

ADMINISTRATIVE JUSTICE IN EUROPE

- Report for Ireland -

INTRODUCTION (History, purpose of the review and classification of administrative acts, definition of an administrative authority)

1. Main dates in the evolution of the review of administrative acts

a) The system of administrative law in Ireland is called Judicial Review. It represents the modern evolution of the historic common-law remedies or prerogative writs of *certiorari*, prohibition and *mandamus*.

b) These were developed over centuries by the courts of the common law in England and Ireland. From 1801, Ireland formed part of the United Kingdom of Great Britain and Ireland. (Northern Ireland is still part of that Kingdom). Upon the attainment of independence in 1922, the Irish legal system retained the common system of law which had existed under British rule. The present Constitution was adopted in 1937.

c) The function of judicial review is to control the legality of the expanded public administration of the modern state by ensuring that administrative bodies do not act in excess of jurisdiction. It protects the rights of individuals including rights guaranteed by the Constitution from unlawful acts.

d) There is no single governing law, though a new set of common procedures was laid down in the Rules of the Superior Courts in 1986.

2. Purpose of the review of administrative acts

Judicial Review is not concerned, except as an incident to the foregoing with the good and efficient functioning of the administration. However, a central component of the system is that fair procedures should be observed by administrative bodies in their dealings with individuals.

3. Definition of an administrative authority

There is no single definition of an administrative body. The principles relating to the bodies and acts which it will treat as judicially reviewable are developed in the case-law.

In general, an act must emanate from a public body or a body exercising statutory powers. Relationships governed by private contract are not, in principle, amenable to Judicial Review. However, certain private bodies exercise powers which are so intimately related to public law or affect so comprehensively a particular activity, for instance the cases of professional bodies, that they may come within the purview of judicial review.

4. Classification of administrative acts

All acts of bodies of the type mentioned in the preceding paragraph are, as a matter of principle, subject to judicial review. Acts are not classified by reference to their legal origin or character. The Irish superior courts have power to declare invalid even an act of the Oireachtas (the national parliament).

I – ORGANIZATION AND ROLE OF THE BODIES, COMPETENT TO REVIEW ADMINISTRATIVE ACTS

A. COMPETENT BODIES

5. Non-judicial bodies competent to review administrative acts

Ireland has neither any general body with the function of reviewing the functions or decisions of administrative bodies nor a system of administrative courts. Only the High Court, subject to appeal to the Court of Appeal and/or the Supreme Court, has power of judicial review of administrative acts. Questions 22 and 62 are, nonetheless, relevant and will be answered in turn.

6. Organization of the court system and courts competent to hear disputes concerning acts of administration

Only the High Court has jurisdiction to review administrative acts. Some statutory schemes of regulation contain provision for an appeal on a point of law to a specified court, but that is essentially distinct from judicial review. The system of courts in Ireland is as follows:

Firstly, there are two courts of what the constitution describes as being of “local or limited jurisdiction,” whose decisions are open to Judicial Review. They are:

- District Court: jurisdiction in minor criminal cases (maximum sentence of twelve months imprisonment); limited jurisdiction in a wide range of specified civil matters;

- Circuit Court: jurisdiction to try all indictable criminal cases with a jury (save for the cases of genocide, murder, rape and competition law); extensive civil jurisdiction, including family law, property disputes and damages claims.

Secondly, the High Court is specified by the constitution as having “full original jurisdiction in all matters of law and fact.” High Court alone has jurisdiction to review the validity of administrative acts. It also has power to declare invalid an act of the Oireachtas (the national parliament). The High Court is a court of first instance, though it also hears appeals from the lower courts.

Thirdly, the Court of Appeal is specified by the Constitution as having “appellate jurisdiction from all decisions of the High Court”.

Finally, decisions of the Court of Appeal are open to appeal to the Supreme Court, which is the final court of appeal, if the Supreme Court is satisfied that the decision involves a matter of general public importance, or in the interests of justice it is necessary that there be an appeal to the Supreme Court. The Supreme Court also has appellate jurisdiction from a decision of the High Court, if the Supreme Court is satisfied that there are exceptional circumstances warranting a direct appeal to it, and that the decision involves a matter of general public importance and/or the interests of justice.

B. RULES GOVERNING THE COMPETENT BODIES

7. Origin of rules delimiting the competence of ordinary courts in the review of administrative acts

Article 34.3.1 of the Constitution of Ireland provides that the High Court is invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal. This includes the power of judicial review (i.e. which includes review of administrative acts). The High Court’s power of judicial review is regulated in certain specific cases by legislation.

