

Report for the meeting of the Avosetta Group, Copenhagen, 29-30 May 2026

IRELAND: Recent Developments in Environmental Law

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Introduction

One of the most striking features of the period under review is the frenetic pace of new developments in planning / environmental law, policy and practice. It is becoming ever more difficult to keep pace with the range and extent of new developments. This report presents a few selected highlights.

The overarching context driving many of the recent developments at national level is the Government's determination to streamline planning and environmental decision-making – essentially to 'speed-up' delivery of critical infrastructure. Ireland is experiencing a long-running housing crisis, as well as a wider infrastructure crisis. There is an urgent need to deliver housing and critical infrastructure at scale, including renewable energy infrastructure, public transport infrastructure and wastewater treatment infrastructure.

The Irish planning system, and the underlying legislative framework, has habitually been identified as a major blockage on timely delivery of housing and critical infrastructure. The Planning and Development Act 2024 aims to deliver a more coherent legislative scheme. In recent years, the public's rights of participation and challenge have attracted intense criticism from Government, developers and others as giving rise to intractable delays. Large-scale housing and infrastructure development tends to attract considerable opposition.¹ Judicial review of planning and environmental decision-making has been singled out by Government as a key driver of delay, uncertainty and additional cost.²

Accelerating Infrastructure Report and Action Plan

On 3 December 2025, the Government published its [Accelerating Infrastructure Report and Action Plan](#).³ The core aim is 'to help drive the efficient delivery of infrastructure across Ireland.' The report identified 12 main barriers to infrastructure delivery including: public acceptance; increased regulatory burden; risk aversion (in the sense that the threat of judicial review 'drives a culture of caution'); increasing numbers of judicial reviews; the consequences of judicial reviews; lack of coordination on licences, consents and permits leading to duplication and sequential processes; slow processes; and other barriers relating to procurement challenges and construction sector capacity.

¹ See for example: 'Public resistance a major hurdle to rollout of infrastructure: O'Driscoll' *Business Post* 24 May 2026.

² See for example: [Judicial reviews being used to 'impede the public good', Minister says](#) *The Journal* 30 November 2025.

³ For background and further details see: [Government publishes Accelerating Infrastructure - Report and Action Plan](#) Government Press Release, 3 December 2025. See also the recent report of the Joint Committee on Climate, Environment and Energy, [Challenges to the delivery of Offshore Renewable Energy](#) 34/CEE/11 (May 2026) which provides a good snapshot of the range of challenges hindering timely delivery of renewable energy infrastructure.

The thirty specific actions set out in the report are described as representing ‘a transformative approach to streamlining development processes and significantly reducing delivery timelines’. These actions are grouped across four key pillars: (1) Legal Reform; (2) Regulatory Reform & Simplification; (3) Coordination & Delivery Reform; (4) Public Acceptance.

The overarching goal as regards Pillar 1: Legal Reform is expressed as being to introduce reforms to the legal system that will ‘better balance towards the common good by addressing the incentives that drive a disproportionate reliance on the courts’. Specific actions under this pillar include: Reform Judicial Review (Action 1) and Enact Legislation to Accelerate Critical Infrastructure and Provide for Emergency Powers (Action 2).

Ireland’s *Accelerating Infrastructure Report and Action Plan* resonates strongly with developments at EU level, specifically [*A Simpler and Faster Europe: Communication on implementation and simplification*](#).⁴ The need to streamline planning and permitting procedures, and deliver greater clarity and coherence, is a common theme at EU and Member State level. In this context it is notable that Ireland holds the Presidency of the Council of the EU from 1 July 2026.

Planning and Development Act 2024

The [*Planning and Development Act 2024*](#) (PDA 2024) was signed into law on 17 October 2024. It continues to be implemented on a phased basis.⁵

The PDA 2024 is the culmination of an extensive review and revision of Irish planning legislation aimed at making the planning system more coherent. Described as ‘a once in a generation reform’, it is intended to streamline the planning system and provide greater clarity, consistency and certainty. The PDA 2024 has brought about significant change, including a major restructuring of *An Bord Pleanála* – now known as [*An Coimisiún Pleanála*](#)⁶ (PDA 2024, [Part 17](#)) – as well as important (and controversial) amendments to the rules governing judicial review of planning decisions (PDA 2024, [Part 9](#)).

