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Climate change-crisis / Overtourism
Questionnaire

Introduction

In keeping with the Guiding Principle [Leitmotiv] of the Greek presidency of ACA-Europe, the first seminar, which will be held in Athens in November 2025, will focus on the role of the administrative judge when confronted with current challenges related to the climate crisis and the harmful effects of overtourism. The following questionnaire focuses on the six points outlined in the Guiding Principle. The presentation of the regulatory framework in the various countries [international law, European law and national law] and the application of this normative framework by judges in each country will enable us to address questions relating to the effectiveness and relevance of the traditional tools and methods available to judges when they are called upon to rule on disputes concerning the aforementioned challenges.

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Part A: Climate change-crisis

I. The regulatory framework

I.A. Supranational rules

I.A.1. Rules of international law

➥ What international instruments [treaties/conventions] relating to climate change are in force in your country?

✓ Kyoto Protocol

✓ Paris Accords

✓ Aarhus Convention (procedural matters)

✓ Other (please specify)

International Instruments	Source	Description
Aarhus Convention (1998)	UNECE Convention	Ensures public access to environmental information, public participation in decision-making, and access to justice in environmental matters.
Convention on Biological Diversity (1992)	UN Convention	Requires the conservation of biodiversity, sustainable use of its components, and fair and equitable sharing of benefits from genetic resources.

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Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1973)	Multilateral Treaty	Regulates international trade in endangered species to ensure their survival.
Paris Agreement (2015)	UNFCCC Agreement	Commits parties to limit global temperature increase to well below 2°C and pursue efforts to limit it to 1.5°C.
United Nations Framework Convention on Climate Change (UNFCCC, 1992)	UN Convention	Establishes a framework for intergovernmental efforts to tackle the challenges posed by climate change.
Kyoto Protocol (1997)	Protocol the UNFCCC	Commits developed countries to reduce greenhouse gas emissions (first commitment period: 2008–2012; second: 2013–2020, via Doha Amendment).
Montreal Protocol on Substances that Deplete the Ozone Layer (1987)	Multilateral Environmental Agreement	Controls production and consumption of ozone-depleting substances.
Convention on Long-Range Transboundary Air Pollution (CLRTAP, 1979)	UNECE Convention	Aims to reduce and prevent air pollution including greenhouse gases across borders. Ireland is party to key protocols such as the Gothenburg Protocol.
Stockholm Convention on Persistent Organic Pollutants (POPs, 2001)	UN Convention	Protects human health and the environment from harmful chemicals that contribute to environmental degradation.
Minamata Convention on Mercury (2013)	UN Convention	Aims to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds.

➥ What is the formal validity of the aforementioned rules of international law in your country's legal system? (please describe briefly the procedure for incorporating international rules into the legal system)

Article 29.3 of the Constitution of Ireland provides: "Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States." Ireland, although legally bound by the obligations set out in treaties that it has ratified, has a dualist system, which means that sources of international law do not have direct application in Irish law unless they are incorporated in domestic legislation. This is provided under Article 29.6 of the Constitution of Ireland: "[n]o international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas".

I.A.2. EU rules

➥ Which are the main EU climate change rules that have been incorporated into your national legislation?

EU Instruments	Source	Description
EU Climate Law (Regulation (EU) 2021/1119)	EU Regulation	Legally binds the EU to climate neutrality by 2050 and a 55% net reduction in GHGs by 2030.
Emissions Trading System (ETS) Directive (2003/87/EC)	EU Directive	Establishes the EU's carbon market, setting caps and trading allowances for industrial emissions.
Effort Sharing Regulation (Regulation (EU) 2018/842)	EU Regulation	Sets binding annual GHG targets for Member States in sectors not covered by the ETS (e.g. transport, buildings, agriculture).
LULUCF Regulation (Regulation (EU) 2018/841)	EU Regulation	Addresses emissions and removals from land use, land-use change and forestry, requiring no net debit.
Renewable Energy Directive (Directive (EU) 2018/2001)	EU Directive	Establishes binding national targets for the share of renewables in final energy consumption.
Energy Efficiency Directive (Directive 2012/27/EU, as amended by Directive (EU) 2018/2002)	EU Directive	Sets binding energy efficiency targets and obligations on Member States. Revised in 2023 under Fit for 55.
Governance Regulation (Regulation (EU) 2018/1999)	EU Regulation	Requires Member States to adopt integrated National Energy and Climate Plans (NECPs) and long-term strategies.
Marine Strategy Framework Directive (2008/56/EC)	EU Directive	Establishes an integrated strategy for protecting the marine environment, contributing to climate resilience.
Industrial Emissions Directive (2010/75/EU)	EU Directive	Sets limits on air, water, and land pollution from industrial activities, with relevance for climate emissions.
Waste Framework Directive (2008/98/EC)	EU Directive	Establishes the waste hierarchy, supporting circular economy and climate mitigation through waste reduction.
Single-Use Plastics Directive (2019/904/EU)	EU Directive	Aims to reduce marine litter and emissions linked to plastic production and waste.
EU Water Framework Directive (2000/60/EC)	EU Directive	Ensures sustainable water use, with climate adaptation dimensions.
Alternative Fuels Infrastructure Regulation (Regulation (EU) 2023/1804)	EU Regulation	Requires minimum levels of EV charging and alternative fuel infrastructure across Member States.
CO_2 Emissions Performance Standards for Cars and Vans (Regulation (EU) 2019/631)	EU Regulation	Sets fleet-average emissions targets, transitioning toward zero-emission vehicles by 2035.

Fuel Quality Directive (Directive 98/70/EC, as amended)	EU Directive	Regulates fuel standards and mandates reductions in lifecycle GHG intensity of transport fuels.

Other related EU instruments may be cited where relevant within the responses below.

➥ Has your country been the subject of proceedings for failure to fulfil its obligations under EU legislation in this area?

Yes, the Irish government has faced criticism and legal pressure from the European Commission for its failure to effectively manage and remediate the production of waste, for example. This is part of broader systemic issues addressed in several cases, including for example, *Commission v. Ireland* (Case C-494/01), where the Court of Justice of the European Union (CJEU) found that Ireland had breached its obligations under the Waste Framework Directive (2008/98/EC) by failing to prevent widespread unauthorised waste disposal and by neglecting to enforce proper waste management and environmental protection standards.

For another example, in *Commission v. Ireland* (Case C-215/06), the CJEU found that Ireland had failed to carry out an adequate Environmental Impact Assessment (EIA) before construction, in breach of the EIA Directive and was subjected to daily fines for non-compliance with the judgment.

➥ If so, please indicate what stage has been reached in the proceedings (warning letters, Commission appeals, rulings by EU courts)

Rulings by EU courts. Examples are cited above and within the responses below where relevant.

I.B. Rules of national law

I.B.1.1. Does your country have any principles or provisions at constitutional level:

for the protection of the environment in general	☐
for climate change	☐
for the protection of health	☐
for the protection of young people or other population groups	✓

1.B.1.2. If so, do these provisions:

Contain only substantive rules?	✓
Or do they also establish procedural guarantees?	☐

Do they make explicit reference to: solidarity between generations? ☐
the rights of future generations? ☐
✓ vulnerable groups?

The Constitution of Ireland does not contain any explicit provisions for the protection of the environment in general. While environmental protection is a significant aspect of Irish statutory law, particularly through legislation such as the Environmental Protection Agency Act 1992 and the Climate Action and Low Carbon Development Act 2015, there is no constitutional recognition of a right to a healthy environment. The Constitution also contains no reference to climate protection.

Irish courts have at times, explored the possibility of deriving environmental rights from the Constitution's guarantee of personal rights under Article 40.3 of the Constitution of Ireland. However, the Supreme Court in *Friends of the Irish Environment v Government of Ireland* [2020] IESC 49 held that no such freestanding constitutional right exists.

In relation to the protection of health, the Constitution does not explicitly recognise a right to health. Nevertheless, some health-related interests are protected through the doctrine of unenumerated rights under Article 40.3 of the Constitution of Ireland. Courts have recognised rights such as bodily integrity, personal autonomy, and dignity under this provision (see, *Ryan v. AG* [1965] IR 294; *McGee v. AG* [1974] IR 284).

