

During the year under review, Divisions of the Tribunal sat on **234** days at **36** different venues throughout the country to suit appellants and respondents. On **106** of these days, **7** or more Divisions of the Tribunal sat which resulted in a total of **742** sittings. The total number of sittings was **1,436** (**519** in Dublin and **917** in the Provinces). The number of sittings at each venue varied from a single sitting at a number of venues in the Provinces to **519** in Dublin. Details of the venues and the number of sittings at each venue are shown in Annexe 3(A). Particulars of Tribunal sittings in 2010 are shown at Annexe 3(B).

Number of Postponements

Cases are set down for hearing and dates notified to the parties, on average five to six weeks in advance of this. Postponements may be granted only in exceptional circumstances. If a postponement is sought immediately, or within 5 working days of receiving the notice of hearing and the consent of the other party to the case has been obtained, it may be granted. If a postponement is sought later and/or without the consent of the other party it is highly likely to be refused. This setting down system, designed primarily for the convenience of parties, renders some applications for postponements inevitable but outside the control of the Tribunal. Postponements, which are applied for too close to the date of hearing and are granted, result in the loss of scheduled Tribunal sitting time. This loss of time adversely affects the setting down system, increases costs, and results in further delays between the date of referral of a claim and the date of hearing for all claimants.

In 2010, the total number of postponement applications was **386** of which **238** were granted and **148** were refused. There were **59** lost sittings days of Divisions due to postponements in 2010.

Applications for Interpreters

The Tribunal facilitates a language interpreter service. Applications for an interpreter must be made before a sitting Division of the Tribunal.

The Tribunal granted **183** applications to have Interpreters at hearings during 2010.

Accessibility

The Tribunal, on request, will take all practicable steps to provide special facilities for a person attending a hearing with disabilities and other special needs. Parties are asked to notify the Tribunal in advance of the hearing of their requirements.

The Tribunal accommodated **2** requests for sign language facilities at hearings in 2010.

Archiving of Files

The Employment Appeals Tribunal is a scheduled body under the National Archives Act 1986. In general, records, which are more than 30 years old, held by scheduled bodies, must be transferred to the National Archives and be made available for inspection by the public. During 2011, the Tribunal will contact the National Archives seeking a direction regarding case files.

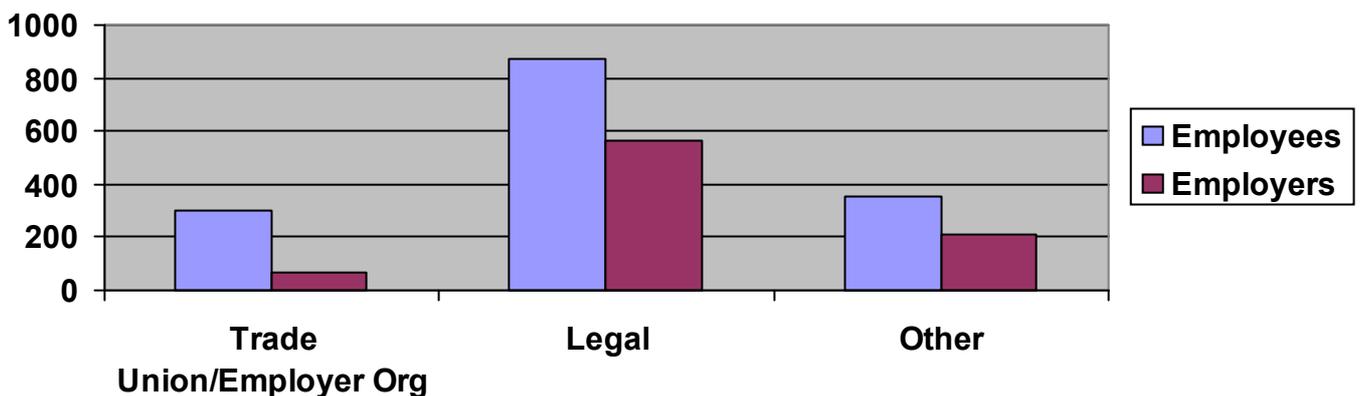
Representation at Hearings

A party to an application may appear and be heard in person, or be represented by counsel or solicitor or by a representative of a trade union or by an employers' association or, with the leave of the Tribunal, by any other person. Any party to a case may have one or more representative(s) acting on its behalf.

Details of the representation under the various Acts or combination of Acts in 2010 are as follows:

- **1,528** employees had representation (**301** (19.7%) by trade unions, **875** (57%) by legal representatives and **352** (23%) other persons).
- **839** employers had representation (**64** (7.6%) by employers' associations, **561** (66.9%) by legal representatives and **214** (25.5%) other persons).