Prescribed scale of fees

In a particularly controversial development, regulations made recently pursuant to the PDA 2024 prescribe a scale of fees (i.e. monetary amounts) to limit the amount of costs that may be awarded to applicants in respect of Part 9 Judicial Review Proceedings. The costs awarded to applicants cannot exceed the prescribed scale, subject to a residual judicial discretion for specified exceptional circumstances.

The Planning and Development (Costs of Part 9 Judicial Review Proceedings) Regulations 2026⁷ came into force on 18 May 2026. Not surprisingly, a prescribed scale of fees which sets the recoverable costs at a level significantly below the market rate attracted extensive criticism

⁴ COM (2025) 47 final, 11 February 2025.

⁵ There is a dedicated [webpage](#) to provide updates and guidance on the phased implementation of the PDA 2024.

⁶ *An Coimisiún Pleanála* (the Planning Commission) is the national competent authority whose primary role is to determine planning appeals from decisions of (local) planning authorities and to determine at first instance applications for strategic infrastructure and other specified categories of development. See further: ‘[An Coimisiún Pleanála – Ireland’s national independent planning body launched](#)’ Department of Housing, Local Government and Heritage, Press Release, 17 June 2025.

⁷ [SI No 200 of 2026](#).

from a wide range of constituencies including the Bar of Ireland,⁸ the Law Society of Ireland,⁹ environmental NGOs,¹⁰ academics and others. The main thrust of this criticism is that the new costs rule lacks a convincing evidential basis and that it will operate to restrict access to justice in environmental matters, with a particularly negative impact on public interest environmental litigation due to what has been described as the ‘effective destruction’ of the ‘no foal, no fee’ model.¹¹ On the other side, the Government contends that access to justice is maintained and that the new regulations provide a ‘clear, predictable cost framework for applicants taking judicial reviews and public bodies paying costs’.¹²

As anticipated, the new regulations are already the subject of an application for judicial review. Two environmental NGOs, *An Taisce* (the National Trust for Ireland) and Friends of the Irish Environment, have initiated proceedings in the High Court alleging that the regulations are ‘a breach of the Constitution, the Aarhus Convention and EU law, which requires that access to justice be equitable and not prohibitively expensive.’¹³

Critical Infrastructure Act 2026

The [Critical Infrastructure Act 2026](#) came into force on 17 July 2026. Its core aim is to create a ‘fast-track’ approval process for critical infrastructure. Under the scheme set out in the Act, the Government determines the projects or programmes to be designated (by order) as ‘critical infrastructure’. Generally speaking, these are projects deemed essential to economic and social development. The Act identifies critical infrastructure in the energy, transport and water sectors as the priority.¹⁴ The main consequence of designation is that a project acquires priority and

⁸ [Submission by The Bar of Ireland to Department of Climate, Energy and the Environment](#), 15 January 2026.

⁹ [Submission by The Law Society of Ireland to Department of Climate, Energy and the Environment](#), 15 January 2026. See also ‘Means over merit: Scale of costs in environmental Judicial Reviews’ 25 May 2026.

¹⁰ ‘[The end of environmental public interest litigation?](#)’ An Taisce – The National Trust for Ireland, Press Release, 13 May 2026.

¹¹ The Bar of Ireland, ‘[Proposed scale of legal costs would have wide-ranging negative consequences on access to justice and environmental protection – The Bar of Ireland warns](#)’ 19 January 2026. A helpful explanation of the ‘no foal, no fee’ model was provided recently by the Supreme Court in *Howley v Howard* and *Howley v McClean* [2026] IESC 34 per Hogan J at para 38:

... the “no foal, no fee” costs arrangements are very widespread throughout the [Irish] legal system. In its most common form, the solicitor agrees with the client not to charge any fee (other than for outlay) save to the extent that the client obtains an order for costs against another party who is a mark for costs. These fee arrangements are very common in cases involving litigants of modest means who might otherwise be unable to take, say, personal injury cases against an alleged tortfeasor.