Additionally, Article 45 of the Constitution of Ireland contains Directive Principles of Social Policy that refer to the promotion of health and welfare. Article 45 also refers to the protection of the young and vulnerable, however, these principles are not enforceable in court and serve only as guidance for the Oireachtas (Parliament).

I.B.2. Has the national legislator adopted specific legal instruments to address climate change issues, apart from the legislation necessary to comply with secondary EU law?

✓ yes
no ☐

If so, please briefly mention this legislation, as well as the main content of the relevant substantive and procedural rules.

Yes, in accordance with Article 10(4) of the Constitution of Ireland, which allows for legal provisions to be made for the management and control of land, mines, minerals and waters, Ireland has developed a legal framework that impose positive obligations on the State for environmental protection and in addressing climate change issues. Some examples of these legal frameworks are listed in the table below:

National Instruments	Source	Description
Air Pollution Act 1987	Legislation	Addresses air quality and pollution control.
Air Pollution Act 1987 (Marketing, Sale and Distribution of Fuels) Regulations 1998 (S.I. No. 118/1998)	Statutory Instrument	Regulates the marketing, sale, and distribution of fuels to control air pollution.
Bathing Water Quality (Amendment) Regulations 2024 (S.I. No. 82/2024)	Statutory Instrument	Regulates the quality of bathing waters.
Climate Action and Low Carbon Development Act 2015	Legislation	Framework for Ireland's transition to a low-carbon, climate-resilient economy.
Electricity Regulation Act 1999	Legislation	Regulates electricity production, including renewable energy obligations.
Energy (Miscellaneous Provisions) Act 2012	Legislation	Addresses energy efficiency and sustainability.
Environmental (Miscellaneous Provisions) Act 2011	Legislation	Addresses various environmental issues and updates existing legislation.
Environmental Noise Regulations 2006 (S.I. No. 140/2006)	Statutory Instrument	Implements the EU Environmental Noise Directive.
Environmental Protection Agency (Licensing) Regulations 1994 (S.I. No. 85/1994)	Statutory Instrument	Sets out the licensing procedures for activities regulated by the EPA.
Environmental Protection Agency Act 1992	Legislation	Establishes the Environmental Protection Agency (EPA) and outlines its functions.

Fisheries (Amendment) Act 1997	Legislation	Updates regulations on fisheries and conservation.
Fisheries (Consolidation) Act 1959	Legislation	Regulates fisheries and conservation of fish stocks.
Foreshore Acts 1933–2011	Legislation	Regulates coastal development and environmental impact.
Forestry Act 2014	Legislation	Regulates forestry activities in Ireland.
Local Government (Water Pollution) (Amendment) Act 1990	Legislation	Provides for the control of water pollution by local authorities.
Marine Strategy Framework Directive Regulations 2011 (S.I. No. 249/2011)	Statutory Instrument	Implements the EU marine policy.
National Oil Reserves Agency Act 2007	Legislation	Ensures energy security and environmental sustainability.
Planning and Development Act 2000	Legislation	Regulates land use, environmental impact assessments (EIAs), and strategic environmental assessments (SEAs).
Protection of the Environment Act 2003	Legislation	Implements pollution prevention and control measures domestically.
Radiological Protection Act 1991	Legislation	Addresses nuclear safety and radiation hazards.
Sea Pollution (Amendment) Act 1999	Legislation	Controls marine pollution.
Waste Management (Amendment) Act 2001	Legislation	Updates provisions for waste management.
Waste Management Act 1996	Legislation	Provides for waste management and the establishment of waste management plans.
Water Pollution Act 1977	Legislation	Regulates water pollution and quality.
Water Services Act 2007	Legislation	Regulates water services and water quality.

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Water Services Act 2007 (Water Quality Standards for Phosphorus) Regulations 1998 (S.I. No. 258/1998)	Statutory Instrument	Establishes water quality standards for phosphorus.
Wildlife (Amendment) Act 2023	Legislation	Amend and update the Wildlife Act 1976.
Wildlife Act 1976	Legislation	Protects wildlife and natural habitats.

The Climate Action and Low Carbon Development Act 2015 (as amended by the 2021 Act) is the primary statute governing Ireland's domestic climate policy. The Act establishes a national framework for climate governance aimed at achieving a climate-neutral economy by 2050.

Other related national instruments may be cited where relevant within the responses below.

I.B.3. Does your country have a specific action plan to address climate change?

✓ yes
no ☐

- If so:

↳ What is the level of planning (national, regional, etc.)?

Ireland's climate change action planning is primarily at the national level, coordinated by the Department of the Environment, Climate and Communications. It also includes sectoral plans and regional/local implementation elements through public authorities and local government structures.

↳ Please specify whether this planning is limited to defining policy guidelines (for example: limits on the use of fossil fuels; favouring other forms of energy; support for 'green' investments; improvement of infrastructure, buildings and vehicles - in the public or private sectors; cost sharing for the 'green' transition; special measures for vulnerable population groups; management of climate change-related crises, etc.),

↳ or whether it also contains binding rules?

The planning framework in Ireland goes beyond setting general policy guidelines; it includes binding legal obligations established under the Climate Action and Low Carbon Development Act 2015, as amended by the Climate Action and Low Carbon Development (Amendment) Act 2021. This statutory framework imposes concrete commitments, including:

✓ Legally binding five-year carbon budgets and sectoral emissions ceilings (see Section 6);

- ✓ Mandatory preparation and implementation of National Climate Action Plans, to be updated at least every five years (Section 4);
- ✓ Sector-specific adaptation strategies (Section 5);
- ✓ Establishment of the Climate Change Advisory Council (CCAC) as an independent advisory body with oversight functions (Sections 8–12);
- ✓ Annual progress reports to the Oireachtas, submitted by the Minister, with corresponding obligations for public transparency and accountability (Section 14).

I.B.4. In your legal system [in the Constitution and/or in the laws] is there an explicit obligation for the State and/or other public-sector bodies to adopt positive measures or avoid certain actions in relation to climate change?

In the Irish legal system, there is no explicit constitutional obligation that requires the State or public-sector bodies to adopt positive measures or refrain from certain actions specifically in relation to climate change. The primary source of legal obligations regarding climate change is statutory, particularly the Climate Action and Low Carbon Development Act 2015, as amended, which imposes binding duties on the State and relevant public bodies to take positive measures to mitigate and adapt to climate change. These statutory duties go beyond policy guidance, incorporating legal mandates to plan, report, and act in line with climate objectives.

↳ If so, what is the nature of these measures?

(a) preventive measures

(b) repressive measures

(c) restitution measures

The measures established by Ireland's statutory climate framework are primarily preventive, designed to avoid or reduce emissions and climate impacts through proactive planning and regulation. It includes some repressive elements, mainly through enforcement and penalties for breaches of environmental standards. Some restitution measures exist largely through adaptation and ecosystem restoration efforts.

↳ Do individuals have any rights to ensure that this obligation is met? If so, under what conditions?

Yes, individuals have procedural and limited substantive legal tools to ensure that the State complies with its climate obligations. These are grounded in statutory duties, environmental information access rights, and the ability to bring judicial review proceedings where public bodies fail to comply with climate-related legal requirements.

↳ Is the legal pursuit of this right regulated?

Yes, under Article 9(3) of the Aarhus Convention, members of the public have access to justice in environmental matters. In environmental cases, the courts have applied the standard of "sufficient interest" set out in Article 11 of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (codification) (see, for example, *Grace and anor. v. An Bord Pleanála* [2017] IESC 10).

Citizens are entitled to bring actions for the defence of natural resources and the environment if they can demonstrate that they have standing *(locus standi)* to do so. Judicial review proceedings under Order 84 of the Rules of the Superior Courts are commonly used to challenge environmental decisions. These proceedings usually arise in the context of planning applications and environmental impact assessments.

Environmental Non-Governmental Organisations (NGOs) are also entitled to bring actions for the defence of natural resources and the environment, with organisations such as Friends of the Irish Environment (FIE) and An Taisce frequently bringing cases before the courts. NGOs can rely on provisions in Article 9(2) and 9(3) of the Aarhus Convention and the Planning and Development Act 2000, which grants standing to certain organisations that have been active in environmental matters for at least 12 months.