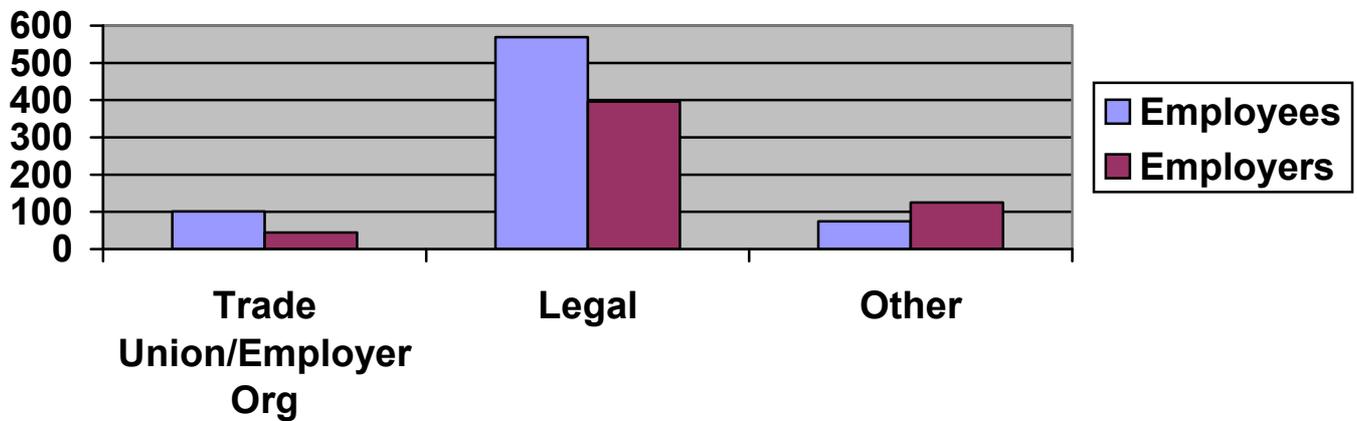
Representation under Various Acts in 2010



Representations for Unfair Dismissals cases are as follows:

- **745** employee parties had representation (by **101** trade unions, **569** by legal representatives and **75** by other persons).
- **566** employer parties had representation (**45** by employers' associations, **396** by legal representatives and **125** by other persons).

Representation under Unfair Dismissal Acts in 2010



Tribunal's Services During 2010

➤ **Customer Service and Charter**

The Tribunal is committed to quality customer service, and to deliver a service that is both effective and efficient, and which at all times is provided in a courteous manner with the minimum of delay. The Tribunal respects the rights of all parties to a claim. A description of the services provided by the Tribunal and how to avail of them, the contact details, relevant publications and frequently asked questions are all available on the website at www.eatribunal.ie.

An information booklet on the Tribunal, as well as ***Guidelines for Practitioners appearing before the Tribunal***, are available free of charge from the Tribunal Secretariat. These booklets are issued to all parties to unfair dismissal disputes prior to hearings. The Tribunal has updated the latter Booklet, in line with the recommendations set out in the Final Report of the Tribunal's Internal Review Group.

The Tribunal maintains a Register of its Decisions and Determinations. The Register is open for inspection, free of charge, by any member of the public during normal business hours at the Office of the Secretariat, Employment Appeals Tribunal, Davitt House, 65A Adelaide Road, Dublin 2. Determinations are also available on the Tribunal website in line with the provisions of the Data Protection Acts.

It is our goal that customers will be satisfied with the level of service they receive from the Tribunal. Comments may be sent to the Employment Appeals Tribunal, Davitt House, 65A Adelaide Road, Dublin 2, or by email to: eat@deti.ie. An online comment card is also available on the Tribunal's website.

The Tribunal is committed to maintaining a high level of customer service.

➤ **Information Technology: EAT Website and EAT online services in 2010.**

The Tribunal's website www.eatribunal.ie continues to be used as an important first contact point for those enquiring about the services of the Tribunal. It is also a valuable tool for the secretariat and members alike. The website contains, *inter alia*, information on making an application, a section on frequently asked questions and the four applications forms in pdf

format. Under publications there are a number of information booklets, which provide guidelines to EAT procedures for all parties involved in a hearing. The section on Determinations (which can also be found under publications) contains the decisions of the Tribunal (in line with the Data Protection Acts i.e. party contact details are excluded). The search function allows users to identify determinations under specific criteria. The website also contains a link to NERA (National Employment Rights Authority) for those users who require general information regarding employment rights.

The following sets out activity on the EAT website from 1st Jan to 31st Dec 2010 and from its launch date 3rd April 2006 to 31st December 2010.

	1/1/2010 - 31/12/2010	3/4/2006-31/12/2010
Hits	3.3m	10.7m
Pageviews	790,417	2.4m
Sessions	149,438	439,107

The Tribunal continues to develop its website facilities in line with eGovernment Strategies.

➤ **Freedom of Information Act 1997**

The Freedom of Information Act 1997 (as amended), when applied to the Tribunal, will cover only the administrative functions of the Tribunal. All information of a personal nature will continue to be protected personal information, as defined by the Data Protection Acts 1988 and 2003.

➤ **European Association of Labour Court Judges**

The Tribunal fosters and continues to build upon the working relationship that already exists between it, and practitioners in employment law in Europe. Representatives from the Tribunal attended the annual conference of the European Association of Labour Court Judges in 2010. The conference took place in Rome on 10th – 12th June 2010.

➤ **Training Seminars**

In April 2010 the Tribunal addressed a training seminar organised by the Citizens Information Board in Dublin. The theme of the seminar was ‘Social Policy: Employment Rights: Enforcement and Redress’. The seminar provided training to information providers who deal with issues on employment and provided them with an understanding of social

policy in relation to employment rights. The Tribunal was invited to address the theme 'Redress for Workers'

➤ **International Visit to EAT by Georgian Delegation**

A study visit to Ireland by a Georgian Delegation, which included the Georgian Minister for Labour, Health and Social Affairs, met with the Tribunal in April 2010. The delegation on their visit to Ireland included in their schedule of meetings a visit to the EAT, to discuss the prevention and resolution of individual collective conflicts, jurisdiction and power of each Tribunal and conciliation and adjudication processes.