In *Howley*, the Supreme Court indicated (*obiter*) that the common practice of ‘no foal, no fee’ costs arrangements did not amount to unlawful champerty in Irish law.

¹² ‘[Ministers O’Brien and Chambers sign regulations to give effect to scale of fees for environmental judicial reviews](#)’ Government Press Release, 12 May 2026; ‘[Environmental protection will not be harmed by new rules on legal fees, Minister says](#)’ *Irish Times* 14 May 2026.

¹³ ‘[Environmental groups launch legal challenge against new regulations that severely restrict access to justice](#)’ *An Taisce* Press Release, 6 July 2026. See also: Environmental groups take challenge to legal costs caps in successful cases *Irish Times* 7 July 2026.

¹⁴ Section 1 of the Act defines ‘infrastructure’ in the following terms:

‘infrastructure’ means any infrastructure that enables essential facilities and systems of the State to function effectively and includes, but is not limited to:

- (a) transport facilities, including ports and airports, and transport systems, including roads and railways,
- (b) energy generation, transmission and distribution systems, and

relevant public bodies are thereafter required to take specific actions to facilitate delivery, in particular by reducing the time required for the processes relating to project authorisation to be completed (see section 5(1)). The Act also provides for the relevant Minister to give directions to relevant public bodies, again with a view to speeding up delivery (see section 6). Nine projects were designated as critical infrastructure on 24 July 2026.¹⁵

It is notable that the Act modifies the application of the duty on public bodies set down in section 15 of the Climate Action and Low Carbon Development Act 2015 (as amended) in the context of designated projects and programmes.¹⁶ Section 15(1) of the Climate Act requires public bodies to perform their functions, ‘in so far as practicable ... in a manner consistent with’ the most recently approved Climate Action Plan, long term climate action strategy, national adaptation strategy and approved sectoral adaptation plans in furtherance of the national climate objective¹⁷ and the objective of ‘mitigating greenhouse gas emissions and adapting to the effects of climate change in the State’.¹⁸ Specifically, section 7 of the 2026 Act provides that the section 15 duty does not apply to a relevant public body: (a) in respect of the performance of its relevant functions; (b) in respect of the carrying out of its duties under section 5; or (c) for the purposes of compliance with a direction given to it under section 6. The effect of section 7 is to provide an exception to the section 15 duty in the case of projects and programmes designated ‘critical infrastructure’ under the 2026 Act.

The Government Press Release published in tandem with the Critical Infrastructure Bill 2026 referred to possible new ‘emergency powers’ in the following terms:

The consideration and development of potential emergency powers remain a priority and are being progressed in parallel with the passage of this legislation.¹⁹

It remains to be seen how this specific aspect of the Government’s plans to speed up delivery of critical infrastructure will evolve.²⁰

General Scheme of a Civil Reform Bill 2025

On 6 January 2026, the Minister for Justice, Home Affairs and Migration published the [General Scheme of a Civil Reform Bill 2025](#), Part 3 of which includes very significant proposed reforms to judicial review. The Press Release accompanying the publication of the General Scheme set out the intention to place judicial review on a statutory footing, ‘with a public interest test at the centre of the process ensuring balance and protection of the common good’, as well as delivering ‘greater transparency and a more streamlined process’.²¹ The Minister noted that the State ‘faces significant challenges in terms of housing shortages, energy deficits, inadequate

(c) water supply, wastewater and waste management systems.

¹⁵ [Government Designates Projects and Programmes as Critical Infrastructure](#), Press Release, 24 July 2026.

¹⁶ A similar modification is found in the Dublin Airport (Passenger Capacity) Act 2026, section 39.

¹⁷ The ‘national climate objective’ is defined in section 3(1) of the Climate Action and Low Carbon Development Act 2015 (as amended).

¹⁸ The nature and scope of the obligation imposed on public bodies under section 15(1) was considered recently by the Supreme Court in [Coolglass Wind Farm Limited v An Coimisiún Pleanála](#) [2026] IESC 5.

¹⁹ ‘[Minister Chambers Announces Publication of the Critical Infrastructure Bill](#)’ Government Press Release, 8 April 2026.