Public institutions, including the Environmental Protection Agency (EPA) and local authorities, also have enforcement powers under Irish law. The EPA, established under the Environmental Protection Agency Act 1992, has the authority to prosecute environmental offences and issue compliance notices. Local authorities can take enforcement action against breaches of planning and environmental regulations under the Planning and Development Act 2000**.** Additionally, the Attorney General, representing the State, may intervene in environmental matters, particularly when public interests are concerned.

Beyond national courts, individuals and organisations can seek redress through European and international legal mechanisms. Complaints about breaches of EU environmental law can be submitted to the European Commission, which may refer infringement proceedings to the Court of Justice of the European Union. For example, in Case C-261/18 *Commission v. Ireland*, the CJEU found that Ireland had failed to properly conduct environmental impact assessments under the Directive

2011/92/EU on the assessment of the effects of certain public and private projects on the environment (codification).

Furthermore, individuals may bring cases before the European Court of Human Rights if environmental damage affects fundamental rights, as demonstrated in López Ostra v. Spain, where industrial pollution was found to violate the right to private and family life under Article 8 of the European Convention on Human Rights.

➥ Do individuals have any rights to ensure that private persons comply with similar obligations?

Yes, individuals have limited but meaningful rights to ensure that private persons comply with climate and environment related obligations, though these rights are generally indirect and procedural in nature. For example, in *Hunter v. Nurendale Ltd t/a Panda Waste* [2013] IEHC 430, the High Court accepted that an individual alleging non-compliance with planning permissions and environmental nuisances had legal standing to challenge a waste permit.

There is no general public right of action to compel private actors to comply with climate targets unless specific laws or regulatory procedures apply.

➥ Are there specific regulations for the ecological damage caused by climate change?

Ireland does not have specific regulations that directly address ecological damage caused by climate change. While certain general environmental protection laws may cover related harms indirectly, the current legal system does not treat climate-related ecological degradation as a distinct, enforceable category.

I.B.5. In your country, is the allocation of public responsibilities in the field of climate change subject to regulation?

✓ yes
no ☐

➥ If so, which are the authorities responsible for managing issues related to the climate crisis [protection against the effects of the crisis and/or disaster management]?

✓ Special Ministry
✓ Legal entity under public law
✓ Other organisational unit

In Ireland, responsibility for addressing the climate crisis is distributed across a range of governmental and independent institutions, each with legally defined roles under national legislation.

Under sections 4 to 6 of the Climate Action and Low Carbon Development Act 2015, as amended, the Government as a whole is legally obliged to pursue the national climate objective of achieving a climate-neutral economy by 2050. The Minister for the Environment, Climate and Communications has primary responsibility for preparing the National Climate Action Plan (updated annually), preparing the National Long-Term Climate Action Strategy (every 5 years), and coordinating the development of sectoral adaptation plans.

Specific sectoral responsibilities are assigned to Ministers (e.g. Transport, Agriculture, Energy) who must prepare sectoral emissions ceilings (binding emissions limits), contribute to the development of carbon budgets and implement measures within their remit, and report annually on sectoral progress.

The Climate Change Advisory Council (CCAC), established as an independent statutory body, has responsibilities for advising the Government on climate policy, reviewing progress and carbon budgets, and publishing annual and periodic reports assessing compliance.

Under the Climate Action Plan 2023, each local authority is legally required to prepare and adopt a Local Authority Climate Action Plan every 5 years, align the plan with national targets, carbon budgets, and sectoral ceilings, and report on progress to the Minister and contribute to public engagement.

Other public bodies have regulated roles in implementing climate measures. The EPA, for example, oversees emissions monitoring, licensing, and reporting, as well as provides national greenhouse gas inventories.

- Is there a body responsible for: the collection and processing of scientific data? ✓ yes no ☐
- conducting comparative studies and surveys? ✓ yes no ☐
- monitoring the implementation of measures and the achievement of objectives? ✓ yes no ☐
- evaluating research carried out on climate change? ✓ yes no ☐

Function	Responsible Body
Collection and processing of climate data	Environmental Protection Agency (EPA)
Comparative studies and surveys	EPA, Climate Change Advisory Council (CCAC)
Monitoring implementation and targets	CCAC, Department of the Environment, Climate and Communications (DECC)
Evaluating climate research	EPA Research Programme

➥ If so, please describe the composition and the operating rules of the competent bodies (participation of elected representatives, scientists, guarantees of independence)?

Body	Includes Elected Reps?	Includes Scientists/Experts?	Independence Safeguards
CCAC	No	Yes	Statutory independence; no political control
EPA	No	Yes (technical board)	Independent licensing & enforcement
DECC	Yes (Minister)	Yes (advisory staff)	Political accountability; legal duties
Local Authorities	Yes (Councillors)	Yes (support staff)	Local autonomy under national law
An Bord Pleanála (now An Coimisiún Pleanála)	No	Yes (planning, env experts)	Independent quasi-judicial body

➥ What is the nature of power allocated to these bodies (purely advisory power, decision-making power)?

Body	Nature of Power
CCAC	Advisory only (policy, carbon budgets, reviews)
EPA	Decision-making (licensing, enforcement); advisory (data, research)
DECC	Decision-making (policy-making, coordination)
Local Authorities	Decision-making (local climate plans); implementation
An Bord Pleanála (now An Coimisiún Pleanála)	Decision-making (binding planning decisions)

➥ Is prior consultation with a court or other independent bodies provided for when adopting a regulation concerning climate change?

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There is no requirement for prior consultation with the courts when adopting regulations. This reflects the constitutional principle of the separation of powers, under which the judiciary plays no role in the legislative or regulatory process. Courts may review the legality of climate-related measures after they have been adopted, through proceedings, but they are not involved in the preparation or approval of such instruments.

However, Ireland's climate governance system does provide for consultation with independent expert bodies, particularly the CCAC. Under the Climate Action and Low Carbon Development Act 2015, as amended, the Government is legally required to consult the CCAC before adopting or amending key instruments, including carbon budgets, sectoral emissions ceilings, and the National Climate Action Plan (see sections 6A(7), 6C(3), and 4(8) of the amended Act). Although the Government is not bound by the Council's advice, it must give formal reasons if it chooses to depart from it.

In practice, the EPA is also consulted or engaged in the preparation of climate-related regulations, particularly where technical data, emissions modelling, or scientific expertise is required. While this consultation is not always legally mandated, the EPA's role as the national authority for environmental monitoring and reporting makes its input both necessary and routine. The EPA supports government departments in developing evidence-based policies by providing emissions inventories, projections, and risk assessments (see Environmental Protection Agency Act 1992).

↳ Is there a provision for public participation in the development of climate action plans or legislation? If so, what form of participation (consultation, other)?

In addition to expert consultation, Ireland's climate governance framework integrates public participation mechanisms, in line with its obligations under the Aarhus Convention and relevant EU environmental law. This participatory approach is particularly evident in the application of Strategic Environmental Assessment (SEA) procedures, which are required under the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. No. 435/2004), transposing Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.

Under this regime, SEAs are mandatory for a range of public plans and programmes, including climate action plans, where they are likely to have significant environmental effects. The process entails a formal consultation stage, during which environmental authorities (such as the EPA), the

public, NGOs, and academic institutions are given the opportunity to review and comment on the draft plan and its associated environmental report.

➥ Is access to relevant information guaranteed? ✓ yes no ☐

Yes, access to relevant environmental and climate-related information is explicitly guaranteed in the Irish legal system. This right is grounded in both domestic law and Ireland's obligations under international and European Union law. Article 4 of the Aarhus Convention guarantees that members of the public can access environmental information held by public authorities, without the need to declare a specific interest or reason for the request. This international obligation is implemented in domestic law primarily through the European Communities (Access to Information on the Environment) Regulation 2007 to 2018. These regulations give individuals a statutory right to access environmental information from a wide range of public authorities, including government departments, local authorities, state agencies such as the EPA, and even some semi-state bodies and private actors performing public functions. Public authorities are required to make such information available proactively and must respond to individual requests within one month (see section 7 European Communities (Access to Information on the Environment) Regulation 2007). If access is refused, the reasons must be provided, and an appeals mechanism is available through the Office of the Commissioner for Environmental Information (see section 12 European Communities (Access to Information on the Environment) Regulation 2007).

In addition, the Freedom of Information Act 2014 provides a more general right of access to information held by public bodies, including documents relating to climate policy, government decisions, and public spending.

