



## **INTERNSHIP REPORT AND SUMMARY**

### **Identification of the participant**

Name: Toledano Cantero

First name: Rafael

Nationality: SPANISH

Country of exchange: SPAIN

### **Identification of the exchange**

Hosting jurisdiction/institution: Supreme Court of Ireland

City: Dublin

Country: Ireland

Dates of the exchange: 3<sup>rd</sup> to 7<sup>th</sup> of November, 2025

## **SUMMARY**

I participated in the ACA exchange programme at the Supreme Court of Ireland. I had a very interesting programme which consisted of observations in several hearings in different kind of procedures and of interviews with a number of judges. The exchange gave me a deeper insight in the position of administrative law in a common law system, which is particularly interesting given the contrast it represents for judges coming from a civil-law system. The stay extended across the different levels of the Irish judiciary and covered a wide range of subject areas.



## **I. Programme of the exchange**

The exchange programme lasted one week, five working days (3rd to 7th of November, 2025), during which I had the opportunity to become familiar with the judicial system of Ireland. Among the activities included in the programme, I was received by the President of the Supreme Court (Chief Justice) and held meetings with most of the Supreme Court judges. I also met with three judges of the Court of Appeal and one judge of the High Court. I attended several court hearings in administrative matters (2), civil matters (1), and criminal matters (1). I was also able to gain detailed insight into the system for registering, processing, and preparing the case files handled by the Supreme Court of Ireland, through an interview with the Supreme Court Registrar. It was a highly rewarding experience, during which I received the support and constant attention of the judges of the Supreme Court, the other judicial bodies, and the staff of the court office. I attach a copy of the programme followed during the stay.

## **II. The hosting institution**

The Supreme Court of Ireland is the highest judicial authority established by the Constitution. The Irish court system is composed of the Supreme Court, Court of Appeal, High Court, Circuit Court, and District Court. The Court of Appeal is the most recent addition, created by constitutional amendment in 2013. The Constitution also permits the creation of statutory courts, including specialised bodies such as the Special Criminal Court.

The Supreme Court is located in the Four Courts complex in Dublin, alongside the Court of Appeal and the High Court. Since 2010, the Four Courts have been dedicated exclusively to civil matters following the transfer of criminal courts to the Criminal Courts of Justice.

The Court consists of the Chief Justice and up to nine ordinary judges, supplemented by the Presidents of the Court of Appeal and the High Court as ex officio members, giving a possible total of twelve. These ex officio members may be called by the Chief Justice to sit on panels when required, a feature that has no equivalent in Spain.

The Supreme Court primarily hears appeals from the Court of Appeal where a case raises an issue of general public importance or where an appeal is necessary in the interests of justice. It may also hear direct appeals from the High Court in exceptional circumstances.

In addition, the Supreme Court exercises constitutional jurisdiction under Article 26, reviewing the constitutionality of Bills referred by the President before they are signed into law. It is also competent to rule on matters relating to the removal or incapacity of the President of Ireland.

## **III. The law of the host country**

One of the most noteworthy features of a common-law system such as Ireland's is that, unlike civil-law systems, there is no specialised administrative jurisdiction. Administrative matters are heard by the ordinary civil courts, so the court that generally deals with administrative

cases is the High Court, with the possibility of appeal to the Court of Appeal and, where appropriate, to the Supreme Court. These courts also hear civil matters, among others.

However, there exists a group of bodies composed of independent members which, although they are not made up of judges and do not replace the function of the judicial courts, do hear administrative appeals at the preliminary stage, and their decisions may then be challenged before the courts. Among these bodies, notable examples include the Planning Appeals Board (An Bord Pleanála), an independent body that reviews decisions of local authorities in planning and development matters, and the Tax Appeals Commission, which resolves tax disputes between taxpayers and the Revenue Commissioners.

These independent bodies make it possible to resolve many administrative disputes satisfactorily for citizens, thereby preventing them from reaching the courts. This represents a significant difference from systems in which prior administrative review is carried out by administrative bodies integrated into the hierarchical structure of the Administration and lacking independence.

During my visit, I was particularly interested in understanding this system of preliminary administrative review in tax matters, conducted before the independent body known as the Tax Appeal Commissioners, and the scope of subsequent judicial review. For this reason, I had the opportunity to attend two tax hearings, one before the Supreme Court and another before the Court of Appeal. The hearing before the Supreme Court raised the determination of when the capital gains had occurred in the sale of a fishing vessel and fishing rights, given that the sale had to be completed with registration procedures with registration procedures in official registers, and whether these conditions were the moment of accrual of the tax, which would imply applying a tax benefit that was approved after the sale. The case before the Court of Appeal r the possibility of appealing against a settlement issued after an agreement between the taxpayer and the tax office, in which the taxpayer withdrew his appeal against a previous settlement, and in relation to this, the period during which the payment of taxes can be demanded (extinctive prescription).

#### **IV. The comparative law aspect in your exchange**

Ireland, unlike many civil-law jurisdictions, does not require the exhaustion of administrative remedies before bringing a case to court. Instead, access to judicial review is filtered through the requirement to obtain leave from the High Court, which considers, among other factors, whether alternative remedies are available. In practice, this means that where prior administrative procedures exist, applicants are expected to pursue them before seeking judicial review. This is particularly true in areas where independent bodies resolve administrative disputes, such as the Planning Appeals Board in planning matters and the Tax Appeals Commission in tax matters, making recourse to these bodies effectively unavoidable.