➤ **"Information Visits to EAT"**

Tribunal hearings are held in public. Members of the public are welcome to attend any hearing. In addition, it is not unusual for students to visit the Employment Appeals Tribunal or to seek information on the role and operation of the Tribunal. While such requests may be formally presented to the Secretariat, small groups of students may visit the EAT on any given day and sit in on a hearing.

The Tribunal receives requests from both third-level and postgraduate students. These requests generally focus on employment rights legislation and the role of the Tribunal. The Tribunal welcomes first and repeat visits from students from various educational establishments, visits from voluntary sector groups, in particular groups from the Citizens' Information Centres, and from community law groups.

Membership of the Tribunal during 2010

Chairman

Kate T O'Mahony B.L.

Vice Chairmen

Sinead Behan B.L.

Kieran Buckley

Pamela Clancy

Charles Corcoran B.L.

Ann-Marie Courell B.L.

Fiona Crawford B.L.

Emile Daly B.L.

Dorothy Donovan B.L.

Catherine Egan B.L.

John Fahy B.L.

James Flanagan B.L.

Veronica Gates B.L.

Myles Gilvarry

Clodagh Gleeson B.L.

Bernadette Glynn

Dara Hayes B.L.

Graham Hanlon

Eamon Harrington

David Herlihy

Patrick Hurley

Elva Kearney B.L.

Margaret Levey B.L.

James M Lucey

Dermot MacCarthy S.C.

Orna Madden B.L.

Roderick Maguire B.L.

Sean Mahon

Mary McAveety

Jeananne McGovern B.L.

Penelope McGrath B.L.

Saundra McNally

Eamonn Murray

Niamh O'Carroll Kelly B.L.

Leachlain S O Catháin

Mark O'Connell

Jeremiah O'Connor

Peter J O'Leary B.L.

Moya Quinlan

Joe Revington S.C.

Nicholas Russell

Tom Ryan

Jeremiah Sheedy

Tony Taaffe

Employers Panel

Gerry Andrews

Joe Browne

Michael Carr

Pat Casey

Frank Cunneen

John G Flanagan

Moss Flood

Angela Gaule

Tom L Gill

James Goulding

Eamon C Handley

Don Hegarty

James Hennessy

John Horan

Ben Kealy

J J Killian

Con Lucey

Gerry McAuliffe

Cyril McHugh

Finbar Moloney

Don Moore

Desmond Morrison

Michael J Murphy

Roger F Murphy

Michael Noone

William O'Carroll

Tom O'Grady

Aidan O'Mara

James O'Neill

Tadg O'Sullivan

Neil Ormond

Dermot Peakin

Pat Pierce

Peter J Pierson

William Power

Robert D E Prole

John Reid

Máire Sweeney

Liam Tobin

Declan F Winston

Jean Winters

Employees Panel

Frank Barry

Tom Brady

Eveta Brezina

Al Butler

Finbarr Dorgan

James Dorney

Noel Dowling

Patsy Doyle

Mary Finnerty

John Flannery

John Flavin

Tom J Gill

Noirin Greene

Helen Henry

Thomas A Hogan

James Jordan

Hilary Kelleher

Suzanne Kelly

Tony Kelly

Frank Keoghan

Rosabel Kerrigan

Patrick King*

Sean Mackell

Michael McGarry

Alice Moore

Joe Maher

Mary Maher

Dominic McEvoy

Jim Moore

Maire Mulcahy

Helen Murphy

Phil Ni Sheaghdha

Owen Nulty

Seamus O'Donnell

Michael O'Reilly

Ciaran Ryan

Dave Thomas

Paddy Trehy

Gerry Whyte

Owen Wills

Paddy Woods

***Mr King resigned during 2010**

Secretary to the Tribunal

Mr David Small

Overview of Legislation

The Employment Appeals Tribunal is a statutory body established to deal with and adjudicate on employment disputes under the following statutes. *The information given below is intended as a guide only and does not purport to be a legal interpretation.*

Redundancy Payments Acts 1967 to 2007

Under the Redundancy Payments Act 2003 an eligible employee is entitled to two weeks statutory redundancy payment for every year of service together with a bonus week. The majority of the claims disposed of by the Tribunal under these Acts were claims by employees for redundancy payments on the grounds that they were dismissed by reason of redundancy. Other areas of dispute relate to questions as to whether alternative employment offered was suitable; associated companies; change of ownership of trade or business; continuity of employment; lay-off and short-time; calculation of amount of lump sums and normal weekly remuneration.

Minimum Notice and Terms of Employment Acts 1973 to 2005

In 2003, the Protection of Employees (Employers' Insolvency) Acts 1984 and 2001 were amended to allow claims for statutory notice entitlements, where the employer is insolvent, to be made directly to the Insolvency Payments Unit of the Department of Social Protection (previously Department of Enterprise, Trade and Innovation), for payment from the Social Insurance Fund, without recourse to the Tribunal. The Civil Service Regulation (Amendment) Act 2005 extends the provisions of the Minimum Notice and Terms of Employment to civil servants as of 4th July 2006.