The EPA plays a central role in ensuring public access to climate data and environmental information. It maintains open databases and publishes regular reports on greenhouse gas emissions, climate projections, air and water quality, and environmental indicators. This information is readily accessible on its website, and its research programme is designed to ensure the public and policymakers have access to up-to-date scientific evidence.

II. The application of the regulatory framework by the judge

II.A. Have any disputes been brought before the courts in your country that involve, directly or indirectly (as a result of the claims, allegations and arguments of the parties to the dispute), issues related to climate change?

If so:

-Please mention the main categories of cases in which issues related to climate change arise:

(a) cases related to energy sources (conventional/renewable),

(b) cases related to the improvement of infrastructure (buildings/vehicles),

(c) cases related to environmental impact assessment during project authorisation.

- Please mention the important cases brought before the courts in your country and the judgments handed down.

Yes, several disputes involving issues related to climate change have been brought before the Irish courts. While few cases explicitly reference climate change as the central legal basis, the courts have addressed climate-relevant questions across a range of legal contexts. These include energy infrastructure, EIAs, emissions reduction obligations, and rights-based climate claims.

(a) Cases Related to Energy Sources (Conventional / Renewable)

Energy infrastructure projects, including fossil fuel facilities and renewable energy developments, have been challenged on the basis of their environmental and climate impacts. Litigants often raise compliance with EU directives and Ireland's climate targets as legal or contextual arguments.

- *Coolglass Wind Farm Ltd v. An Bord Pleanála* [2025] IEHC 1: The High Court ruled that An Bord Pleanála did not fulfil its duty to comply with climate law when it denied planning permission for the Coolglass Wind Farm project in County Laois. The judgment highlighted that public bodies when making decisions must prioritise climate action mandates, as outlined in Section 15 of the Climate Action and Low Carbon Development Act 2015. This case is now under appeal to the Supreme Court.

(b) Cases Related to the Improvement of Infrastructure (Buildings / Vehicles)

While there have been few direct constitutional or statutory claims concerning infrastructure upgrades specifically for climate reasons, issues such as transport policy and building retrofitting have arisen in the context of planning and environmental authorisation.

- *Merriman v Fingal County Council* [2017] IEHC 695: The plaintiff argued that the Fingal County Development Plan 2017–2023 provisions for new road infrastructure would increase carbon emissions and conflict with Ireland's obligations to reduce greenhouse gases under both domestic and international law. Merriman claimed that the Council had failed to properly consider the impact of the proposed infrastructure on climate change and that the

decision breached both the Strategic Environmental Assessment Directive and the Climate Action and Low Carbon Development Act 2015.

(c) Cases Related to Environmental Impact Assessment During Project Authorisation

This is the most common context in which climate change is raised indirectly. Applicants often challenge decisions by An Bord Pleanála (now An Coimisiún Pleanála) or local authorities, alleging failure to conduct adequate climate-related assessments during EIA or SEA processes.

- *Byrne and Another v Abo Energy Ireland Ltd and Others* [2025] IEHC 330: The case dealt with claims of nuisance caused by noise from the defendants' wind farm, which substantially interfered with the plaintiffs' use and enjoyment of their home, resulting in awards of general and aggravated damages and a permanent injunction to abate the nuisance.
- *Protect East Meath Ltd v an Bord Pleanála* [2025] IEHC 276: The High Court considered whether the decision by An Bord Pleanála to grant planning permission for a development of 201 apartments significantly contravened the Meath County Development Plan 2021-2027, particularly in relation to parking requirements and other amenities. The Court determined that An Bord Pleanála's decision to allow a reduction in the number of car parking spaces from 452 to 181, a 60% reduction, without validly exercising its discretion constituted a material contravention of the Meath County Development Plan 2021-2027. The court assessed whether the absence of a valid Statement of Consistency with the 2021 Development Plan and a Material Contravention Statement led to a failure in statutory obligations and invalidated the planning permission granted by An Bord Pleanála.

II.B. Organisation of the judicial system: Does the system of dual jurisdiction (civil courts for private disputes, administrative courts for administrative disputes) apply in your country?

yes ☐
✓ no

✓ If so, are issues related to climate change dealt with:

-mainly by the administrative courts, when they examine the legality of the actions or omissions of the State and other public entities;

-mainly by the administrative courts, when they examine compensation claims against the State and other public entities;

-mainly by the civil courts (in disputes aimed at protecting the applicant against actions by individuals)?

Issues related to climate change are dealt with mainly by the civil courts, particularly the High Court sitting in its judicial review jurisdiction, when examining the legality of actions or omissions by the State or other public bodies. This reflects the structure of the Irish legal system where there is no separate administrative court.

II.B.1. In your country, does the legislation provide for a specific remedy for cases relating to the climate crisis? If so:

- Which courts have jurisdiction to hear such cases?

Not applicable

- What is the composition of these courts?

Not applicable

- What are the main features of the relevant remedies?

Not applicable

II.B.2. If the answer to the previous question is no [: if your legal system does not provide for a special remedy]:

- Among the remedies generally provided for, which remedies deal mainly with disputes involving issues related to the climate crisis?

actions for annulment against acts or omissions of the State and other public entities ✓

full jurisdiction remedies for the recognition of a right ✓

actions for damages ✓

remedies for the protection of the applicant's personality ✓

procedures for requesting interim measures ✓

II.B.3. If your legal system does not provide for a special remedy, are disputes relating to the climate crisis examined:

- by specialised divisions of the courts and/or according to a special procedure

✓ yes

no ☐

II.B.4. According to existing practice, what is the main legal remedy for disputes relating to climate change?

Remedy	Typical Use in Climate Litigation
Certiorari	To annul an unlawful plan, permit, or regulatory act
Declaration	To affirm legal breaches or clarify legal obligations
Mandamus	To compel the State or a body to fulfil its legal duties
Injunction	To temporarily prevent actions pending legal review

II.B.5. In your country, are there seminars or other organised training courses for judges, specifically aimed at issues related to climate change?

Yes, climate-related themes do appear in judicial education and continuing professional development. The Judicial Council Act 2019 (via the Judicial Studies Committee) mandates continuing education for judges, overseen by court presidents and the Judicial Council. Training covers a wide range of topics, including climate change and environmental law. Through judicial membership of EU and international bodies, networks, and organisations, such as the European Judicial Training Network (EJTN), members of the judiciary and their support staff also have access to a wide range of training materials, including on EU environmental law modules on EIA, access to justice, and nature legislation.

II.C. In your legal system, does the judicial review of laws and regulations:

- is exclusively an ultra vires review (review of legality)?
- or can it also be the subject of a full jurisdiction control?
- If so, under what conditions?

In the Irish legal system, the judicial review of laws and regulations is primarily a review of legality. However, in certain contexts, the courts may also exercise a form of full jurisdiction control, particularly when assessing compliance with constitutional or fundamental rights obligations. The scope of review depends on the nature of the act being challenged, whether legislative or administrative, and the legal basis of the challenge.

Irish judicial review is generally limited to legality. This includes:

- Whether the decision-maker acted within the limits of their statutory powers (ultra vires). The court assesses whether the decision-maker acted within the scope of their lawful powers,

as defined by statute. If a body exceeds its statutory remit, the decision may be quashed (see *O'Keeffe v an Bord Pleanála* [1993] 1 IR 39);

- Whether fair procedures were followed. Judicial review will consider whether the applicant was afforded a fair hearing, and whether the decision-making process respected constitutional and natural justice standards (see *Mallak v. Minister for Justice, Equality and Law Reform* [2012] IESC 59);
- Whether the decision was rational, proportionate, and not manifestly unreasonable. Courts may intervene if the decision is found to be irrational, manifestly unreasonable, or disproportionate to its objective. (see *Meadows v. Minister for Justice, Equality and Law Reform* [2010] IESC 3);
- Whether relevant considerations were properly taken into account. Courts review whether the decision-maker properly considered all relevant factors, including statutory obligations under climate legislation such as the Climate Action and Low Carbon Development Acts 2015 and 2021. Failure to take into account mandatory considerations (e.g., carbon budgets or sectoral ceilings) may render the decision unlawful (as illustrated in *Friends of the Irish Environment CLG v. Government of Ireland* [2020] IESC 49).