²⁰ [Emergency infrastructure laws ‘may be at extremity’ of what is constitutionally permitted](#) *Irish Times* 25 July 2026.

²¹ ‘[Minister Jim O’Callaghan publishes Civil Reform Bill to overhaul Judicial Review and streamline courts processes](#)’ Government Press Release, 6 January 2026.

water supplies and climate changes’ – made all the more serious by the demands of a growing population – such that reform of judicial review could no longer be delayed.

A number of the proposals set out in Part 3 of the General Scheme met with significant criticism from the outset on the basis of the potentially serious negative impact on access to justice.²² As part of the pre-legislative scrutiny of the General Scheme, the Joint Committee on Justice, Home Affairs and Migration published its [Report on Pre-Legislative Scrutiny of the General Scheme of the Civil Reform Bill](#) in June 2026.²³ The Committee identified a number of serious concerns regarding the General Scheme, including in the area of environmental judicial review, and made specific recommendations on aspects where it considers that amendments to proposals set out in the General Scheme are warranted.

Environment (Miscellaneous Provisions) Act 2026

The [Environment \(Miscellaneous Provisions\) Act 2026](#) was signed into law on 12 March 2026.²⁴ It amends the Environmental Protection Agency Act 1992 (Part 2 of the 2026 Act) and the Waste Management Act 1996 (Part 3 of the 2026 Act). The purpose of these amendments is *inter alia* to streamline the Environmental Protection Agency licensing process.

Sufficient expertise to examine Environmental Impact Assessment Report

A recent judgment of the High Court concerning *inter alia* the issue of whether the competent authority, in this case *An Coimisiún Pleanála*, had the necessary expertise to properly examine and understand the Environmental Impact Assessment Report submitted by the local authority developer may be of interest: *Rogers v An Coimisiún Pleanála* [2026] IEHC 257 (28 April 2026), Nolan J (the N2 Slane By-pass).

The High Court confirmed that the question of An Coimisiún’s expertise ‘is a jurisdictional fact rather than a substantive judgment on the merits.’ Nolan J stated that he had ‘serious doubts’ as to whether An Coimisiún ‘had the necessary expertise to deal with the important issue raised by the Applicant, concerning water flow and the potential effects on the tufa and the spring waters.’ In this case, however, the High Court determined that the applicant had not established on an evidential basis a lack of expertise on the part of An Coimisiún. As the applicant had failed to discharge the burden of proof in this regard, the application for judicial review was dismissed, albeit with some reservations on the judge’s part. The High Court subsequently granted leave to appeal to the Court of Appeal.²⁵

²² See for example: The Bar of Ireland, [Submission to the Joint Committee on Justice, Home Affairs and Migration on the General Scheme of the Civil Reform Bill 2025](#) (12 February 2026); Free Legal Advice Centres (FLAC), [An Access to Justice Analysis of the General Scheme of the Civil Reform Bill 2025: Submission to the Joint Committee on Justice, Home Affairs and Migration](#) (February 2026) and Judicial review reforms raise ‘serious’ concerns over access to justice, say barristers *Irish Times* 26 February 2026.

²³ Joint Committee on Justice, Home Affairs and Migration *Report on Pre-Legislative Scrutiny of the General Scheme of the Civil Reform Bill*, June 2026, 34/JC/14.

²⁴ A number of provisions of the Act were commenced pursuant to the [Environment \(Miscellaneous Provisions\) Act 2026 \(Commencement\) Order 2026](#) (SI No 202 of 2026).

²⁵ *Rogers v An Coimisiún Pleanála (No 2)* [2026] IEHC 437. The two questions certified are set out in para 46 of the judgment.

Selected references to the CJEU from the Irish Courts

The Irish courts continue to make a significant number of references to the CJEU on points of interpretation of EU environmental law. Some notable developments during the period under review include:

Case C-129/24 *Coillte v Commissioner for Environmental Information* EU:C:2026:5

Request for access to environmental information under Directive 2003/4/EC; anonymous applicants or applicants using pseudonyms; is there a requirement for an applicant to provide their actual name and current (physical) address when making a request?