8. Existence and origins of specific rules related to the competence and duties of the administrative courts or tribunals

There is no administrative tribunal with power to review administrative acts. However, certain statutory schemes of regulation provide for an internal administrative appeal from one administrative level to another. Examples are: planning and development; immigration and asylum; employment disputes.

C. INTERNAL ORGANIZATION AND COMPOSITION OF THE COMPETENT

BODIES

9. Internal organization of the ordinary courts competent to review administrative acts

The High Court consists of thirty six judges including the President of the High Court, who ranks in protocol order third to the Chief Justice of Ireland, who is the President of the Supreme Court and titular head of the judiciary. There are no specialised judges. There are no divisions of the High Court. Judicial work is assigned among the judges of the Court by the President.

The Court of Appeal, which has appellate jurisdiction from all decisions of the High Court, consists of ten judges including the President of the Court of Appeal, who ranks in protocol order second to the Chief Justice.

The Supreme Court, which acts as the final court of appeal in administrative matters, consists of ten judges including the Chief Justice. There are no divisions of the Supreme Court and judicial work is assigned by the Chief Justice.

10. Internal organization of the administrative courts

There are no administrative courts.

11. Status of judges who review administrative acts

All judges who perform the function of judicial review are judges of the High Court or, on appeal, the Court of Appeal and/or the Supreme Court. They do not otherwise belong to any specific category.

12. Recruitment of judges in charge of review of administrative acts

Ireland does not have a system of separate administrative courts and all judges are appointed in the same manner.

The President of Ireland appoints all judges, but on the recommendation of the government. Lawyers seeking appointment to any court must be recommended by the statutory Judicial Appointments Advisory Board. All judges are selected from among the ranks of the practicing legal profession.

The qualifications for appointment to the Courts at all levels are specified by law i.e. in Acts of the Oireachtas (the national parliament). The following are eligible for appointment: lawyers (solicitors and barristers) who have practiced their respective professions for specified numbers of years; and lawyers who are already judges of

another court (e.g. the Court of Justice of the European Communities and the European Court of Human Rights).

13. Professional training of judges

Legal training includes the academic qualifications required for entry into either of the two branches of the legal profession (solicitor and barrister), a specified number of years of professional practice and continuing professional education monitored by the professional bodies.

The Judicial Studies Committee, which was established in 1995, organises training, seminars and study visits for the judiciary.

14. Promotion of judges

Unlike many other countries, Ireland does not have a career judiciary. Judges are generally much older upon appointment than judges in countries with the civil law system, and they generally remain in the Court to which they are first appointed. However, occasionally a Judge is promoted from a lower court to a higher court. It is not uncommon for a High Court Judge to be elevated to the Court of Appeal or the Supreme Court.

15. Professional mobility of judges

Judges are appointed on a permanent basis until retirement (currently fixed at 70 years of age). According to Article 35.4.1 of the Constitution, judges cannot be removed from office except for “stated misbehaviour or incapacity”, which requires a resolution of both Houses of the Oireachtas (national parliament). Judges cannot hold any other office or position of emolument while serving as judges (Article 35.3 Constitution). In particular, it would be incompatible with the judicial function for any serving judge to serve in the public administration without relinquishing his or her judicial position.

See also [14] above.

E. ROLE OF THE COMPETENT BODIES

16. Available kinds of recourse against administrative acts

This answer concerns only the remedies which a judge of the High Court can grant by way of judicial review of administrative acts and not the grounds upon which the court can grant judicial review. The available remedies are:

- certiorari, the most commonly sought remedy, i.e. an order declaring the administrative act to be invalid, essentially for excess of jurisdiction or legal error on the face of the record; this does not entail any power, by way of modification, to substitute a different act; that matter normally must go back to the administration;
- prohibition consists of restraining a body from acting unlawfully in excess of jurisdiction;
- more rarely, mandamus, i.e., an order directed to a public body to perform its public duty as specified in the law; an example of a rare grant of an order of this kind was one obliging a government minister to repair a courthouse which had fallen into disrepair;
- a declaration of relevant legal rights, the validity or otherwise of acts or their interpretation;
- injunction; as an adjunct to its primary powers, particularly those of certiorari and prohibition, the High Court may make an order restraining the public body from continuing to act unlawfully; at the leave stage, the High Court may grant an urgent interim injunction to prevent irreparable damage;
- damages (i.e. monetary compensation); although the Court has power to award damages, no right to damages automatically flows from the declaration that an act is invalid; the applicant must show either lack of bona fides on the part of the public body or establish that some other recognized legal wrong (such as trespass or assault) has been committed under the guise of that act.