When a primary law is challenged on the basis that it violates the Constitution of Ireland, the High Court and Supreme Court can exercise full jurisdiction to:

- Assess whether the law breaches fundamental rights. The courts examine whether the impugned law infringes any of the rights protected by the Constitution, such as the personal rights guaranteed under Article 40.3.
- Interpret and weigh constitutional values. The courts interpret not only specific rights but also how these rights interact with broader constitutional principles, including proportionality, the common good, and, more recently, arguments invoking environmental protection (see *Friends of the Irish Environment CLG v. Government of Ireland* [2017] IEHC 695, which recognised an unenumerated constitutional right to an environment consistent with human dignity (though this was not upheld by the Supreme Court in the later 2020 appeal);
- Strike down legislation deemed unconstitutional. If the law is found to be repugnant to the Constitution, Article 15.4.2 of the Constitution of Ireland provides that it is null and void.

II.D. Access to justice and admissibility of appeals:

- Does your legislation provide for specific rules of procedure for disputes relating to climate change? ✓ yes / no ☐

If so:

- which special rules of procedure apply?
- Please indicate the reasons which, according to the legislator, justify the differentiation from the generally applicable rules of procedure.

Section 50(2) of the Planning and Development Act 2000 (as amended) notes that "a person shall not question the validity of any decision made or other act done by - (a) a planning authority [...] (b) the Board […] (c) a local authority […] otherwise than by way of an application for judicial review under Order 84 of the Rules of the Superior Courts".

Judicial review proceedings concerning environmental or climate-related matters, including challenges to decisions under planning or environmental legislation, are subject to a set of specialised procedural rules that intentionally depart from the general rules of court procedure.

Historically, such proceedings were governed by the Planning and Development Act 2000, which provided that the validity of decisions made by planning authorities, An Bord Pleanála, or local authorities could only be questioned through judicial review under Order 84 of the Rules of the Superior Courts. Applicants were required to demonstrate a "sufficient interest" in the matter, as set out in Order 84, Rule 20(4). Furthermore, strict time limits applied: a judicial review had to be initiated within eight weeks of the relevant decision (Section 50(6) of the Planning and Development Act 2000).

However, the Planning and Development Act 2024 introduces significant reforms, most notably, the Act abolishes the leave stage that previously required applicants to obtain the court's permission to proceed with judicial review. The strict eight-week time limit for initiating judicial reviews remains in place. In addition, the legislation maintains the requirement for applicants to demonstrate a sufficient interest, though it expressly provides broader standing for environmental litigants in line with Ireland's EU and international obligations.

The Act also introduces measures to control costs in environmental judicial reviews, including the possibility of cost caps or Environmental Legal Cost Financial Assistance Mechanism for qualifying cases.

- If the legislation does not provide for specific rules of procedure, please mention any special rules of procedure developed by case-law in your country?

Under section 50A(3) of the Planning and Development Act 2000, leave for judicial review is granted only if there are "substantial grounds" for contending that the decision is invalid. *Cahill v. Sutton* [1980] IR 269 has interpreted "substantial grounds" to mean arguable points of law with some prospect of success: not a full merits test, but more than a trivial or technical objection.
In *Harrington v. An Bord Pleanála* [2014] IEHC 232, the High Court confirmed that grounds must be clearly and specifically pleaded at the leave stage. Applicants must outline, in a focused and coherent way, how the legal error arises.

If special rules of procedure developed by case-law exist:

- what are the conditions of admissibility according to case-law rules (legal capacity, legitimate interest in bringing an application before the court, conditions of admissibility linked to the nature of the contested acts or omissions, time limit for lodging an appeal, etc.)
- Please indicate the reasons which, according to the case-law, justify the differentiation from the generally applicable rules of procedure.

Although the conditions for admissibility, as prescribed by Order 84 of the Rules of the Superior Courts, requires the applicant to have a "sufficient interest", Irish courts have taken a more generous approach to standing in environmental matters in light of EU law and the Aarhus Convention. In *Grace and Sweetman v. An Bord Pleanála* [2017] IESC 10, the Supreme Court acknowledged that EU environmental law mandates broader standing, even where personal interest is not clearly demonstrated, provided the applicant is seeking to protect environmental interests and concerns EU law. This approach reflects the CJEU's judgment in Case C-240/09 *Lesoochranárske zoskupenie VLK*, which has been cited with approval in Irish courts.

II.D.1. More specifically, with regard to legitimate interest in bringing an application before the court:

- Does your legal system recognize the actio popularis (as a constitutional principle or rule, by legislation or case-law)?

In the Irish legal system, the *actio popularis* is not recognised as a constitutional principle or rule. This was reaffirmed in *Mohan v. Ireland* [2019] IESC 18 and subsequent cases where the Supreme Court held that:
"[s]tanding is not, as a general rule, established by a simple desire to challenge legislation, no matter how strongly the putative claimant believes the provision to be repugnant to the Constitution. It is now clear that there is no actio popularis (a right on the part of a citizen to challenge the validity of

legislation without showing any effect upon him or her, or any greater interest than that of being a citizen) in Irish constitutional law, although, of course, some jurisdictions do permit such claims. Rather, in Irish law, it is necessary to show some adverse effect on the plaintiff either actual or anticipated."

How is the legitimate interest in bringing an application before the court, as a condition for the admissibility of an appeal, defined:

- in relation to certain groups or categories of the population [minors, the elderly or other vulnerable groups more exposed to the effects of climate change];
- in relation to legal persons [public law legal entities, private law entities: associations, etc]?

Under Irish administrative law, an applicant must demonstrate:

- A personal interest in the matter, and
- That they are directly affected by the decision or action in question.

This position was firmly established in *Cahill v. Sutton* [1980] IR 269, where the Supreme Court emphasised that a litigant must show that their own rights are affected, except in very limited circumstances.

However, this general rule has been relaxed in environmental and public interest litigation, in line with EU law and the Aarhus Convention. In *Friends of the Irish Environment CLG v Government of Ireland* [2020] IESC 49, the Supreme Court did not accept an unenumerated constitutional right to a healthy environment, but it did not reject the applicant's standing despite the absence of a directly affected individual interest. The Court acknowledged that environmental NGOs could play a legitimate role in litigation where they are established and experienced in the relevant field.

- Concerning the allegations made by the parties to substantiate their interest in bringing proceedings in the disputes in question, what degree of specification is required?

As indicated above, when parties seek to bring legal proceedings, particularly in the context of climate change or environmental disputes, they must demonstrate a sufficiently specific interest in the matter. Generally, the courts require that the applicant show a clear and concrete connection to the issue at hand. This means the applicant needs to prove they are directly or materially affected by the decision or action they are challenging, rather than raising hypothetical or abstract concerns. For individual applicants, this often involves detailing how they are personally impacted, such as living near a proposed development or being particularly vulnerable to environmental harm.

Environmental organisations or NGOs benefit from a more relaxed standard, reflecting their role in public interest litigation. However, even these groups must specify their legal status, their objectives

related to environmental or climate issues and demonstrate that the matter relates closely to their mission.

In some cases, particularly those raising broad constitutional or systemic questions where no individual is directly affected, claimants must provide a strong justification for their standing. They need to establish a clear link to fundamental rights or public interest concerns.

➥ What standards of proof are required for the allegations made?

The standard of proof in climate-related legal proceedings in Ireland is the balance of probabilities. This standard requires claimants to establish that the decision or action was unlawful, irrational, procedurally flawed, or breached statutory or constitutional duties by this standard.

II.D.2. Nature of the contested acts or omissions:

✓ What are the categories of cases brought before the courts in disputes concerning climate change?

In Ireland, climate change litigation typically falls into three broad categories:

- ✓ Public Climate and Environmental Policy: these cases involve judicial review of government plans or legislation, where applicants argue that public authorities have failed to meet their obligations under national or EU climate law (see *Friends of the Irish Environment CLG v Government of Ireland* [2020] IESC 49).
- ✓ Planning and Licensing Decisions: many cases challenge the granting of planning permission or environmental licences for projects alleged to contribute significantly to greenhouse gas emissions or violate procedural duties under climate-related legislation (see *Merriman v Fingal County Council* [2017] IEHC 695).
- ✓ Private Law Actions: occasionally, individuals or groups bring actions under tort law (e.g. private nuisance or negligence), particularly where emissions, pollution, or infrastructure development directly affect their property or health. While such cases may not be explicitly climate related, they relate to environmental harm consistent with broader climate change effects (see *Byrne and Another v Abo Energy Ireland Ltd and Others* [2025] IEHC 330).

