



Judicial Review Reform

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Judicial-review reform to enable acceleration of critical infrastructure and housing

Reform of the judicial-review (JR) process is at the centre of Government plans to speed up the delivery of key infrastructure, primarily through the Planning and Development Act 2024. This is intended to streamline planning/infrastructure projects, address rising JR numbers (especially in planning), and balance access to justice with the public good, introducing faster pathways, clarity on standing, and costs mechanisms, while the government plans further legislation for fundamental reform.

A judicial review is a form of legal challenge where the High Court considers decisions by lower courts, tribunals and other administrative bodies, such as An Coimisiún Pleanála. Its purpose is to ensure decisions are reached properly, fairly and legally, is separate to the planning process and comes after planning is granted or denied, assesses the legal validity, not the merits, of the decision.

Legal reforms aim to restore proportionality in how judicial reviews affect infrastructure. While access to justice remains protected, the reforms will reduce incentives for excessive litigation, clarify rules on standing and remedies, and introduce fast-track pathways for nationally significant projects that are in the common good through the development of new legislation. As almost every planning decision related to critical infrastructure is subjected to judicial review, reforming the law is critical to addressing this key constraint to infrastructural development.

The result of such reform will hopefully be a rebalance of rights towards the common good or public interest, also the proliferation of judicial reviews imposes very real costs on taxpayers and society in general.

In the longer term, the Government plans to develop legislation to codify the law on judicial review by placing it on a statutory basis.

Key Developments & Proposals:

- **Planning & Development Act 2024:** Implemented significant procedural reforms, including faster processes, clearer grounds for review, safeguarding against spurious objections, and addressing costs/standing.

- **Government Action Plan:** Acknowledges the surge in JR cases (especially for critical infrastructure) and commits to fundamental reform via a Civil Reform Bill, exploring interim steps like a public interest test for JR.
- **Aarhus Convention Compliance:** Reforms aim to balance costs and access to justice, introducing a scale of fees and assistance for environmental legal costs to comply with obligations.
- **Focus on Infrastructure:** The primary driver is curbing lengthy delays to major projects (housing, energy, transport, water and waste water) caused by increased JR challenges, which some see as being used by "narrow interests".

Proposed Further Reforms:

- **Statutory Codification:** Legislation to place JR law on a statutory basis.
- **Public Interest Test:** Introducing a test for granting leave for JR in certain cases.
- **Remedies:** Enabling courts to remit cases to the original decision point instead of quashing the entire decision.
- **Reduced Appeals:** Limiting further appeals in planning JR cases.

Stakeholder Reactions:

- **Law Society:** Supports balancing access to justice with efficiency, emphasizing fair, proportionate reforms.
- **Critics:** Some view reforms as an "attack on the rule of law" and access to justice.

In essence, Ireland is in a significant reform phase for its judicial review system, driven by planning bottlenecks, seeking efficiency while navigating complex legal and democratic principles, with legislation ongoing in late 2025 and into 2026.

In support of these reforms, the Irish Government will aim to enact a *Critical Infrastructure Bill* later in 2026 that will create a legal obligation for State bodies to recognise and accelerate key projects through planning, licensing, and other consenting stages.

The bill will also explore options during drafting for incorporating statutory timelines, positive presumptions, and other measures to reduce procedural delays.

Key Features of the Proposed Bill

The Bill, scheduled for introduction and fast-tracking in early 2026, includes the following measures:

- **Designation of Projects:** The Government will have the power to designate specific works (e.g., in housing, water, energy, and transport) as "critical infrastructure" based on their national importance.
- **Statutory Prioritisation:** All State bodies, regulators, and agencies will be under a legal obligation to prioritise these designated projects through planning, licensing, and other consenting stages.
- **Emergency Powers:** The Bill will include emergency provisions allowing the Government to fast-track specific projects during urgent situations, such as energy or climate crises.
- **Streamlined Processes:** It aims to introduce statutory timelines for project delivery and "positive presumptions" to reduce procedural delays.

Targeted Sectors

The legislation primarily targets projects under the €275 billion National Development Plan (2026–2035), specifically in:

- **Energy:** Electricity grid upgrades and renewable energy transmission.
- **Water:** Wastewater treatment plants and water supply.
- **Transport:** Major projects like Metrolink, rail upgrades, and strategic road corridors.
- **Housing:** Large-scale developments on state-owned land.

Although the new Government infrastructure acceleration plan is critical to Ireland's society and economy, it is expected there will be legal challenge to judicial review reforms.

The plan to accelerate the building of vital infrastructure and housing includes "targeted" deregulation to cut delays to big projects, more co-ordination and oversight of big projects in the Department of Public Expenditure and the development of a new "national narrative" to persuade communities of the national importance of big projects planned in their area.

Taoiseach Micheál Martin has stated the Government is not "willingly" entering an extensive period of litigation with people or entities who may wish to challenge the reforms, but he anticipates there will be challenges. "I think the Critical Infrastructure Bill will be legislation that will become law, as

will the emergency powers legislation. In many of the areas, it may not necessarily meet with agreement, but (that) doesn't necessarily mean that all of it will end up in courts. There will be challenges, yes."

The report of the accelerating infrastructure taskforce, intended to overcome increasing delays in the provision of vital public infrastructure and housing, was accepted in full by the Cabinet and is now being implemented.

The report clearly identifies that the Minister and secretary general of the relevant departments are "fully responsible for the implementation of the action".

It is intended that this transparency will create political pressure to ensure the delivery of the reforms as quickly as possible. It will mean that it will be clear if Ministers and departments are not delivering on the reforms in the plan. The report especially forthright on the need to reform the judicial review process, which critics say has been weaponised to prevent necessary developments.