17. Existence of mechanisms for the delivery of a preliminary ruling apart from the procedure under the Article 234 of the EC Treaty

No procedure for obtaining a preliminary ruling exists in Irish law.

18. Advisory functions of the competent bodies

The High Court performs a strictly judicial function. It may not perform any consultative or advisory role for public bodies, though the reasoning of its judgments often provide useful guidance.

19. Organization of the judicial and advisory functions of the competent bodies

Not applicable in view of the answer to number 18.

F. ALLOCATION OF DUTIES AND RELATIONSHIP BETWEEN THE COMPETENT BODIES

20. Role of the supreme courts in ensuring the uniform application and interpretation of law

In Ireland, consistency of jurisprudence is maintained in the courts through the doctrine of stare decisis, which holds that a court is bound by its own previous decisions and lower courts are bound by the decisions of the higher courts. The decisions of the Supreme Court, which is the final court of appeal in all civil and constitutional matters, bind all lower courts, including the High Court and Court of Appeal. In the Supreme Court, the doctrine of stare decisis is not rigidly applied, but the Court will not depart from a previous Supreme Court decision unless there are compelling reasons for doing so.

II – JUDICIAL REVIEW OF ADMINISTRATIVE ACTS

A. ACCESS TO JUSTICE

21. Preconditions of access to the courts

Irish law imposes a number of preconditions to the grant of the remedy of judicial review. There is, however, no other general or overriding precondition. There is no general law requiring that administrative remedies be exhausted.

On the other hand, it is a central feature of the remedy of *certiorari*, and is one of the considerations at the stage when leave is sought, that the Court retains a general discretion whether it should grant it when an alternative remedy is available. In particular, the Supreme Court has held that the existence of an alternative route by way of administrative appeal is a circumstance which may be taken into account for that purpose. It is not, however, a precondition.

22. Right to bring a case before the court

Any natural or legal person may, in principle, apply for judicial review of an administrative act which affects him, her or it. On the other hand, the Court may not grant judicial review unless the applicant can show that the applicant “has a sufficient interest in the matter to which the application relates.” Representative or other bodies or groups of persons may find it difficult to meet this requirement. The Court will consider all the

circumstances of the case.

23. Admissibility conditions

See [22] above. In order to exclude vexatious, frivolous or entirely unmeritorious applications, an applicant for judicial review must demonstrate a “sufficient interest” that is affected by the decision challenged. However, it is recognised that it is not in the public interest that decisions of doubtful validity, particularly regarding such matters of broad interest as the protection of the environment or the preservation public monuments, should go unchallenged simply because there is no applicant who is directly affected by the decision. Thus, the “sufficient interest” criterion is interpreted flexibly in accordance with the circumstances of the individual case.

24. Time limits to apply to the courts

An application for judicial review must be made promptly and, in any event, within three months of the date when grounds for the application first arose (six months in the case of certiorari). These periods are specified in the Rules of the Superior Courts which govern the procedural aspects of such applications. The Court has power to extend the time for the making of an application where there is “good reason” for doing so.

The Court will apply these time limits with a different degree of strictness depending on the facts of the individual case. The time is likely to be extended where the applicant’s legal rights have been seriously affected by an invalid act. However, where the administration or a third party has legitimately acquired rights in reliance on the impugned decision, the Court will more strictly apply the time limit.

25. Administrative acts excluded from judicial review

No administrative acts are beyond the scope of judicial review. However, the legislature has, in recent years, required the courts to apply more stringent conditions to attacks on the validity of two categories of administrative decision, namely decisions of the bodies responsible for asylum applications and planning decisions, i.e., decisions to grant or refuse permission for development.

In order to obtain leave to apply for judicial review of such decisions, an applicant must, having given notice to the maker of the decision, satisfy the Court that there are “substantial grounds” for the challenge to the validity of the decision.

26. Screening procedures

Every application for judicial review (with three exceptions mentioned below) is subject to a screening procedure, namely that the applicant obtain, by application made ex parte,

the leave of the Court to make the application. The application is based on a written statement of the grounds verified by affidavit. The applicant is under a duty of “the utmost good faith” i.e. he must make full disclosure of all material facts.

Leave will be granted if the application shows that he has “an arguable case,” a burden which has been described as “light.” All applications are heard by a single judge of the High Court. The decision on the leave application is usually made *ex tempore* or immediately, though the judge may reserve his decision for a short time. On the other hand, the cases mentioned at [25] above are necessarily more complex, where a hearing may take several days and there may be a reserved judgment.