✓ What are the admissibility requirements for taking legal action against omissions in disputes concerning climate change?

Legal actions against omissions by public authorities, such as a failure to adopt, implement, or update climate policies, must meet standard judicial review admissibility requirements, which include:

- Standing: The applicant must demonstrate a sufficient interest (see previous response). Environmental NGOs may qualify if the omission relates to their objectives.
- Timeliness: Applications must generally be made within 8 weeks from the date of the decision or the point at which the omission became apparent (Planning and Development Act 2000; Order 84 of the Rules of the Superior Courts).
- Justiciability: The issue must be one that is legally reviewable (i.e. not purely political or policy-based).
- Grounds: The omission must breach a legal duty, such as a statutory requirement to adopt or revise a climate mitigation or adaptation plan.

✓ Have the courts in your country been asked to examine questions of cross-border interest [parties to the dispute resident or headquartered in another country, acts or omissions with environmental impacts in another country]?

✓ If so, how were these disputes handled [limitation of liability only for actions or omissions within the borders of the State or recognition of liability also for actions outside the borders]?

Yes, Irish courts have addressed cases involving cross-border interests. A notable example is *Energia Group Holdings (ROI) DAC & others v CRU; GR Windfarms 1 Ltd & others v CRU* [2025] IESC 1. This case concerned compensation for renewable electricity generators subject to redispatching or curtailment, where generators are ordered to reduce output to maintain grid stability under EU Regulation 2019/943 on the internal electricity market.

The dispute arose within the Single Electricity Market (SEM), a fully integrated cross-border market covering both Ireland and Northern Ireland. It involved wind farm operators from both jurisdictions and centred on the interpretation of Article 13(7) of the Regulation, which requires compensation for curtailed generators. The applicants argued that compensation should fully cover lost market income and support payments, while the Irish regulator had limited payments.

Recognising the cross-border implications and the need for a consistent EU-wide approach, the Supreme Court referred key questions to the CJEU under Article 267 TFEU. The Court avoided limiting liability to within the State's borders, instead seeking an interpretation applicable across both Ireland and Northern Ireland.

II.E. Nature, extent and intensity of judicial review:

- ✓ In matters of climate change, how does the judge consider the delimitation of jurisdictional control in relation to:

  -the political choices made by the legislator or the administration?

  -the balancing of contradictory interests?

  -assessments of an essentially technical nature?

In matters concerning climate change, the role of the Irish courts is confined to assessing the legality of a decision, policy, or omission. The judiciary does not engage in balancing contradictory interests, such as environmental protection versus economic development, nor does it evaluate the political choices made by the legislature or the executive. These matters are considered to fall within the exclusive domain of the Oireachtas. The court's function is limited to ensuring that the relevant authorities act within the scope of their legal powers, comply with statutory and constitutional obligations, and adhere to procedural requirements.

II.E.1. On the balancing of conflicting interests, please give examples from the case-law in your country when the conflict concerns:

-environmental protection, and in particular protection against the effects of climate change, on the one hand;

-the protection of private assets and interests, on the other hand.

In Irish law, the courts do not engage in weighing or balancing environmental protection, including protection against the effects of climate change, against private assets or interests. Instead, their role is confined to reviewing the legality of the decisions, policies, or omissions made by public authorities. It is for the legislature or the executive, not the judiciary, to determine how to reconcile competing interests such as environmental sustainability and economic or property-based concerns. The court ensures that legal obligations are observed, including those arising from domestic statutes, EU law, and constitutional principles, but it does not substitute its own judgment for that of the competent decision-maker.

- ✓ Can the judge limit the temporal effects of an annulment decision [example: limitation of the retroactive effects of an annulment decision] based on the balancing of conflicting interests?
- ✓ If so, under what conditions?

In Irish law, when a court annuls a decision or measure, such as a government policy or administrative act, it is typically regarded as void *ab initio*. However, the courts retain discretion to limit the temporal effects of such annulments, particularly in complex or sensitive areas like climate change, planning, or environmental regulation. Rather than applying annulment with immediate or

retroactive effect in every case, the court may delay the effect of its judgment or restrict its retrospective consequences, especially where doing so would protect legal certainty or avoid disproportionate disruption.

The courts may consider a variety of factors, such as the impact on third parties who relied in good faith on the original decision, or the potential for serious administrative or infrastructural consequences if a measure is struck down with immediate effect. For example, if a public authority unlawfully grants permission for a climate-sensitive project but construction has already begun in good faith, the court may quash the decision but postpone the annulment, giving time to regularise the process.

Moreover, where a legal challenge involves EU environmental law, Irish courts are also guided by principles developed by the CJEU, which has recognised that in exceptional circumstances courts may limit the retroactive effect of a ruling to preserve the stability of legal systems and uphold the public interest (see *Case C-411/17 Inter-Environnement Wallonie ASBL and Bond Beter Leefmilieu Vlaanderen ASBL v. Wallonie Region*, EU:C:2019:622).

Accordingly, while the annulment of an unlawful act usually renders it void *ab initio*, Irish courts can and do moderate the effects of such rulings in the interest of justice.

II.E.2. Technical and scientific judgments:

- ✓ Please give examples from case-law concerning the criteria and methods used by judges to rule on disputes involving technical and scientific judgments.

In Irish case law, disputes involving technical and scientific judgments are typically approached with judicial deference to expert bodies, unless there is a clear legal error, irrationality, or procedural flaw. The courts do not attempt to resolve scientific disagreements themselves but instead focus on whether the decision-making body had jurisdiction to make the decision, followed fair procedures, took relevant considerations into account, and made a reasoned decision based on appropriate expert evidence.

- ✓ Does the judge have the specific tools required to exercise the above mentioned control effectively and efficiently [assistance from specialised scientists, appointment of experts, amicus curiae]?

Yes, Irish judges have several specific tools at their disposal to exercise efficient control over disputes involving complex scientific and technical issues, including those related to climate change. Judges can draw on expert witnesses presented by the parties but may also consult or request reports from specialist scientists or technical advisors. Courts often rely on EPA reports, government

scientific assessments, and other official expert sources as part of the evidentiary record. Courts may invite or allow third parties with relevant expertise, such as environmental NGOs, academic institutions, or government bodies, to participate as amicus curiae. These submissions provide impartial perspectives, highlight technical or policy contexts, and assist the court in understanding scientific complexities.

II.E.3. In the judicial review, how is the diversity and complexity of the factors contributing to the phenomenon of climate change evaluated?

In judicial review proceedings concerning climate change, courts acknowledge the diversity and complexity of factors contributing to climate change but do not attempt to resolve the scientific or policy complexities themselves.

II.F. Civil liability of the State

- ✓ With regard to compensation claims, has your country's case-law considered disputes involving the civil liability of the State for damage attributed by applicants to climate change? yes ☐ ✓ no
- ✓ If so: to address the relevant issues, does the judge simply apply the standard provisions and methods, for example with regard to proof of damage, causal links or methods of compensation for damage,
- ✓ or does he apply specific rules?

Not applicable. The Irish legal system does not recognise compensation claims for disputes involving the civil liability of the State for damage attributed by applicants to climate change.

- ✓ What is the content of the specific rules and their legal basis?

Not applicable

- ✓ With regard to ecological damage, how are questions of causality dealt with?

Not applicable

- ✓ Is monetary compensation recognised regarding compensation for non-material damage caused by ecological damage? yes ☐ ✓ no

In Ireland, monetary compensation for non-material damage caused by ecological damage is not generally recognised under current case law and statutory frameworks. The Irish legal system

traditionally limits compensation in environmental cases under tort law to material or pecuniary damage, such as economic loss or physical harm to property or persons.

- ✓ Does the 'polluter pays' principle apply to disputes concerning climate change?

Yes, the 'polluter pays' principle is recognised and forms part of the legal and policy framework for environmental protection. The principle is embedded in several pieces of domestic legislation that transpose EU environmental directives. For instance, the European Communities (Environmental Liability) Regulations 2008, transposing the EU Environmental Liability Directive (Directive 2004/35/EC), is explicitly based on the polluter pays principle. These Regulations impose liability on operators whose activities cause environmental damage to water, land, or protected species and habitats.