Unfair Dismissals Acts 1977 to 2007

The Unfair Dismissals Act 1977 was a major development in Irish employment law. It provides remedies for employees who are found by the Tribunal to have been unfairly dismissed from their employment. The remedies under the Act are: re-instatement, re-engagement or compensation up to a maximum of 104 weeks' remuneration. Claims for unfair dismissal may be initiated with the Tribunal or with a Rights Commissioner. A claim under this Act may only be brought to the Tribunal if one of the parties objects in writing to a Rights Commissioner hearing the claim.

The Unfair Dismissals Acts now apply to most state employees including most civil servants. The exclusion from the Acts for most state employees was removed by the Civil Service Regulation (Amendment) Act 2005 and the relevant sections became operational on 4th July 2006.

Where a claim for unfair dismissal is initiated with a Rights Commissioner, either party may appeal the Rights Commissioner's Recommendation to the Tribunal within six weeks of the date the Recommendation was communicated to the parties concerned.

Maternity Protection Acts 1994 and 2004

Disputes concerning entitlements under the Act must be brought to a Rights Commissioner in the first instance and then to the Tribunal by way of an appeal against the Rights Commissioner's Recommendation.

Protection of Employees (Employers' Insolvency) Acts 1984 to 2004

Financial entitlements of employees who lose their jobs as a result of their employers' insolvency are substantially protected under the 1984 Act as amended. Claims under the Act as amended, take the form of complaints against Decisions of the Minister for Enterprise, Trade and Innovation to refuse all or part of a claim for payment in respect of arrears of wages, arrears of sick pay, arrears of holiday pay or payment of unpaid contributions to occupational pension schemes. Where a doubt exists as to whether a claim is allowable or not, the Minister may refer the claim to the Tribunal for a Decision. Such claims are paid out of the Social Insurance Fund.

The European Communities (Protection of Employees (Employers' Insolvency)) Regulations 2005, S.I. No. 630 of 2005 has extended the Insolvency Payments Scheme to include all awards made by the Tribunal¹. This statutory instrument also extends cover to employees who are employed in Ireland by an employer who has become insolvent under the laws, regulations and administrative procedures of another member state.

Payment of Wages Act 1991

The Act establishes a range of rights for employees relating to the payment of their wages: a right to a negotiable mode of wage payment, a right to a written statement of wages and deductions, and protection against unlawful deductions from wages. The Act allows for an appeal to be made to the Tribunal against the Decision of a Rights Commissioner on complaints in relation to an unlawful deduction from wages.

¹ Awards made by the Tribunal under the Redundancy Payments Acts are also paid out of the Social Insurance Fund.

Terms of Employment (Information) Acts 1994 and 2001

The main purpose of this Act is to impose an obligation on employers to provide a written statement to employees setting out certain particulars of the employees' terms of employment.

A dispute under the Act must first be brought before a Rights Commissioner. It may then be brought before the Tribunal by way of an appeal against the Recommendation of the Rights Commissioner in the matter

Adoptive Leave Acts 1995 and 2005

The purpose of this Act is to entitle female employees, and in certain circumstances male employees, to employment leave for the purpose of child adoption. A dispute under the Act must first be brought before a Rights Commissioner. It may then be appealed to the Tribunal by way of an appeal against the Decision of the Rights Commissioner in the matter.

Protection of Young Person (Employment) Act 1996

This Act provides, that the parent or guardian of a child or a young person, may present a complaint to a Rights Commissioner that an employer has contravened section 13 (preservation of existing rates of pay and conditions) or section 17 (refusal to co-operate with the employer in breaching the Act). An employer or an employee may appeal to the Tribunal from a Recommendation of a Rights Commissioner.

Organisation of Working Time Act 1997

Section 39 of the Organisation of Working Time Act, provides for a solution to difficulties encountered with the enforcement of Decisions of the Employment Appeals Tribunal and other specified bodies under the legislation administered by it, where details relating to an employer are incorrectly set out in a Tribunal Decision. Section 39 allows an employee, where an employer is inadvertently incorrectly identified before the Tribunal, to apply for leave to institute proceedings against the proposed employer, notwithstanding that the time line for instituting such claims might have expired. Section 40 allows an employee or his/her trade union to include a holiday complaint along with any proceedings being taken to the Tribunal in respect of any legislation coming within its jurisdiction.

Parental Leave Acts 1998 and 2006

The Parental Leave Act 1998 came into operation on 3rd December 1998. The Act provides for an entitlement for men and women to avail of unpaid leave from employment to enable them to take care of their young children, and for limited paid leave (*force majeure* leave) to enable employees to deal with family emergencies resulting from injury or illness of certain family members.

Employees and employers are entitled to refer a dispute in relation to an entitlement under the Act to a Rights Commissioner. A reference to the Rights Commissioner concerning a dispute under the Act must be made in writing within 6 months of the occurrence of the dispute. However, disputes concerning the dismissal of an employee are dealt with under the provisions of the Unfair Dismissals Acts 1977 to 2001.