Note: Applications for Review of Award of Public Contracts (principally concerned with EU rules on public procurement: Council Directive 92/50/EEC Public Service Contracts Directive; Council Directive 93/36/EEC Public Supply Contracts Directive; Council Directive 93/38/EEC Public Utilities Contracts Directive) are made (without the leave stage) on notice to the awarding authority from the beginning. The time limit is three months and the courts apply this rule quite strictly.

27. Form of application

The application must be by affidavit in which the applicant must exhibit the originals or copies of any relevant documents. He must also file a Statement of Grounds for Judicial Review. This is the key document. It must contain:

- a statement of the relevant facts;
- a statement of the legal grounds upon which the application is based;
- a statement of the relief sought.

The judge will consider the leave application by reference to the Statement of Grounds for Judicial Review. Any order of the Court granting leave to apply for judicial review will refer to the reliefs for which judicial review may be sought and the grounds which the applicant is permitted to advance.

Though not covered by the question, it is appropriate to mention the procedure following the grant of leave to apply for judicial review. The applicant will be required by the order granting leave to serve the respondent, the legal person or body responsible for the impugned decision, within a specified number of days, with copies of all the papers which were before the Court at the time of the leave application. He may also be directed by the Court to give notice and serve the papers on any third party who may be affected by the application. The respondent, if it wishes to contest the application, must submit and serve on the Court and the applicant a Statement of Opposition to the Application for Judicial Review. The respondent and any such notice party will have the right to submit such replying affidavits as are necessary to verify any facts to be relied on in opposition

to the application.

28. Possibility of bringing proceedings via information technologies

At present, there is no full legislative or regulatory framework in the Irish courts for bringing proceedings via information technologies. It is possible to file submissions and other paperwork for proceedings before the Supreme Court in electronic form, but the files must also be provided in hard copy.

The Courts Service, which provides administrative support to the courts in Ireland, is currently working on a project concerning the implementation of a single and integrated Civil Case Management System. It is envisaged that electronic filing of documents enabling lawyers (and others e.g. amici curiae) to submit documents electronically to the Courts Service would be implemented as part of this initiative. This initiative is in its early stages and is currently addressing the standardisation of business processes.

29. Court fees

All court fees are based on a fees order. Some court fees are:

Filing an ex parte application: no charge
Filing an affidavit: €60;
Filing a notice of motion: €60;
Filing a notice of appeal: €250;
sealing any order : €24.

(These are the fees as of 31 October 2014)

30. Compulsory representation

Recourse to a solicitor is not compulsory. Litigants in person occasionally make applications for judicial review, but it is difficult for them to comply with the basic procedural requirements.

31. Legal aid

The Attorney General provides funds for applications for limited types of Judicial Review in relation essentially to criminal matters. This is an *ex gratia* non-statutory scheme providing for the payment of legal costs to persons who are unable to afford legal representation. It is a matter for the Court to certify that it is reasonable that the costs of the applicant be paid out of the public purse.

The Legal Aid Scheme is administered by a statutory Legal Aid Board. While legal aid may be granted for judicial review, this is quite rare. More generally, where a case is in any way meritorious, it is nearly always possible to obtain the services of a solicitor in private practice.

32. Fine for abusive or unjustified applications

There is no provision for such a fine

B. MAIN TRIAL

33. Fundamental principles of the main trial

Judicial review, like all litigation in the Irish courts, is based on the common-law tradition and, above all, on the right to an adversarial hearing. It is a fundamental principle of constitutional and natural justice that every party who may be affected by a decision of a Court must be heard by that Court. Judicial review applications are, however, concerned essentially with points of law.

The normal presumption is, therefore, that the evidence will be given on affidavit (sworn written statement) rather than orally. Disputed issues of fact may, however, have to be resolved before the legal points can be decided. Hence, a party wishing to contest the opponent's affidavit, may serve a notice of intention to cross-examine. All hearings are in public. The elements of the hearing will be:

- presentation of the applicant's case consisting of opening the facts as deposed to on affidavit;
- presentation of legal argument on behalf of the applicant;
- in the case of any dispute as to facts, cross-examination of the deponent;
- presentation of the respondent's case, both on fact and law;
- presentation of the case, in fact and in law, for the notice party, if any;
- judgment.

34. Judicial impartiality

The independence and impartiality of judges is fundamental. Article 35.2 of the Constitution provides: "All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the law."

The impartiality of judges is maintained by constitutional principles such as the rule against bias (*nemo iudex in causa sua*), which requires a judge to refrain from hearing a case where there is a reasonable apprehension of bias on his or her part – actual bias need not be shown and the principle rests more strongly on the perception of bias. This reflects the adage that justice must not only be done, but be seen to be done.