Proceedings before Irish courts are marked by lengthy and intensive hearings. Judges intervene actively, posing questions and engaging closely with the parties' arguments. Hearings tend to be longer than those typically held in Spain, and judicial panels play a highly participatory role throughout.

The High Court may sit with a single judge or, in exceptional cases, with three. When multiple judges are involved, the designated judge issues the judgment, and the others indicate concurrence or dissent. It is not uncommon for concurring judges to write separate opinions, and dissenting opinions are likewise issued when disagreement arises.

Another distinctive feature of the Irish system is the possibility of appearing before the courts without legal representation. This right extends to administrative matters, enabling individuals affected by administrative decisions to apply for judicial review as lay litigants. During my stay, I attended a hearing in which a self-represented claimant sought an interim measure in a property case. Although such situations are uncommon, they require judges to guide the proceedings carefully and keep submissions within the proper legal scope.

## **V. The European aspect of your exchange**

During my stay, the Supreme Court granted leave to appeal in a case concerning international protection, an issue of significant current importance in Ireland. The proceedings were initiated by the Irish Human Rights and Equality Commission (IHREC) against the Ministry of Children, Equality, Disability, Integration and Youth, alleging that prolonged failures to provide adequate accommodation to applicants for international protection violated Article 1 of the Charter of Fundamental Rights of the European Union (human dignity).

The High Court had upheld IHREC's claim, finding that the State's failure to provide accommodation amounted to a breach of dignity. However, the Court of Appeal reversed that decision on 30 July 2025. While accepting that 2,807 applicants were left without adequate accommodation and exposed to extreme poverty, the Court considered that the evidence did not establish degrading treatment incompatible with human dignity, nor a sufficiently widespread impact on the group's physical or mental health. IHREC appealed this ruling, and on 3 November 2025 the Supreme Court granted leave to appeal ([2025] IESCDT 142).

In the Irish leave-to-appeal system, the Supreme Court specifies the issues that will be addressed. In this case, the Court identified three questions of general public importance:

1. The scope of the right to dignity under Article 1 of the Charter.
2. The appropriate evidentiary standard for establishing violations involving lack of accommodation.
3. The interpretation of section 41 of the 2014 Act, which defines IHREC's statutory powers.

The decision of the Supreme Court will have implications beyond the individual claim, as many applicants for international protection have been affected by similar accommodation shortages. The case also intersects with EU law developments. In particular, the Court of Justice of the European Union issued a preliminary ruling on 1 August 2025 (Case C-97/24), addressing a referral from the High Court of Ireland on access to material reception conditions under Directive 2013/33/EU. The CJEU held that a Member State cannot justify prolonged failure to provide these conditions by invoking temporary exhaustion of accommodation capacity, even if caused by an unforeseeable and sudden influx of applicants.

This broader European context underscores the relevance of the appeal currently before the Supreme Court and its potential impact on the protection of fundamental rights within Ireland and the EU.

## **VI. “Good Practice” within the host jurisdiction**

Among the good practices of the Irish jurisdiction, one can highlight the depth with which hearings are conducted and the intense participation of the judges. Furthermore, the system of admitting cases through leave to appeal, and the earlier filtering mechanism for judicial review applications (leave to judicial review), reduces the number of cases that reach the courts by discarding those that are poorly substantiated or considered indefensible. As a result, it is the claimant’s burden to demonstrate not only that they have a legitimate interest, but also that the case is an “arguable case,” although the assessment of this requirement can be described as not particularly strict (light).

Additionally, the number of judges is quite limited—slightly more than 200 judges in total—which suggests that the preliminary administrative avenues for resolving disputes are effective, and that the filtering system for access to the courts helps maintain litigation at manageable levels.

It is also noteworthy that the preparation of case documentation lies largely with the parties, who in many cases must present this information in a precisely structured manner. In the case of the Supreme Court, parties must adhere strictly to specific formatting and organisational requirements, which facilitates the examination of submissions and the overall coherence of the documentation.

## **VII. The benefits of the exchange**

The work carried out during the exchange has been highly satisfactory thanks to the excellent organisation and support provided by the Supreme Court and its entire office. The stay has given me a broader perspective on administrative justice in a different system, namely the common-law system. The integrative approach to the law adopted by the Irish judiciary, whereby a single judge handles civil, administrative, and other types of matters, allows for a very broad yet coherent understanding. I believe that the comprehensive training in all areas



of law that characterises Irish judges is a valuable strength, and it stands in even greater contrast to systems that tend toward pronounced specialisation in certain areas, including within administrative law itself.

### **VIII. Suggestions**

The exchange programme is very well designed and, in my opinion, fully meets all expectations, thanks in large part to the extensive experience of the Supreme Court of Ireland in organising such exchanges. The opportunity to undertake this stay has provided me with a unique experience of approaching and understanding the different judicial systems, and I consider it highly beneficial for strengthening mutual trust among the courts of the Member States of the European Union.