Protections for Persons Reporting Child Abuse Act 1998

The purpose of this Act is to provide protection from penalisation by their employers of persons who report child abuse “reasonably and in good faith” to designated officers of health boards or any member of the Garda Síochána. The avenue of redress for such a person is by way of complaint to a Rights Commissioner. There is also provision for an appeal from the Rights Commissioner by either party, to the Employment Appeals Tribunal. The Act came into operation on 23rd January 1999.

European Communities (Protection of Employment) Regulations 2000

These Regulations amend the Protection of Employment Act 1977, to provide for representation of, and consultation with employees in the absence of a trade union, staff association or excepted body; to provide for a right of complaint to a Rights Commissioner where an employer contravenes section 9 or 10 (information and consultation of employees) and to provide for increases in the levels of fines for offences.

There is a provision for the Rights Commissioner’s Decision to be appealed to the Tribunal within six weeks of the date that the Decision was communicated to the parties. Where a Rights Commissioner’s Decision has not been carried out a case for implementation may be referred to the Tribunal after the six-week period.

European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003

These came into force on the 11th April 2003. They revoke and replace the European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) Regulations 1980, and the European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) (Amendment) Regulations 2000. They provide for representation of, and consultation with, employees in the absence of a trade union, staff association or excepted body. They also provide for a right of complaint to a Rights Commissioner, where an employer contravenes Regulation 8 (the information and consultation provision) and they provide for increases in the levels of fines for offences.

There is a provision for the Rights Commissioner's Decision to be appealed to the Tribunal within six weeks of the date that the Decision was communicated to the parties. Where a Rights Commissioner's Decision, or a Determination of the Tribunal has not been carried out, a claim for implementation may be made after a six-week period to the Circuit Court.

Carer's Leave Act 2001

This Act provides for the entitlement of employees, to avail of unpaid carer's leave from their employment, to enable them to care personally for persons who have been certified by the Department of Social Protection, as requiring full time care and attention.

The Decision of the Rights Commissioner may be appealed to the Tribunal within 4 weeks of the date the Decision was communicated to the parties. This time limit may be extended for a further period, not exceeding six weeks, if the Tribunal considers it reasonable to do so, having regard to all the circumstances.

Competition Act 2002

The Competition Act 2002 consolidated the existing competition and mergers legislation. Section 50 (3) of the Act provides protection for an employee, from penalisation by the employer, where the employee acting reasonably and in good faith, reports a breach of the Act. Schedule 3 of the Act sets out the avenue for redress, which is by complaint to a Rights Commissioner and an appeal lies to the Employment Appeals Tribunal.

Consumer Protection Act 2007

Section 87 of this Act provides protection of employees from penalisation for reporting breaches of the Act.

Chemicals Act 2008

Section 26 of this Act provides protection of employees from penalisation for reporting breaches of the Act.

Composition of the Tribunal

The Redundancy Payments Act of 1967, which established the Redundancy Appeals Tribunal, was enacted on 18th December 1967. The creation of the Tribunal was considered an innovative move, by the State, in the area of employment rights. It was set up to ensure that a worker's statutory entitlement to redundancy was given the force, as well as the full protection of the law. The Act thus established a forum within which the ordinary 'man in the street' could refer a claim to have those rights upheld. Apart from its continuing responsibility to hear appeals under the Redundancy Payments Acts, today, under its revised title, the Employment Appeals Tribunal now deals with cases under eighteen pieces of legislation. These range from claims for unfair dismissal to minimum notice, as well as hearing appeals from decisions and recommendations of the Rights Commissioner Service of the Labour Relations Commission.

The inaugural meeting of the first Redundancy Appeals Tribunal took place on 22nd March 1968, under the guardianship and protection of the first sixteen Members appointed to the Tribunal. The first Chairman, Mr. John Gleeson, led the Tribunal. It heard its first appeal on 18th April 1968. Between that date and 31st December 1968, the Tribunal sat on seventy-five (75) days and heard a total of one hundred and thirty three (133) appeals. Eighty-three (83) of those appeals were heard in Dublin, and the remaining fifty appeals (50) were heard at various other centres around the country. From the start it was clear that the Tribunal would have a countrywide and therefore a national dimension to its work. Forty-two years on, the Employment Appeals Tribunal continues the work started by the Tribunal's 'founding fathers'. Indeed, instead of its early base of sixteen (16) Members, in 2010, following the appointment of a new Tribunal in January 2010, there are now one hundred and twenty six (126) Members of the Tribunal (*See Membership of the Tribunal*).

➤ 2010 Composition of the Tribunal

The new term for the membership of the Tribunal began in early 2010. The Minister for Labour Affairs increased the general term of membership from 3 to 5 years. In the first implementation of this change only 50% of the members were appointed for 5 years. The reason for the two different terms in 2010 was to enable staggering of appointments in order to provide continuity of at least 50% of the membership at each change of term. It is envisaged that thereafter the general term of appointment will be 5 years. Following the appointments, the Tribunal consists of a Chairman, forty three Vice-Chairmen and a panel of eighty two other members, forty-one nominated by the Irish Congress of Trade Unions and forty-one by organisations representative of employers. The Redundancy Payments Act 1979 provides for the appointment of additional Vice-Chairmen and

Members whenever the Minister for Enterprise, Trade and Innovation is of the opinion that such appointments are necessary for the speedy dispatch of the business of the Tribunal.