35. Possibility to rely on the new legal arguments in the course of proceedings

An applicant is confined to the legal grounds in respect of which he or she obtained an order granting leave to apply (see paragraphs 26 and 27). The Court may, however, at any stage permit an amendment of these grounds. This is a discretionary power to be exercised with the object of doing justice to all, where account must be taken of the intention that leave should first be sought, the time limit for doing so, the interests of the respondent and of third parties.

36. Persons allowed to intervene during the main hearing

Any person or body likely to be adversely affected if the application for judicial review is successful is, in principle, entitled to be heard. If such a person is identified at the leave stage, the order will require that he be notified. Any potentially affected person or body may be joined in the proceedings at any stage and may apply for leave to join in the proceedings.

37. Existence and role of the representative of the State (“ministère public”) in administrative cases

There is no general right for a representative of the State to intervene in judicial review proceedings. However, a very great number of judicial review applications relate directly to the performance of their functions by agencies of the central government. It is the practice that the Attorney General, as legal adviser to the government, nominates counsel for the respondent in such cases. In addition, the Rules of Court require the Attorney General to be notified in the case of any challenge to the constitutionality of any law. Thus, the State is, in practice represented in a very great proportion of judicial review proceedings. In addition, the Courts have a residual power to permit the Attorney General to be heard where he believes that legal matters of great public importance are at stake.

38. Existence of an institution or a person with a role analogous to the French «Commissaire du gouvernement »

There is no such office or institution in the Irish legal system.

39. Termination of court proceedings before the final judgment

Once leave has been granted to apply for judicial review and the applicant has complied with the requirements for service of the proceedings on the respondent, the proceedings may be terminated in the following ways:

- an order of the Court setting aside the order to grant leave, on application of the respondent (a respondent seeking such an order must show very clearly that leave should not have been granted);
- withdrawal of the application by the applicant;
- settlement of the dispute by agreement of the parties (this happens in approximately 5% of cases);
- dismissal of the application based on the failure of the applicant to pursue the claim with reasonable diligence ;
- dismissal of the application where the applicant dies and his legal personal representatives do not, or cannot, take his place as the applicant (for example, where the claim was a purely personal one).

40. Role of the court registry in serving procedural documents

Service on the parties is not the duty of the court registry. The duty of serving the parties rests on the applicant.

41. Duty to provide evidence

The parties, exclusively.

42. Form of the hearing

Article 34.1 of the Constitution requires that hearings are to be in public, except “in such special and limited cases as may be prescribed by law.” In camera hearings (i.e. hearings heard in private) are extremely rare. A notable exception to the general constitutional rule is that family law matters are generally heard in camera. Family law cases are heard in private (in camera) to protect the privacy of the family. Only officers of the court, the parties to the case and their legal representatives, witnesses and such other people as the judge allows will be in the courtroom while the case is being heard.

Section 40 of the Civil Liability and Courts Act, 2004 allows solicitors, barristers, and certain other categories of people approved by the Minister for Justice and Equality to attend family law cases and publish reports. Part 2 (Sections 3 to 12) of the Courts and Civil Law (Miscellaneous Provisions) Act, 2013 allows bona fide representatives of the Press attend family law cases (subject to the right of the judge to exclude any such representatives) and to publish reports. The publication of reports of family law cases is allowed under these Acts on the strict condition that no names, addresses or any other

details which might identify the parties can be used. See also [33] above.

43. Judicial deliberation

Judicial review proceedings are conducted in the High Court, with very rare exceptions, by a single judge. Appeals are heard by the Court of Appeal sitting as a court of three judges and/or Supreme Court sitting as a court of three or five judges. Deliberations (which can only take place where there is more than one judge) take place entirely in secret and entirely at the discretion of the judges.

C. JUDGMENT

44. Grounds for the judgment

The judgment is given by the individual judge who heard the case. Every judgment is required by law to contain both detailed findings of the fact upon which it is based as well as a full explanation of the applicable legal principles and, most importantly, the relief or remedy granted or refused. The explanation of the reasons for the decision must be sufficient to enable the parties to understand why it has been made and, where applicable, to enable the parties to consider other remedies, especially appeal.