Similarly, the Environmental Protection Agency Act 1992 allows for the recovery of costs from polluters, and the Waste Management Act 1996 contains provisions requiring those responsible for waste to bear the costs of its management, reflecting the same underlying principle. For example, in *Wicklow County Council v. Fenton* [2002] IEHC 102, the court dealt with unauthorised dumping of hazardous hospital waste, including soiled dressings and sharps, which posed immediate health and environmental risks. The court emphasised the 'polluter pays' principle. This necessitated the removal of all waste and contaminated soil by an owner or occupier of land, even though they had not caused or contributed to its contamination in any way.

Similarly, in *Cork County Council v. O'Regan & Anor.* [2005] IEHC 208, the respondents were found responsible for dumping construction materials and other waste on an unauthorised landfill. The court highlighted that the risk of environmental pollution due to improper waste disposal was sufficient to find the respondent responsible, even if actual damage had not yet occurred.

II.G. Provisional judicial protection [interim measures]

- ✓ How are requests for provisional judicial protection in climate change cases handled? What parameters are taken into account by the courts?

The courts apply a structured and well-established set of criteria when assessing applications for interim relief such as injunctions. These criteria guide the courts in determining whether urgent protective measures should be granted before the full merits of the case are heard.

The first criterion is whether there is a "serious issue to be tried". This means that the applicant must demonstrate that the claim is not frivolous, vexatious, or entirely without merit. It does not require the applicant to prove that they will ultimately succeed, but there must be a legitimate legal question that warrants full judicial consideration. This threshold was articulated by the Supreme Court in

Campus Oil v. Minister for Industry and Energy (No. 2) [1983] IR 88 and has been adapted in subsequent case law (*Merck Sharp & Dohme Corp v Clonmel Healthcare Ltd* [2019] IESC 65).

Secondly, the applicant must establish a risk of irreparable harm if the interim relief is not granted. For instance, in *Gerard Dowling and Others v Minister for Finance and Others* [2013] IESC 37, the Supreme Court noted that "[i]t is only when even a very short period of notice would run the risk of irreparable harm occurring that it is appropriate for a court to make an interim order."

The third key consideration is the balance of convenience. The court assesses which party would suffer greater harm from the granting or refusal of the interim measure. This requires weighing the potential injury to the applicant against the potential disruption or cost to the respondent. As reaffirmed in *Okunade v. Minister for Justice* [2012] IESC 49, this principle requires a holistic assessment of the circumstances, including urgency, proportionality, and consequences.

Finally, in matters involving environmental protection and climate change, public interest considerations may influence the court's decision. Courts increasingly recognise that environmental disputes are not merely private disputes between parties but may have implications for the broader community and for future generations. The High Court in *Hunter v. Nurendale Ltd t/a Panda Waste* [2013] IEHC 430, for example, acknowledged the relevance of environmental integrity and public health when assessing interim measures concerning waste management and emissions.

✓ Please mention the measures that the judge may order.

Judges can grant a range of provisional measures, including but not limited to:

- Interim relief to halt or restrict activities likely to cause environmental harm (e.g., suspension of construction or development projects pending review). For example, in *Sweetman v. An Bord Pleanála* [2007] IEHC 153, the High Court granted interim relief to halt a road project pending a ruling on its environmental impact.
- Preservation orders to maintain the status quo (see Order 50, Rules of the Superior Courts).

Irish environmental legislation also grants specific powers to seek statutory injunctions. For instance:

- Under section 160 of the Planning and Development Act 2000, any person may apply to the High Court or Circuit Court to restrain unauthorised development.

- Under section 99H of the Environmental Protection Agency Act 1992, the EPA or any other person may apply for an injunction to secure compliance with environmental licensing conditions.
- Under section 57 of the Waste Management Act 1996, similar injunctive relief may be sought for breaches of waste management regulations.

✓ How does the judge consider the ecological damage alleged by the parties?

When assessing ecological damage alleged in interim relief applications, the courts rely heavily on, *inter alia*:

- Expert evidence and scientific reports demonstrating the likelihood and severity of harm.
- The irreversibility or long-term impact of the damage (e.g., loss of biodiversity, contamination, or carbon emissions that contribute to climate change).
- The precautionary principle, whereby courts may act to prevent serious or irreversible environmental harm even if some scientific uncertainty exists.

II.H. Regarding the enforcement of a court decision:

✓ Is there a procedure for checking whether the legislator and/or the administration have adopted the necessary measures to comply with a court decision?

In Ireland, there is no formal, dedicated procedure specifically designed to check whether the legislator or administration has adopted the necessary measures to comply with a court decision.

When a court issues a mandatory order, injunction, or declaratory judgment, public bodies are legally bound to comply. If they fail to do so, parties can return to court to seek further enforcement, such as a motion for contempt of court, where a public authority fails to act as directed, or a renewed application for injunctive relief or a specific performance order (Rules of the Superior Courts, Order 44).

✓ In case-law, what are the most striking examples of the methods used to monitor the enforcement of judgments in disputes relating to acts or omissions linked to climate change?

Not applicable. There is no formal dedicated procedure specifically designed to check whether the legislator or administration has adopted the necessary measures to comply with a court decision.

III.A. In your country:

✓ Are there any court decisions that have explicitly recognised the obligation of the State [and/or other public entities] to take positive measures to address climate change?

Yes, the State's statutory obligation to take positive measures to address climate change, deriving from the Climate Action and Low Carbon Development Act 2015, has been explicitly recognised by Irish courts. This was first pronounced in the *Friends of the Irish Environment v Government of Ireland* [2020] IESC 49, where the Supreme Court quashed the Government's Climate Action Plan for failing to comply with the statutory obligation imposed on the Government by the Climate Action and Low Carbon Development Act 2015. The Court noted that there was a "clear present statutory obligation on the Government, in formulating a plan, to at least give some realistic level of detail about how it is intended to meet the [National Transitional Objective] NTO."

✓ Are there any court decisions recognising a right to ensure compliance with this obligation?

Yes, in addition to the cases cited in the response to the previous and next question, *Friends of the Irish Environment v Minister for the Environment (Friends II)* [2025] IEHC 61 recognises a right to ensure compliance with the statutory obligation to combat climate change. Following the decision of the Supreme Court in *Friends of the Irish Environment v Government of Ireland* [2020] IESC 49, the case was remitted back to the High Court, where it was further held that:

"Insofar as the State relies on the principle *impossibilium nulla obligatio est*, I agree with that principle of course and there is a limit to the level of detail that anything can provide. Fortunately the 2015 Act as amended does not involve an implicit obligation to give reasons at a level that would trigger that prohibition. The State's frequent and comfortingly familiar invocation of a reasonableness standard could lull one into a mistaken conclusion that the only options are reasonableness or impossibility. But the Act demands a fair bit more than a merely reasonable plan – it must be a plan that ensures compliance with carbon budgets and sectoral ceilings."

This case is currently under appeal to the Court of Appeal.

✓ If a relevant case-law rule has been formulated, on what legal basis?

In *Coolglass v An Bord Pleanála* [2025] IEHC 1, a case concerning a decision by An Bord Pleanála to deny the development of a windfarm, the High Court noted that section 15 of the Climate Action and Low Carbon Development Act 2015 made clear that the Act creates sweeping obligations across the whole public sector to facilitate radical and far-reaching action in addressing climate change.

The Court found that the interpretative obligations under EU law to interpret a national provision in a manner that supports and implements EU (climate) law rather than allows such law to be undermined would also refute a narrow reading of section 15 of the Climate Action and Low Carbon Development Act 2015.

The Court noted that a European Convention on Human Rights (ECHR) compliant reading of section 15 of the Climate Action and Low Carbon Development Act 2015, necessitated by section 2 of Ireland's ECHR Act 2003, also reinforces a reading of section 15 of the Climate Action and Low Carbon Development Act 2015 that requires compliance in practice with renewable energy infrastructure goals. The Court focused in the finding that article 8 of the ECHR imposes a positive obligation on the State to put in place a legislative and administrative framework with respect to climate change designed to provide effective protection of human health and life, and a further positive obligation to apply that framework effectively in practice, and in a timely manner. The Court noted that Ireland has a legislative framework for addressing climate change, but found that "it is clear that it is not being complied with… [which] on the logic of *Klimaseniorinnen* involves a breach of art. 8 of the ECHR".