The Tribunal acts in Divisions, each consisting of either the Chairman or a Vice-Chairman and two other members, one drawn from the employers' side of the panel and one from the trade union side. A Vice-Chairman of the Tribunal, when acting as Chairman (at the request of the Minister or the Chairman) has all the powers of the Chairman. Appeals are heard in public unless the Tribunal, on the application of either party and in the exercise of its discretion, decides that the hearing be heard in private.

➤ **The Secretariat**

The Secretariat is responsible for the administration of claims referred to the Tribunal under various employment rights legislation. Its role is to provide administrative support to the Tribunal in its adjudication on disputes between employees and employers.

Civil Servants, assigned by the Department of Enterprise, Trade and Innovation, staff the Secretariat of the Tribunal. Officers of the secretariat process applications from the date of receipt and act as secretaries at hearings. Secretaries also draft Determinations following Tribunal deliberations, for consideration by the Tribunal. The Secretariat notifies the parties concerned of the Determinations of the Tribunal.

The Secretary to the Tribunal is Mr. David Small.

Glossary of Terms

Claimant	This refers to the person or company who have lodged the claim with the Employment Appeals Tribunal.
Respondent	This refers to the person or company to whom the claim is being brought against.
Division	The Tribunal acts in Divisions, each consisting of either the Chairman or a Vice Chairman and two other members, one drawn from the employer's side of the panel and one from the trade unions side. A Vice Chairman of the Tribunal, when acting as chairman (at the request of the Minister or Chairman) has all the powers of the Chairman.
Withdrawn	An application can only be withdrawn by the claimant or the claimant's representative.
Settlement	The parties have agreed to a settlement. This may happen before the hearing or at any time during the hearing. A Determination will not issue in this case.
Liberty to re-enter	Where a claim is withdrawn but can be re-enter on or before a date specified by the Tribunal.
Representation	A claimant or respondent may appear without representation. Alternatively the claimant and or respondent may choose to be represented by counsel or solicitor, or by a representative of a trade union or an employers' organisation or with the leave of the Tribunal by any other person
Determination	A determination is the decision of the Tribunal recorded in a document signed by the Chairman and sealed with the seal of the Tribunal. Determinations of the Tribunal are entered in a register, which is open for inspection by any person without charge during normal hours at the offices of the secretariat of the Tribunal.

Advisory and Information Bodies

Department of Enterprise, Trade and Innovation

23 Kildare Street
Dublin 2

Tel: +353 1 6312121 or LoCall 1890220222

E-mail: info@deti.ie

www.deti.ie

National Employments Rights Authority

Government Buildings
O'Brien Road
Carlow

Tel: +353 59 9178990 or Lo Call 1890808090

www.employmentrights.ie

The Courts Service

15 - 24 Phoenix Street North
Smithfield
Dublin 7

Tel: + 353 1 888 6000

www.courts.ie

Redundancy Section

Department of Social Protection
Davitt House
65A Adelaide Road
Dublin 2

Tel: NERA at +353 59 9178990 or Lo Call 1890808090

The Companies Registration Office

Parnell House
14 Parnell Square
Dublin 1

Tel: +353 1 8045200

www.cro.ie

Rights Commissioners

Tom Johnson House,
Haddington Road, Dublin 4, Ireland

Telephone: (01) 613 6700

Tel: Lo call: 1890 220 227 (outside (01) area)

www.lrc.ie

The Labour Court

Tom Johnson House
Haddington Road
Dublin 4

Tel: 01 6136666

www.thelabourcourt.ie

Citizens Information

Tel: +353 12 452 1600 or **Lo Call 1890 777 121**
or +353 21 452 1600

Check www.citizensinformation.ie for your nearest information centre

Insolvency Section

Department of Social Protection
Davitt House
65A Adelaide Road
Dublin 2

Tel: NERA at +353 59 9178990 or Lo Call 1890808090

Revenue Commissioners

Check www.revenue.ie for your local revenue office

List of Appendices

- ANNEXE 1(A)** Summary of Claims Referred to the Tribunal in 2010 and the Outcome of the Claims Disposed of in 2010.
- ANNEXE 1(B)** Summary of Appeals against the Recommendations of Rights Commissioners Referred to the Tribunal in 2010 and the Outcome of the Appeals disposed of in 2010.
- ANNEXE 1(C)** Summary of claims for implementation Referred and Disposed of in 2010 where the Recommendations of the Rights Commissioners were not carried out.
- ANNEXE 1(D)** Summary Outcome of All Appeals against the Recommendations of the Rights Commissioners, and of claims for implementation where the recommendations of the Rights Commissioners were not carried out during 2010.
- ANNEXE 1(E)** Average waiting period between date of receipt and date of hearing of cases in 2008, 2009 and 2010 with comparative figures for Unfair Dismissal and Redundancy in the same period.
- ANNEXE 2** Distribution of Compensation awarded by the Tribunal in Determinations of Unfair Dismissal in 2010.
- ANNEXE 3(A)** Number of Sittings of the Tribunal at Various Venues in 2010.
- ANNEXE 3(B)** Particulars of Tribunal Sittings in 2010.

