Administrative Justice in Europe

1. Could you give the main dates in the evolution of the review of decisions and acts of Administrative authorities?

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. Does the review by the courts of administrative acts and actions aim to submit administrative authorities to law and protect individual rights, in other words to the rule of law? Alternatively, is it only a review of the good functioning of the administration?

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. What is the definition of an administrative authority in your country? Does this definition include all public legal entities and private legal entities exercising public 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. Is there a classification of administrative acts in your country?

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).

5. Is the review of administrative acts undertaken by general bodies related to the administrative authorities and similar to courts?

No. 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 Supreme Court, has power of judicial review of administrative acts. Questions 22 and 62 are, nonetheless, relevant and will be answered in turn.

6. Could you describe the organization of the Court system in your country, indicating which courts or tribunals are competent to hear disputes concerning acts of the 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.

Finally, all decisions of the High Court are, in principle, open to appeal to the Supreme Court, which is the final court of appeal.

7. If the review of administrative acts and action lies within the competence of the ordinary courts, is that competence delimited by texts (such as a constitution, or parliamentary legislation) or by case law ?

The competence of the High Court derives from the general law, regulated in certain specific cases by legislation. Only a court of unlimited jurisdiction, such as that court, could, in principle have power of judicial review.

8. If the review of administrative acts is carried out by administrative courts or tribunals, are the existence, competence and duties of those courts or tribunals governed by specific rules? Are such rules set out in texts or in the case-law?

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.

9. If judicial review is assumed by ordinary courts, describe their internal organization and specify if they comprise specialized chambers, and how these are composed.

The High Court comprises thirty one judges and a President of the High Court, who ranks, in protocol order next after the Chief Justice. There are no specialized judges. There are no divisions of the High Court. Judicial work is assigned among the judges of that court in accordance with need.

10. If judicial review is assumed by administrative courts, present their internal organization. Distinguish between the highest and the lower courts. Could you provide a chart or a diagram?

There are no administrative courts.

11. Do the Judges who review administrative acts belong to a specific category? Specify whether different categories of judges exist according to the various kinds of control of administrative authorities.

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

12. How are Judges in charge of judicial review of administrative authorities recruited?

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 Commission. All judges are chosen from among the ranks of the practising 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: barristers or solicitors who have practiced their respective professions for specified numbers of years; lawyers who are already judges of one of the other courts (including the Court of Justice of the European Communities).

13. What is the professional training of judges in general?

Legal training comprises the respective academic qualifications required from time to time for entry into either of the two branches of the legal profession, a specified number of years practice and more recently, continuing professional education monitored by the respective professional bodies. There is no separate system of training for judges.

14. How is their career structure organized?

As above. Barristers practise exclusively as sole practitioners. Solicitors usually practise as partners in law firms or as employees of state organizations.

15. How is their professional mobility organized?

Judges are appointed on a permanent basis until retirement. They can be removed from office only for “stated misbehaviour or incapacity” on a resolution of both Houses of the Oireachtas. They may not hold any other office or position of emolument while serving as judges. In particular, it would be incompatible with the judicial status for any judge to serve in the public administration, without relinquishment of his or her judicial position.

16. What are the different kinds of recourse against administrative acts and action in your country?

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 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 power, particularly those of *certiorari*,or prohibition, the High Court may make an order restraining the public body from continuing to act unlawfully; at the leave case, the High Court may grant an urgent interim injunction to prevent irreparable damage;

- damages; 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. Do mechanisms exist for the delivery of a preliminary ruling?

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

18. Does a competent body have only judicial functions or does it also have an advisory role vis-a vis the executive or the legislature?

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. Where the body plays both a judicial and an advisory role, how are its respective duties organized?

Not applicable in view of the answer to number 18.

20. Do the highest appeal courts have an instrument or a procedure to ensure the harmonized and uniform application and interpretation of law?

No such instrument or procedure exists in Irish law. The Supreme Court performs its function exclusively by means of its judgments in individual cases. On the other hand, its reasoning becomes part of the general law and will govern future cases unless the circumstances can be distinguished.

21. How significant are the pre-conditions for access to the courts in your system of control of administrative authorities?

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. Who may bring a case before a court (natural persons, legal entities such as associations, companies etc, local authorities or other administrative bodies or authorities)?

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. For every situation, specify the conditions that must be satisfied in order for an application for judicial review to be admissible?

See paragraph 22. The precondition that the applicant demonstrate a "sufficient interest" is designed to exclude vexatious, frivolous or entirely unmeritorious applications. On the other hand, it is recognized 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 for the want of an applicant who is directly affected. Thus, this criterion is interpreted flexibly in accordance with the circumstances of the individual case.