45. Applicable national and international legal norms

The reference norms for Irish courts in deciding judicial review applications are as follows:

- the legal provisions upon which the decision is based (statute or common law);
- the rules regarding the observance of fair procedures, particularly constitutional principles such as the right to a fair hearing by the administrative body (*audi alteram partem*); and impartiality of decision-maker (*nemo iudex in causa sua* – see [34] above), which requires the absence of actual or perceived bias (the decision-maker must have an open mind and must have no conflict of interest);
- constitutional protection of personal and fundamental rights (including the above) but also including the right to fair and equal treatment, respect for fundamental rights to property, personal liberty, freedom of expression of assembly and of association, a good name, to education, to family and others);
- the European Convention of Human Rights, which was incorporated into Irish law at a sub-constitutional level by the European Convention on Human Rights Act 2003 ;
- the Treaties Establishing the European Communities and the Treaty on European Union.

46. Criteria and methods of judicial review

At all stages of judicial review the procedure is adversarial. The Court relies solely on the arguments and materials placed before it by the parties. It is for the parties to suggest the grounds upon which a decision may be held unlawful. The Court does not conduct any inquiry of its own.

In the case of the exercise of discretionary powers, the courts generally follow the principle that matters of policy and individual decision are for the bodies to which the legislature, on behalf of the people, has assigned them and that it is no function of the judges to substitute their view even when they might disagree. This is expressed in the terms of the *Wednesbury* principles, expressed in Irish law in the cases of *State (Keegan) v Stardust Compensation Tribunal* [1986] I.R. 642 and *O’Keeffe v An Bórd Pleanála* [1993] 1 I.R. 39.

The courts will not interfere with a discretionary administrative decision unless it is shown to be irrational, i.e., it is so unreasonable that no reasonable person or body exercising that power would have made that decision. The same principles are applied both by the High Court and by the Supreme Court on appeal. In the cases concerning the award of public contracts, review is based on the standard laid down in the case-law of the Court of Justice.

However, it may be noted that the Courts have more recently applied higher standards of review in certain cases. For example, the “anxious scrutiny” test, developed in England and Wales, has been applied in judicial review cases where important fundamental rights are affected e.g. concerning decisions on refugee applications. The Courts have also referred in some cases to the proportionality test e.g. in 2004 the High Court quashed a decision of a prison governor denying a prisoner any access to the media on the grounds that it was not a proportionate measure. The place of these higher standards in judicial review has not yet been settled.

47. Distribution of legal costs

Costs are entirely at the discretion of the Court. After judgment, the Court decides which party is to bear costs. The general rule is that the losing party must bear the costs of the successful party.

48. Composition of the court (single judge or a panel)

The High Court generally sits as a one-judge court. On rare occasions a divisional court of three judges sits due to the importance of the case.

The Court of Appeal always sits as a panel of three judges.

The Supreme Court always sits as a panel of judges. In general, the Court will sit as a panel of three judges or five judges, depending on the importance of the case and whether the case poses novel questions of law.

49. Dissenting opinions

Each judge is free to give his own judgment. Although it is quite common for all members of the Supreme Court to agree with one judgment, it is quite common for each judge to deliver his own judgment, whether concurring or dissenting.

50. Public pronouncement and notification of the judgment

Judgments are always delivered in public. The vast majority of judgments are provided in written form and delivered at a later date than the final hearing. However, in cases where the result is very clear, it is given directly following the hearing of an appeal in an *ex tempore* judgment.

All written judgments of the High Court, the Court of Appeal and Supreme Court are published on the website of the Courts Service (www.courts.ie). All judgments of the Supreme Court are also published on the website of the Supreme Court (www.supremecourt.ie).

D. EFFECTS AND EXECUTION OF JUDGMENT

51. Authority of the judgment. *Res judicata, stare decisis*

The judgment, in strict principle, binds only the parties to the proceedings. It may have effect *erga omnes* if it invalidates a decision relating to others. This aspect will, however, have been considered in the judgment. Other affected parties may have been heard. Where they have not been heard, they may be in a position to claim that they have acquired vested rights. Any judgment in judicial review will also potentially affect the rights of others in similar legal situations, by reason of the status of the decision as a precedent. Such persons are not directly affected by any decision in a case to which they were not party.

52. Powers of the court in limiting the effects of judgment in time

Irish courts do not have any general power to limit the effects of their judgment in time.

53. Right to the execution of judgment

Firstly, declarations of invalidity take effect automatically. An administrative body may not rely on an act which has been declared invalid by a court. Otherwise, the Courts are not concerned with the execution of their decisions. They do not initiate any steps to enforce their decisions. It is for the parties to take all necessary steps to see that decisions in their favour are respected.

The Court has power to grant an injunction to restrain repetition or continuance of unlawful behaviour. A party who disobeys such an order is amenable to the Court for contempt of its order. In cases of contempt, the Court has very extensive power, when that is invoked by a party, to fine, to imprison or to sequester assets.