ANNEXE 1 (A)

SUMMARY OF CLAIMS REFERRED TO THE TRIBUNAL IN 2010 AND THE OUTCOME OF THE CLAIMS

Act	Number of Claims referred*¹	Allowed	Dismissed	Withdrawn during Hearing	Withdrawn prior to Hearing	Total Number of Claims Disposed of**²
Redundancy Payments	2,951	994	334	178	925	2,431
Minimum Notice and Terms of Employment	2,118	460	312	197	513	1,482
Unfair Dismissal (Direct Claims)	1,855	194	237	215	435	1,081
Protection of Employees (Employers' Insolvency)	5	16	0	0	0	16
Organisation of Working Time	937	134	122	131	232	619
TOTAL	7,866	1,798	1,005	721	2,105	5,629

*1. Some claims referred in 2010 not yet disposed of

*2. Some claims disposed of in 2010 were referred in 2009

Appeals against the Recommendations of Rights Commissioners are excluded - See Annexe 1 (B)

ANNEXE 1 (B)

SUMMARY OF APPEALS AGAINST THE RECOMMENDATIONS OF RIGHTS COMMISSIONERS REFERRED TO THE TRIBUNAL IN 2010 AND THE OUTCOME OF THE APPEALS DISPOSED OF IN 2010

Legislation	Total	Appeals By Employees					Cases disposed	Appeals by Employers					Cases	Total Disposed
	Referred	No referred	Outcome of Appeals					No Referred	Outcome of Appeals				Disposed	
			Rec upheld	Rec upset	Rec Varied	Appeals Withdrawn			Rec upheld	Rec upset	Rec Varied	Appeals Withdrawn		
Unfair Dismissal Acts 1977-2007	244	154	21	10	2	24	57	90	7	3	7	18	35	92
Maternity Protection Acts 1994 and 2004	6	3	0	0	0	0	0	3	0	0	0	2	2	2
Payment of Wages Acts 1991	316	130	22	21	2	30	75	186	22	12	10	19	63	138
Terms of Employment (Information) Acts 1994 & 2001	157	93	12	10	10	18	50	64	13	8	4	30	55	105
Carers Leave Act 2001	0	0	0	0	0	1	1	0	0	0	0	0	0	1
Parental Leave Act 1995 and 2005	2	1	0	0	0	0	0	1	0	0	0	0	0	0
European Communities (protection of employment) regulations 2000	1	1	0	0	0	0	0	0	0	0	0	0	0	0
European Communities (transfer of undertakings) regulations 2003	21	13	0	0	0	0	0	8	0	0	0	0	0	0
Total	747	395	55	41	14	73	183	352	42	23	21	69	155	338

* Some appeals referred in 2010 not yet disposed of

* Some appeals disposed of in 2010 were referred in 2009

ANNEXE 1 (C)

SUMMARY OF CLAIMS FOR IMPLEMENTATION REFERRED AND DISPOSED OF IN 2010 WHERE THE RECOMMENDATIONS OF THE RIGHTS COMMISSIONERS WERE NOT CARRIED OUT

Legislation	Total number of claims referred	Upheld	Upset	Varied	Claims Withdrawn	Total Number of claims disposed of
Unfair Dismissals Acts 1977 – 2001	58	24	0	0	13	37
Terms of Employment (Information) Acts 1994 – 2001	107	47	0	0	13	60
Total	165	71	0	0	26	97

ANNEXE 1 (D)

SUMMARY OUTCOME OF ALL APPEALS AGAINST THE RECOMMENDATIONS OF THE RIGHTS COMMISSIONERS, AND OF CLAIMS FOR IMPLEMENTATION WHERE THE RECOMMENDATIONS OF THE RIGHTS COMMISSIONERS WERE NOT CARRIED OUT DURING 2010

Total number of appeals & claims for implementation referred	Rec. Upheld	Rec. Upset	Rec. Varied	Appeals Withdrawn*	Total number of appeals disposed of
912	168	64	35	168	435

*Appeals are withdrawn prior to, during or in rare cases at the end of a hearing

ANNEXE 1 (E)

AVERAGE WAITING PERIOD BETWEEN DATE OF RECEIPT AND DATE OF HEARING OF CASES IN 2008, 2009 and 2010 WITH COMPARATIVE FIGURES FOR UNFAIR DISMISSAL AND REDUNDANCY IN THE SAME PERIOD

The unprecedented growth in the referral of cases, which amounted to a trebling of the workload over a two-year period, has impacted on the waiting period.

Annual Average Waiting Period for Dublin			
	2008	2009	2010
Weeks	16	31	58

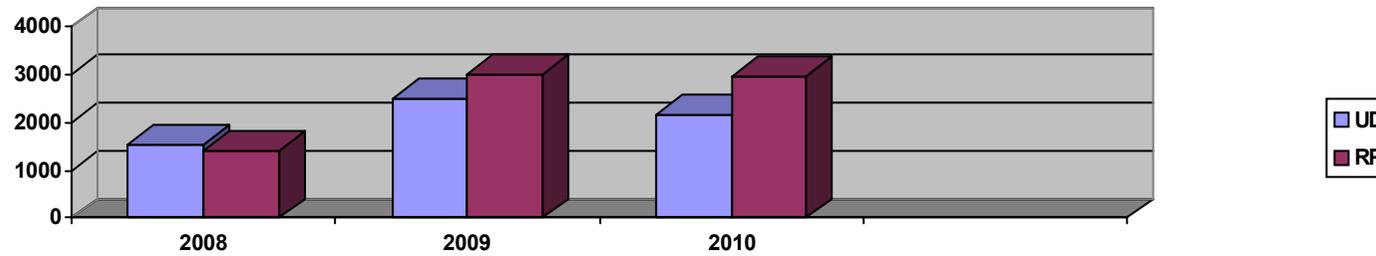
Annual Average Waiting Period for Provincial Areas			
	2008	2009	2010
Weeks	31	32	55

COMPARATIVE FIGURES FOR CLAIMS FOR UNFAIR DISMISSAL and REDUNDANCY WHICH WERE REFERRED TO AND DISPOSED OF BY THE TRIBUNAL IN 2008, 2009 and 2010.