24. Is recourse to the courts subject to time limits?

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 "for good reason." The Court will be more or less strict in its application of these limits 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. Are there certain administrative acts or actions that are not open to review by the courts?

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. Are applications for review by the courts subject to screening procedures?

Yes. Every application (with three exceptions mentioned below)for judicial review 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 paragraph 25 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. Re

27 How must the application be presented? Are there specific forms or is the applicant free to choose the format?

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. Has the possibility of bringing proceedings via the Internet been envisaged in your country or is it already possible? Are their reflections or plans for the introduction of tele-procedures or e- procedures (e- registry office)

There are no immediate plans for the use of the internet.

29. Is there a pecuniary charge for lodging an application for judicial review?

Court fees are based on a fees order. Some fees are: *Ex parte* application: €110; Filing an affidavit: €15; filing a notice of motion: €20; Filing a notice of appeal: €90; sealing any order €20.

30. Is recourse to a solicitor/lawyer or counsel compulsory?

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. As regard the costs of the proceedings, can they be paid through 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. Is there a fine for abusive or unjustified applications?

There is no provision for such a fine

33. Which fundamental principles govern the main trial hearing? The right to inter partes proceedings, the rights of the defence/the right to a fair hearing,

the balance of written and oral elements in the proceedings. Do these principles derive from national law (legislation or/and case-law) or European Law (Convention for the Protection of Human RIghts and Fundamental Freedoms) or both?

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. How is the judicial impartiality ensured in your country?

Independent and impartiality of judges is fundamental. It is based on the common-law tradition, now supported and guaranteed by the constitution.

35. After the application has been lodged, can the applicant rely on legal arguments raised for the first time 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. Which other persons can 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. Is there a representative of the State (ministère public) who may submit pleadings in cases concerning administrative law?

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 Is there, in your legal system, an institution or a person who plays a role analogous to that of role played by the French "commissiare du gouvernement" before the Conseil d État, that is to say, who is completely independent and impartial and who delivers an opinion in open court, analyzing the legal arguments and suggesting how the case ought properly to be disposed of in a case?

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

39. How can proceedings come to an end before a decision is reached by the Court?

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 (about 5% of cases);

- dismissal of the application based on the failure of the applicant to pursue the claim with reasonable diligence

- the same, where the applicant dies and his legal personal representatives do not or cannot reconstitute the applicant (for example, the claim was a purely personal one.

40. Does the court registry forward the various written applications and pleadings to the parties?

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

41. Who is responsible for providing the evidence? The parties or the courts?

The parties, exclusively.

42. How is the hearing conducted? Is it public? Can it take place in camera and in which circumstances? Who can take part in the hearing and how?

Hearings are required by the constitution to be in public. *In camera hearings* are exceptionally rare. Specific exceptions to the constitutional rule are provided for, in particular matters of family law. See paragraph 33.

43. When and how is judicial deliberation conducted? Who can take part in it?

Judicial review proceedings are conducted in the High Court, with very rare exceptions, by a single judge. Appeals are heard by the 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.

44. How are the grounds of the decision given? In details or more briefly?

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. What are the reference norms {International norms, European norms (convention for the Protection of Human Rights, Community Law) Constitution, law, jurisprudence, personal conviction}?

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 the right to a fair hearing by the administrative body (*audi alteram partem);* independence of decision-maker (*nemeo judex in causa sua);* 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, especially as imported into Irish law by the European Convention of Human Rights Act, 2003.

- the Treaties Establishing the European Communities and the Treaty on European Union.

46. Which criteria and methods of review are used by the court?

First and last, the procedure is adversarial. The Court relies only 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 are governed by 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.

47. How are legal costs apportioned?

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. Is it more usual for the case to be decided by a single judge or by a number of judges?

Almost always a single judge in the High Court. Three or five judges in the Supreme Court.

49. Where the case is heard by several judges, is the expression of individual judicial opinions allowed?

Yes. 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. Is the decision delivered in writing or orally?

Judgments are always delivered in public and almost always in writing. In cases where the result is very clear, a Court may deliver an *ex tempore* judgment.

51. What is the authority of the decision? *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. Can the Court limit the effects of the judgments in time?

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

53. Is the right to the execution of judicial decision guaranteed in your country? Specify if it is unformally guaranteed, or through a specific judicial procedure. Indicate if there is a distinction between implementation of the judgment by administrative authorities and implementation of the judgment by private persons. Specify if the court has the power of injunction, possibly completed by coercive fine, in order to secure compliance with the judicial decision?