The CJEU determined that the concept of ‘applicant’, within the meaning of Article 2(5) of Directive 2003/4/EC, read in the light of the Aarhus Convention, was to be interpreted as meaning that it does not require a natural or legal person to be identified by their actual name and / or a current physical address. However, that does not preclude national legislation which requires such identification of the applicant, subject to compliance with the principles of equivalence and effectiveness.

Joined Cases C-27/25 and C-356/25 *SU and Wild Ireland Defence CLG v An Coimisiún Pleanála and Knocknamona Windfarm Limited*; and *Massey v An Coimisiún Pleanála and Curns Energy Limited* EU:C:2026:596 (Knocknamona)

Is the setting of site specific conservation objectives a prerequisite for Appropriate Assessment (AA) and AA screening?

The CJEU determined that Article 6(3) of the Habitats Directive must be interpreted as meaning that where conservation objectives specific to the Special Protection Area (SPA) concerned have not yet been adopted, a national competent authority cannot carry out a valid appropriate assessment of the implications of a plan or project for the integrity of the SPA in the context of the examination of an application for consent for that plan or project. The Court went on to clarify that:

In the context of the screening phase, it may be possible to delimit the geographical area likely to be affected by a plan or project without it being necessary to take into account the conservation objectives specific to each of the protected sites. By contrast, the assessment of the probability or risk of such a plan or project having a significant effect on a protected site within that geographical area cannot be carried out without taking account of the conservation objectives specific to that site.

Cases C-531/24 and C-895/24 *An Taisce* EU:C:2026:275 (Nitrates Action Programme), Opinion of Advocate General Kokott, 26 March 2026.

What requirements arise from the interaction between the Nitrates Directive and the Habitats Directive, the Water Framework Directive and the SEA Directive where the European Commission grants a derogation requested by a Member State which makes it possible to apply more livestock manure to agricultural land than is provided for in the Nitrates Directive?

The detailed conclusions of Advocate General Kokott are set out at para 186 of the Opinion.

[Case C-821/25 *Save Leitrim Environmental & Biodiversity CLG v Commissioner for Environmental Information*](#) (pending)

This reference for a preliminary ruling from the High Court of Ireland concerns the position where findings of the Aarhus Convention Compliance Committee – endorsed by the Meeting of the Parties to the Convention – conflict with an earlier ruling of the CJEU. Which takes precedence?

UN Special Rapporteur on the right to a clean, healthy and sustainable environment country visit to Ireland

Astrid Puentes Riaño – the UN Special Rapporteur on the human right to a clean, healthy and sustainable environment – undertook a country visit to Ireland from 9-20 February 2026.²⁶ Her visit included meetings and discussions with government officials and representatives of civil society concerning good practices and challenges in the implementation of human rights obligations relating to climate change and environmental protection.

The Special Rapporteur published an [End of Mission Statement](#) on the conclusion of her country visit, as well as issuing a Press Release.²⁷ A full report, with a more detailed analysis and including recommendations, is in preparation and will be presented at the 64th session of the United Nations Human Rights Council in March 2027.

Recent Developments in Climate Litigation in Ireland

Innovative climate cases continue to be brought before the Irish courts. The leading case to date remains *Friends of the Irish Environment v Government of Ireland* [\[2020\] IESC 49](#) (Climate Case Ireland).²⁸ The following judgments stand out in the period under review:

Judgment of the Supreme Court in *Coolglass Wind Farm Ltd v An Coimisiún Pleanála* [\[2026\] IESC 5](#) – on appeal from the High Court *Coolglass Wind Farm Ltd v An Bord Pleanála* [\[2025\] IEHC 1](#).

The High Court order quashing An Coimisiún’s decision to refuse Coolglass planning permission for a 13-turbine windfarm development and associated works was upheld on appeal, but on a different and narrower basis. The main point at issue in *Coolglass* concerned the interpretation of section 15 of the Climate Action and Low Carbon Development Act 2015 (as amended).

²⁶ [UN expert on the right to healthy environment to visit Ireland](#) Press Release, 5 February 2026

²⁷ [Ireland should mainstream human rights to protect environmental advances: UN expert](#) Press Release, 20 February 2026.