54. Recent efforts to reduce the length of court proceedings

The Irish courts have a policy designed to reduce delay in the disposal of cases. The courts are fully aware of the decisions of the European Court of Human Rights concerning delay. The courts have become stricter in imposing respect for time limits, whether the limits are expressly or implicitly imposed. Legislation enacted in 2002 requires that the Courts Service must maintain a Register of reserved judgments (a reserved judgment is one where the decision (or reasons for the decision, or both) are not announced by a court immediately following the end of the action). In effect, cases must be listed for final judgment where judgment has not been given within a period of two months.

E. REMEDIES

55. Sharing out of competencies between the lower courts and the supreme courts

See question 6. Only the High Court, at first instance, and the Court of Appeal and/or Supreme Court, on appeal, have competence in matters of judicial review. The lower jurisdictions have no competence to review the validity of administrative decisions. The Supreme Court is not strictly restricted, in the exercise of its appellate function, to consideration of points of law. It may reconsider decisions on matters of fact except when the High Court has based its decision on the assessment of credibility of witnesses heard orally.

56. Recourse against judgments

See paragraph 55.

F. EMERGENCY AND SUMMARY PROCEEDINGS / APPLICATIONS FOR INTERIM RELIEF

57. Existence of emergency and/or summary proceedings

The High Court has no power to declare an administrative act invalid except in accordance with the procedure laid down by the Rules of Court outlined above (see the information at [24] to [27] above). In cases of exceptional urgency, the High Court may abridge the relevant time limits, although this would require the agreement of the relevant administrative body.

Since the administrative body will normally be a State authority, it will usually wish to cooperate with the court where such urgent circumstances arise. There is no special rule governing such a procedure. It is very likely that the same judge would hear the original application (i.e. the leave application where the judge decides whether to allow judicial review) and the substantive application.

As stated at [16] above, as an adjunct to its primary powers, particularly those of certiorari and prohibition, the High Court may make an order restraining the public body from continuing to act unlawfully; at the leave stage, the High Court may grant an urgent interim injunction to prevent irreparable damage;

58. Requests eligible for the emergency and/or summary proceedings

As explained, no such emergency or summary jurisdiction exists.

59. Kinds of summary proceedings

For the reasons given at paragraph 57, no. It should be added that, in 2004, new rules were adopted governing Commercial Cases in the High Court, including Judicial Review, where the value of the subject-matter exceeds €1,000,000. This involves a case-management conference convened by order of the judge. The judge may fix a timetable for each step in the preparation of the case. The object is to provide a speedy procedure appropriate for commercial cases. The judge plays a much more active role in the preparatory stages than in other cases.

III – NON-JUDICIAL SETTLEMENT OF ADMINISTRATIVE DISPUTES

60. Role of administrative authorities in the settlement of administrative disputes

There is no reason, at the level of general legal principle, why administrative bodies should not settle administrative “disputes.” However, each case will depend on the individual circumstances. In particular, an administrative body may not have the power to revoke a decision already made under its statutory powers, particularly if a third party has acquired rights which he or she is unwilling to revoke.

61. Role of independent non-judicial bodies in the settlement of administrative disputes

Insofar as the settlement of administrative disputes involves the revocation or amendment of decisions already made, see paragraph 60. The particular statute might, of course, permit such a course. That will be unusual.

62. Alternative dispute resolution

See paragraphs 60 and 61.

IV – ADMINISTRATION OF JUSTICE AND STATISTIC DATA

A. FINANCIAL RESOURCES MADE AVAILABLE FOR THE REVIEW OF ADMINISTRATIVE ACTS

63. Proportion of the State budget allocated to the administration of justice

There is no separate budget for administrative justice (judicial review). It would constitute a small and indistinguishable part of the entire budget for the administration of justice, which includes, notably, the costs of all the criminal courts.

64. Total number of magistrates and judges

The total number of judges in Ireland is 164.

65. Percentage of judges assigned to the review of administrative acts

Of 36 High Court Judges approximately five are allocated at any one time to administrative law (judicial review). The Court of Appeal contains 10 Judges. The Supreme Court contains 10 Judges. Therefore, of the total number of 164 judges approximately 34% are assigned to the review of administrative acts. However, it may be noted that the Supreme Court is not solely an administrative court but is the final court of appeal in all civil and constitutional matters.

66. Number of assistants of judges

There are currently approximately 40 judges' judicial assistants and judicial researchers in the Irish courts. The Chief Justice has an assistant (Executive Legal Officer) for legal and administrative matters. Judicial researchers are assigned to judges of the High Court, which deals with judicial review of administrative decisions. At any one time, 3-4 judicial researchers will be assisting judges dealing with judicial review. There are also currently 6 'judicial researchers' who work in the Judicial Researchers Office which provide research assistance for the entire judiciary.