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 sequestrate assets.

54. Is there a policy in your country to reduce the length of time needed for the proper disposal of cases before the Courts? If so, how is that policy implemented

The courts have a policy designed to reduce delay in the disposal of cases. The decisions of the European Court of Human Rights are well known. The courts have become more strict in imposing respect for time limits either those expressly or implicitly imposed. Legislation now provides for a register of reserved judgments. In effect, cases must be listed where judgment has no been given within a period of two months.

55. How are the various functions or/and competencies shared out between the lower courts and the supreme courts?

See paragraph 6. Only the High Court, at first instance, and the 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. Are there remedies to challenge a judgment before a higher court? Describe these remedies and their functioning?

See paragraph 55.

57. Are there emergency and summary jurisdiction 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 paragraphs 24 to 27). In cases of exceptional urgency, the High Court may abridge the relevant time limits, though this would require the agreement of the relevant administrative body. Since that will normally be a state authority, it will usually which 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, i.e., the leave, and the substantive application. (It is assumed that this question does not concern the power to grant injunctions).

58. What type of requests can be made to the emergency and summary jurisdictions? Ascertainment of a situation? The obligation for administrative authorities to communicate a document? The suspension of the execution of an administrative act? The payment of a provision?

As explained, no such emergency or summary jurisdiction exists.

59. Are there different kinds of summary jurisdiction? General or specific to certain litigants?

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.

60. Can disputes be settled by administrative authorities themselves? How?

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. Can administrative disputes be settled by independent bodies (offices, agencies, ombudsman, mediators, regulation authorities?

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. Can administrative disputes be resolved by means other than recourse to the Courts?

See paragraphs 60 and 61.

63. On average, what proportion of the State budget is allocated to the administration of Justice? Specify for administrative justice when it exists is distinguished from ordinary 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. Specify the total number of magistrates and judges working within the legal system concerned

Of 31 High Court judges about three are allocated at any one time to the performance of the judicial review function.

65. What percentage of judges is assigned to the review of administrative authorities?

See paragraph 64.

66. Apart from registry staff, are judges helped by assistants in their research and decisions? Specify the number of assistants (overall and per judge) and their professional training (university, the Bar etc)

Individual judges have no dedicated research or other assistants. A cadre of some twelve “judicial researchers” are available to the entire judiciary (more than 100

judges.)

67. Do you have a library and what kind of works and documentary resources can be found there?

The judges have at their disposal an excellent judicial library, 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 the UK and Ireland in recent years. The leading Irish textbook, Hogan and Morgan on *Administrative Law in Ireland* is a work of great authority.

68. Do you have access to information technology? In which proportion? And for which kind of task ?

Judges have access to a wide range of legal sources by way of information technology. These resources cover word processing, internal communication by e-mail with colleagues, legal databases such as statutes, statutory instruments and decisions of all relevant courts.

69. Do competent bodies and courts have a website to publicise themselves and to communicate with the public?

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.

70. How many new applications are registered every year with the court registry or the authority in charge of registering them?

Note: it would be very dangerous to draw any general conclusions from the figures set out below for many reasons. 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. Furthermore, the judicial review procedure is frequently used in applications for the prohibition or restraint of proceedings in long-delayed criminal prosecutions. Thus the figures include many cases taken against judicial decisions in criminal matters with no bearing on administrative bodies. The following figures emerge from the most recent Annual Reports of the Courts Service:

JUDICIAL REVIEW APPLICATIONS INITIATED	Asylum	Other	Total
2002	542	755	1297
2003	723	985	1718
2004	1381	1205	2586

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 represent a significant element in the case-load and that, more generally judicial review cases are on an increasing curve.

71. How many cases are heard every year by the court or other competent bodies?

The following statistics relate to final orders made in cases other than asylum matters disposed of in 2003 and 2004:

	2003	**2004**
Declaration	11	15
Injunction	6	19
Mandamus	5	8
Planning	23	28
Prohibition	12	16
Refusal	93	104
Strike out	51	76
Certiorari	106	86
Total	**307**	**352**

72. Could you provide figures concerning cases currently lodged with courts or competent bodies which have not yet been disposed?

This information is not currently available. In any event, its reliability is open to question for the reasons given above.

73. What is the average time taken between the lodging of a claim and judgment?

No statistics are available. The volume of Judicial Review business 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. The lower courts have no jurisdiction to annul administrative decisions.

75. Could you indicate the volume of litigation per field (asylum, foreigners, tax, urban planning etc?)

The above table gives the only available statistics on this subject.

76. No statistics are available.