²⁸ For detailed analysis see Andrew Jackson, ‘The legacy of the first wave of framework climate cases in Europe: reflections on *Climate Case Ireland*, five years on’ (2026) *Journal of Human Rights and the Environment* (forthcoming) <https://doi.org/10.4337/jhre.2026.0009>

It is important to note at the outset the significant amendments made to the original section 15 pursuant to the Climate Action and Low Carbon Development (Amendment) Act 2021. As originally enacted, [section 15\(1\)](#) provided (emphasis added):

A relevant body ‘shall, in the performance of its functions, have regard to’:

- the most recently approved National Mitigation Plan and other specified plans;
- the furtherance of the national transition objective;
- the objective of mitigating GHG emissions & adapting to the effects of climate change in the State.

Section 15(1) defines a ‘relevant body’ by reference to the definition of public body and prescribed body contained in [section 6](#) of the Freedom of Information Act 2014. As the Supreme Court explained in *Coolglass*, this definition ‘is very wide indeed’ and the climate legislation ‘applies across the public sector generally’ (para 26).

Following amendment in 2021, [section 15\(1\)](#)²⁹ now reads (emphasis added):

A relevant body ‘shall, in so far as practicable’ perform its functions ‘in a manner consistent with’:

- the most recently approved Climate Action Plan and other specified plans;
- the furtherance of the national climate objective
- the objective of mitigating GHG emissions & adapting to the effects of climate change in the State.

The Supreme Court began by observing that the amendments to section 15(1) ‘undoubtedly strengthen the obligation created’ (para 57). These amendments:

[A]re of real importance and effect; they impose an obligation not just of process but of outcome; and that outcome, if challenged, is not tested by a rationality standard, but rather by compliance or not with the legal obligation imposed (para 71).

The 2021 amendments require that the action of the relevant public body ‘meets a substantive outcome; it must be consistent so far as practicable with the climate objectives’ (para 72). The amendments ‘all demonstrate a clear legislative intention to impose legal obligations on all relevant bodies constituting the machinery of the State’ (para 76).

Where the action of a relevant body is challenged, the court must, in principle, be able to decide if the section 15 obligation has been complied with or not. However, the obligation of consistency does not dictate a single result. A range of decisions may be said to be consistent with the section 15 obligation. It is significant here that the plans with which consistency must be assessed are stated at a level of generality. Nevertheless, to comply with the section 15 obligation, the decision of a relevant body must ‘be capable of falling within that range’. Whether or not it does so ‘is a wholly objective question’ and ‘is a matter of law’ (para 77).

²⁹ This link is to the revised text of the Climate Action and Low Carbon Development Act prepared by the Law Reform Commission.

The qualification ‘in so far as practicable’ in section 15(1) should be understood as ‘what is practical in the circumstances and appropriate to the requirements of the situation’ (para 118 (iv)). Because section 15 applies to all relevant bodies, and the exercise of their functions, its practical impact in a specific case ‘will vary depending on the functions of the relevant body, and the matters to which they are obliged to have regard to, or to implement’ (para 118 (v)).

Importantly, where it is alleged that the actions of a relevant body failed to comply with section 15(1), the question for a court is:

[W]hether the performance of the functions of the relevant body ... falls within the spectrum of possible outcomes that could still be said to be consistent, in so far as is practicable, with the objective of s.15 ... (para 78).

Section 15 creates ‘a legal standard’ which must be complied with by a relevant body and, if necessary, enforced the by courts. The Supreme Court explained:

The question of consistency of an individual planning decision with the s.15(1) objective, is much more complex than a traffic light system of climate friendly ‘go’ (unless impracticable), and climate unfriendly ‘stop’ (para 84).

The duty on *An Coimisiún Pleanála* in this case to perform its functions in a manner consistent with the climate objective set out in section 15(1), ‘while real, effective and enforceable’, cannot be converted into such a simple formula (para 118 (xv)).

The Supreme Court provides a helpful summary of its conclusions on the interpretation of section 15 (as amended) at para 118 of its judgment. A summary of the full judgment is available [here](#).