The Court made clear that what it was doing was seeking to interpret section 15 of the Climate Action and Low Carbon Development Act 2015 in a ECHR compliant manner and that an interpretation of the provision that "allows the climate goals in legislation to fall by the wayside due to a failure by the board to exercise discretionary powers to override development plans is an interpretation that fails to conform with ECHR obligations contrary to [the interpretative obligation] section 2 of the 2003 Act".

The Court also identified a failure on the part of An Bord Pleanála to perform its functions in a manner compatible with the State's obligations under the ECHR, contrary section 3 of the ECHR Act 2003.

This case is currently under appeal to the Supreme Court.

III.B. If the courts in your country have already considered issues relating to climate change:

- ✓ Do the relevant decisions refer to existing practice in another legal system, for example to the case-law of national judges in other countries or to the case-law of judges in supranational bodies:
  - -dialogue between the national courts of different countries
  - -dialogue between the courts of your country and the European Union judge
  - -dialogue between the courts in your country and the ECtHR
  - -dialogue between the courts in your country and the bodies of other international organisations [for example the UN]?

Yes, Irish courts have demonstrated awareness of and, to some extent, engaged in judicial dialogue concerning climate change issues with other legal systems and supranational bodies. Although explicit references to foreign case law or international bodies in climate change judgments remain relatively limited, the practice shows increasing openness to comparative and international perspectives. Irish courts occasionally refer to or are influenced by the case law of other national courts, especially those within common law jurisdictions. Such references tend to be indirect, serving to contextualise legal principles or support arguments rather than forming binding precedent.

Irish courts actively engage with EU law on climate and environmental matters, regularly referring to CJEU case law in judicial reviews involving EU directives and regulations on climate change. The courts routinely cite and apply CJEU judgments to interpret domestic legislation implementing EU environmental directives.

III.C. In your country's case-law, is the obligation to act against climate change considered mainly:

- ✓ as an obligation based on national law
- ✓ or as an obligation under international law?

In Irish case law, the obligation to act against climate change is considered primarily as an obligation based on national law, particularly arising from statutory duties imposed by the Climate Action and Low Carbon Development Act 2015, as amended. However, obligations under international law are often referred to and cited where relevant.

- ✓ Within the case-law, can we find decisions aimed at harmonising the rules of international law, European law and national law?

Irish courts do not conduct formal "harmonisation" in the doctrinal sense, but they do engage in judicial coordination, ensuring that domestic legislation is interpreted consistently with EU obligations, and informed by international law where appropriate.

- ✓ In your country, have any court decisions considered the Paris Agreement to be a legally binding instrument?

In Ireland, no court has found the Paris Agreement to be a legally binding instrument.

III.D. Does the approach of the courts in your country align with the approach of the ECtHR in *Verein Klimaseniorinnen Schweiz v. Switzerland*? [please mention any differences]

The approach of the Irish courts does not fully align with the approach adopted by the European Court of Human Rights (ECtHR) in *Verein KlimaSeniorinnen Schweiz v. Switzerland* (App. No.

53600/20, ECtHR, Grand Chamber, 9 April 2024, though recent developments, most notably *Coolglass v An Bord Pleanála* [2025] IEHC 1, indicate a growing convergence in principle, particularly concerning state obligations and the relevance of human rights in environmental matters.

Traditionally, Irish courts have been cautious in extending judicial oversight into the substantive adequacy of climate policy and have tended to rely on statutory duties rather than rights-based reasoning. However, in *Coolglass*, the High Court expressly grounded part of its judgment in Articles 2 and 8 of the ECHR, as incorporated by the European Convention on Human Rights Act 2003. The Court found that An Bord Pleanála's failure to consider national climate objectives breached both its statutory obligations and the State's positive duties under Article 8 ECHR, citing *KlimaSeniorinnen* in support.

While *Coolglass* signals a more rights-oriented shift, it remains an exception within Irish climate litigation, especially since the case is under appeal to the Supreme Court. Irish courts have yet to adopt the broader standing doctrine and stronger justiciability standards endorsed by the ECtHR in *KlimaSeniorinnen*.

III.E. Have the courts in your country referred questions to the CJEU or the ECtHR for a preliminary ruling on matters directly or indirectly related to climate change?

While no Irish court has referred climate-specific legal questions to the CJEU or the ECtHR**,** environment-related referrals, on Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (codification), for example, have been made to the CJEU that may have indirect significance for climate governance**.**

Part II: Overtourism

I. The regulatory framework [the rules of law]

I.A. Have the negative effects of the excessive development of tourist activity been adressed by the legislator and the courts of your country, following concerns discussed in the public debate?

yes ☐
✓ no

✓ If so, what are the problems envisaged in the legislation and case-law on this subject?

saturation capacity of urban and non-urban space ☐

deterioration of living conditions in urban areas (increase in housing prices, lack of properties to rent especially for younger generations and/or families with low and medium incomes - particularly in city centres, on islands and in other tourist ☐

destinations, deterioration of traffic conditions, insufficient infrastructure, increase in energy consumption, etc.)

overexploitation of natural resources (increased density due to the construction of hotels and other buildings for tourism in extra-urban areas, intensification of land use - particularly in coastal areas and the islands, insufficient infrastructure in small villages, effects on protected landscapes and/or on historical sites and/or archaeological sites and monuments) ☐

other problems ☐

Not applicable

I.B. Has your country taken an initiative/participated in a collective initiative for the establishment, within the EU, of a regulatory framework to address the adverse effects of 'hypertourism'?

If so, what is the content of the proposed measures?

No, Ireland has not formally initiated or co-sponsored any EU-level legislative proposal specifically aimed at addressing the adverse effects of 'hypertourism'.

I.C. Are there any relevant principles and guidelines at international level?

- ✓ If so, have they been recorded:

-in binding texts?

-in non-binding texts?

- ✓ Could non-binding texts serve as a basis for regulations [please give examples]?

Not applicable

I.D. In your country, are there any constitutional principles or provisions that can serve as a basis for dealing with issues related to overtourism?

Not applicable

I.E.1. Has the national legislator established a regulatory framework specifically designed to address the problems resulting from excessive tourist activity?

yes ☐
✓ no

- ✓ If so, please summarise the legislation adopted and the main content of the relevant regulations (for example preventive and/or repressive measures, other provisions)

Not applicable

I.E.2. Does your country have a special action plan to address the problems resulting from excessive tourist activity?

yes ☐
✓ no

✓ If so, does this plan establish guidelines for the policies to be followed or does it also contain binding rules?

Not applicable

✓ What is the level of planning [national, regional, etc.] ?

Not applicable

I.E.3. In your country, are there any regulations concerning:

-the allocation of responsibilities for the management of 'hypertourism'? ☐

-other provisions concerning the organisation of the competent authorities? ☐

Not applicable

↳ What are the responsibilities assigned to the various bodies (advisory, decision-making)?

Not applicable

✓ Are there any provisions for public participation in the adoption of action plans or laws? ✓ yes / no ☐

II. The application of the regulatory framework by the judge

II.A. Have issues related to 'hypertourism' been the subject of litigation in your country?

yes ☐
✓ no

✓ If so, what points were raised in the arguments of the parties to the dispute? yes ☐ / no ☐

Not applicable

✓ Please summarise the landmark cases heard by the courts in your country and the decisions handed down.

Not applicable

II.B. According to legal practice, what is currently the main channel through which the relevant disputes are brought before the courts?

-litigations concerning control of the legality of administrative acts or omissions? ☐

-litigations concerning compensation for damage caused by acts or omissions of the administration? ☐

-other categories of litigations? ☐

Not applicable

II.C. Please cite any court decisions:

-that have expressly recognised the obligation of the State and/or other public entities to take positive measures in order to address the phenomenon of 'hypertourism'? ☐

-that have recognised a right of individuals to ensure compliance with this obligation? ☐

✓ Have case-law rules been formulated in this regard? If so, on what legal basis?

Not applicable

II.D. Do issues linked to overtourism:

-mainly concern the administrative courts, when they monitor the actions of the State and public entities,

or do they mainly concern the civil courts called upon to judge appeals against the actions of individuals?

administrative courts ☐

civil courts ☐

both ☐

II.E. Can examples be found in your country's legislation and case-law that highlight the relationship between climate change and overtourism?

yes ☐

✓ no

✓ If so, please present the main content of the relevant legislation or court decisions.

Not applicable