67. Documentary resources

The judges have an excellent judicial library at their disposal, comprising all modern British and Irish sets of law reports and a wide range of text books on all legal topics.

Excellent text books have been published in Ireland in recent years. The leading Irish textbook by Mr. Justice Hogan of the Court of Appeal and Professor Morgan on Administrative Law in Ireland, 4th edition (2012) is a work of great authority. Another textbook published is De Blacam Administrative Law (2009).

Judges also have access to a wide range of legal databases including Westlaw (www.westlaw.ie), Justis (www.justis.com), LexisNexis (www.lexis-nexis.com/professional) and Heinonline (www.heinonline.org). They also have access to free databases which contain statutes, statutory instruments and judgments of domestic and international courts.

In addition, the Judicial Studies Committee publishes a legal journal on a biannual basis, which regularly contains articles on judicial review. See www.jsijournal.ie.

68. Access to information technologies

All Supreme, Appeal and High Court judges have PCs in their chambers and portable Tablet PCs with unrestricted access to the internet and e-mail. All Supreme Court, Court of Appeal and High Court judges are also provided with a Blackberry.

Digital Dictation software is installed on all Supreme, Appeal and High Court Judges PCs and Tablet PCs, and is also installed on all PCs used by the secretaries working with these Judges. Speech recognition software is made available on laptop PCs where requested.

All Judges' Secretaries, Supreme Court Office staff and the Executive Legal Officer to the Chief Justice have PCs at their desk providing e-mail and internet access.

69. Websites of courts and other competent bodies

The website of the Irish Courts Service, www.courts.ie, is a valuable aid to legal research. It covers all Irish statutes, Rules of the Superior Courts and access to decisions of the superior courts (High Court and Supreme Court).

In addition, the Supreme Court has its own website, www.supremecourt.ie, which provides information on the composition, jurisdiction, members and judgments of the Court. It also provides other information such as the text of the Constitution of Ireland, a bibliography of constitutional law and links to relevant websites. Information is available in Gaelige, English, French and German.

B. OTHER STATISTICS

70. Number of new applications registered every year

Note: For a number of reasons it is not advisable to draw any general conclusions from the figures set out below.

First and foremost, the remedy of judicial review is available, not only against administrative decisions, but also against the decisions of criminal courts of summary jurisdiction. Second, the judicial review procedure is frequently used in applications for the prohibition or restraint of proceedings in long-delayed criminal prosecutions. Thus, the figures provided below include many cases taken against judicial decisions in criminal matters which do not concern administrative bodies.

The following figures emerge from the Annual Reports of the Courts Service from 2002-2008:

Year	Asylum	Other	Total
2002	542	755	1297
2003	723	985	1718
2004	1381	1205	2586
2005	758	1262	2020
2006	909	626	1535
2007	1024	659	1683
2008	785	594	1379
2009	749	381	1317
2010	936	645	1581
2011	703	490	1193
2012	440	558	998
2013	385	588	973

While these figures do not necessarily present a reliable guide as to the absolute number of cases in any particular year, (they probably include multiple applications and stages in some cases), they demonstrate that asylum cases consistently represent a significant element in the case-load and that the number of judicial review cases before the courts has fluctuated significantly: the total number of cases, after rising considerably in 2004 and 2005, has gradually fallen since 2008.

71. Number of cases heard every year by the courts or other competent bodies

It is not possible to provide a precise number of cases heard every year by the courts. However, the following statistics relate to final orders made in cases other than asylum matters disposed of in the period 2010-2013:

	2010	2011	2012	2013
Total	144	173	342	224

72. Number of pending cases

This information is not currently available. In any event, for the reasons given at [70] above it would be difficult to ascertain the precise figures for judicial review cases relating to review of administrative decisions only.

73. Average time taken between the lodging of a claim and a judgment

No statistics are available. The volume of Judicial Review business in the High Court is such that, even when cases are fully ready for hearing, it may be several months before the High Court is in a position to assign a date for hearing.

74. Percentage and rate of the annulment of administrative acts decisions by the lower courts

In Ireland the lower courts have no jurisdiction to annul administrative decisions.

75. The volume of litigation per field

The tables at [70] and [71] above provide the only available statistics on this subject.

C. ECONOMICS OF ADMINISTRATIVE JUSTICE

76. Studies or works concerning the influence of judicial decisions against the administrative authorities on public budgets

No statistics are available.