Doyle, Friends of the Irish Environment, Futureproof Clare, Knox and Sharp v An Coimisiún Pleanála (No 3) [2026] IEHC 156.

This case concerned a challenge to two related decisions taken by An Coimisiún: (1) the decision to grant planning permission for the construction of six two-storey data centre buildings, associated structures and ancillary site works; and (2) the decision to grant permission for development of a 110kV Gas Integrated Switchgear (GIS) substation with associated underground transmission cables. The High Court dismissed the challenge on all grounds.

At para 69 of the judgment Humphreys J considers a number of practical points arising in the context of ‘emissions-causing projects’ following the Supreme Court’s *Coolglass* judgment.

Friends of the Irish Environment v Minister for the Environment, Climate and Communications, Ireland and the Attorney General [2026] IECA 42 on appeal from the High Court in *Friends of the Irish Environment v Minister for the Environment, Climate and Communications, Ireland and the Attorney General* [2025] IEHC 61 (*Friends II*).

Friends II is a significant judgment of the Court of Appeal, upholding the judgment of the High Court dismissing Friends' challenge to the Climate Action Plan 2023 (CAP23) and/or the associated Annex of Actions.

The Court of Appeal concluded that the standard to be met by the State respondents when adopting a CAP under section 4 of the Climate Action and Low Carbon Development Act 2015 (as amended) 'is an exacting one'. There must be 'a realistic evidential foundation' for the respondents' view that the CAP is consistent with the carbon budget programme. The statutory standard does not, however, require the respondents 'to demonstrate the absence of reasonable scientific doubt regarding the implementation or effectiveness of the measures concerned.' The onus lies on an applicant seeking to challenge a CAP in judicial review proceedings to establish that the CAP is invalid for the reasons alleged. Given the nature of the applicant's challenge in this case, where the material in question 'is overwhelmingly technical and scientific in nature', the challenge 'was unlikely to succeed in the absence of expert evidence'.

On 1 July 2026, the Supreme Court granted leave to appeal from the Court of Appeal: *Friends of the Irish Environment v Minister for the Environment, Climate and Communications, Ireland and the Attorney General* [2026] IESCDET 87. In the words of the Supreme Court, this appeal:

[C]oncerns the interpretation and application of important provisions of the 2015 Act in respect of the preparation and approval of CAPs. In particular, the present appeal raises questions as to the standard required by s4, the nature of the obligation to ensure consistency with the carbon budget programme, and the evidential basis upon which compliance, or, as the case may be, purported non-compliance, with those statutory obligations may be established. These issues arise in the context of a statutory scheme (i.e., the 2015 Act, as amended) of significant public importance and are capable of affecting the preparation, approval and potential review of future CAPs.

Pending climate litigation before the Irish courts

In addition to the Supreme Court appeal in *Friends II*, noted above, a number of interesting climate cases are pending at the time of writing including:

A challenge to the Climate Action Plan 2024 (CAP24), including the associated Annex of Actions, is currently pending before the High Court: *Community Law and Mediation and Others v Minister for the Environment, Climate and Communications, Ireland and the Attorney General*.³⁰

³⁰ See '[Constitutional rights to life and equality cited in High Court challenge to Government climate plan](#)' *Irish Times* 9 September 2024.

Friends of the Irish Environment, Friends of the Earth and ClientEarth have launched a High Court challenge against the Commission for Regulation of Utilities (CRU) concerning its decision on a new electricity connection policy for data centres.³¹

Judicial review proceedings challenging the legality of Ireland's Long-Term Strategy and its Sectoral Emissions Ceilings are also pending.³²

³¹ See further [Environmental groups granted leave to challenge data centre policy](#) *Irish Times* 28 April 2026 and [Environmental groups launch High Court challenge against energy regulator over data centres](#) *The Journal* 12 March 2026.

³² See further Andrew Jackson, 'The legacy of the first wave of framework climate cases in Europe: reflections on *Climate Case Ireland*, five years on' (2026) *Journal of Human Rights and the Environment* (forthcoming) section 3.1.2 <https://doi.org/10.4337/jhre.2026.0009>