	2008	2009	2010
Unfair Dismissal			
Cases Referred	1,538	2,488	2,157
Cases Disposed	1,224	1,182	1,210
Redundancy			
Cases Referred	1,407	3,008	2,951
Cases Disposed	1,038	1,420	2,431

REFERRED

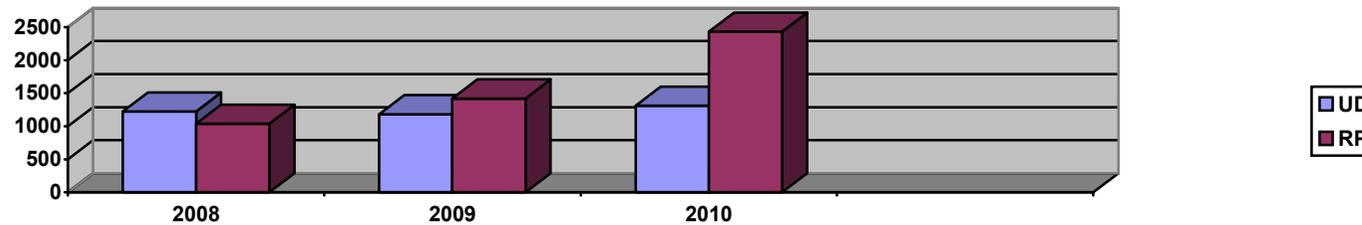
Claims for Unfair Dismissal and Redundancy referred to the Tribunal in 2008, 2009 and 2010



Note: There was a 110% increase in the number of redundancy cases and 40% in the number of Unfair Dismissals referred between 2008-2010

DISPOSED

Claims for Unfair Dismissal and Redundancy which were disposed of by the Tribunal in 2008, 2009 and 2010



Note: There was a 134% increase in the number of redundancy cases and 6.5% in the number of Unfair Dismissals disposed of between 2008-2010

ANNEXE 2

DISTRIBUTION OF COMPENSATION AWARDED BY THE TRIBUNAL IN DETERMINATIONS OF UNFAIR DISMISSAL IN 2010

Total Awarded:	€3,485,898.25
Total Number of Determinations of Unfair Dismissal	217
Average	€16,064.05

Compensation Award €	Number	Compensation Award €	Number
0	1	5001-6000	13
1 - 250	3	6001-7000	6
251 - 500	2	7001-8000	11
501 - 750	3	8001-9000	7
751 - 1000	5	9001-10000	11
1001 - 2000	14	10001-15000	30
2001 - 3000	25	15001-20000	18
3001 - 4000	7	20001-25000	9
4001 - 5000	8	>25001	44

Re-instatement was ordered in 6 cases
 Re-engagement was ordered in 3 cases

ANNEXE 3 (A)

NUMBER OF SITTINGS OF THE TRIBUNAL AT VARIOUS VENUES IN 2010

LEINSTER (14)		MUNSTER (12)		CONNAUGHT (6)		ULSTER (4)	
VENUE	NO. OF SITTINGS AT EACH VENUE	VENUE	NO. OF SITTINGS AT EACH VENUE	VENUE	NO. OF SITTINGS AT EACH VENUE	VENUE	NO. OF SITTINGS AT EACH VENUE
Abbeyleix	12	Ballincollig	6	Carrick-on-Shannon	9	Cavan	10
Athlone	11	Clonakilty	8	Castlebar	23	Donegal	24
Carlow	17	Clonmel	21	Galway	7	Letterkenny	24
Drogheda	16	Cork	212	Loughrea	54	Monaghan	17
Dublin	519	Ennis	25	Roscommon	10		
Dundalk	10	Killarney	27	Sligo	29		
Kilkenny	11	Limerick	49				
Longford	21	Mallow	1				
Mullingar	9	Nenagh	20				
Naas	49	Thurles	3				
Navan	40	Tralee	24				
Tullamore	17	Waterford	36				
Wexford	34						
Wicklow	31						
TOTAL	797		432		132		75

There were 1,436 sittings of the Tribunal held in 36 separate locations during 2010. Of these 519 sittings took place in Dublin and 917 sittings were held in Provincial areas.

ANNEXE 3 (B)

PARTICULARS OF TRIBUNAL SITTINGS IN 2010 Between 1st January – 31st December 2010

No. of days	No. of days 1 Division sat	No. of days 2 Divisions sat	No. of days 3 Divisions sat	No. of days 4 Divisions sat	No. of days 5 Divisions sat	No. of days 6 Divisions Sat	No. of days 7 +Divisions sat	Number of Sittings		Total No. of Sittings	No. of Venues Tribunal sat.
								Dublin	Provinces		
234	0	9	9	18	48	44	106	519	917	1436	36