Opening statement to the Committee on Justice, Home Affairs and Migration on The Civil Reform Bill 2025

19 March 2026

Irish Refugee Council

Opening Statement

Chair, Members of the Committee, my name is Katie Mannion, Managing Solicitor of the Irish Refugee Council Independent Law Centre, and I am joined by Virginija Petrauskaite, Solicitor.

Thank you for giving the Irish Refugee Council the opportunity to address you today on the General Scheme of the Civil Reform Bill. We would like to specifically address asylum and immigration related judicial review.

This submission is further to the longer submission sent to the Committee on the 13 February 2026.

Introduction

The Irish Refugee Council is a charity committed to supporting refugees and people seeking protection in Ireland. Through our Independent Law Centre, which opened in 2012, we work with the most vulnerable applicants to vindicate their rights. This has included men who experienced street homelessness due to the State's failure to meet its obligations under EU law, age-disputed minors, families separated by borders and international protection applicants in respect of whom serious errors were made in their applications. Immigration-related decisions made by the State, including international protection and family reunification, fundamentally impact a person's human rights. These decisions involve implementation and interpretation of complex, and ever evolving, EU law, and interpret ECHR and international human rights standards. They also involve people whose status is dependent on the State, who have fled home and have limited resources.

For these reasons, judicial review has proven to be a vital check on decision-making processes in this area, and crucial to access to justice. The restrictive measures proposed by the General Scheme, including altering jurisdiction and increased thresholds, are in the opinion of the Irish Refugee Council, disproportionate attempt to reduce judicial scrutiny of State actions.

In summary we oppose proposals to transfer jurisdiction of immigration-related Judicial Review, and the introduction of increased thresholds for the following reasons:

1. Constitutionally dubious
2. Complexity of issues in asylum Judicial Reviews
3. If implemented would create a system of two-tier justice
4. The High Court is best placed to hear all Judicial Review cases due to its level of expertise, resources, time and available remedies.
5. Current thresholds adequately protect the State's interests.

These proposed changes are being introduced at a time when the Migration and Asylum Pact, transposed through the International Protection Bill 2026, will commence in June 2026, which significantly restricts the rights and freedoms of international protection applicants, including the introduction of immigration-related detention and restrictions on movement, and will require oversight and judicial scrutiny to ensure that the protective features of the Pact are implemented.

Jurisdiction – Compatibility with Constitution

Judicial review is an integral component of the High Court's exclusive *full original jurisdiction* under Article 34.3.1 of the Constitution. We are concerned that asking the Circuit Court to perform a High Court level supervisory role over administrative power relating to the protection of rights against abuses and unfair procedures, is incompatible with the Constitution, and the right to fair procedures. To only invoke the jurisdiction of the High Court in exceptional cases appears to violate the requirements of Article 34.3.1°.

Two-tier system

Heads 9 and 12 of the General Scheme reduce the possibility of an effective remedy by limiting the right to review a decision of the Circuit Court.

The General Scheme of the Bill introduces a two-tier system, transferring immigration-related decisions to the Circuit Court, with additional hurdles to overcome, based indirectly on whether an Applicant is an Irish national or of migrant background. This impacts international protection applicants and other migrants' ability to vindicate their rights through the courts, which infringes their Constitutional right to equal treatment. This classification does not serve a legitimate purpose, and constitutes arbitrary and invidious discrimination.

High Court is best placed

It is submitted that this change is not necessary or appropriate as the High Court's existing role in asylum judicial review is working well and the High Court, through its list system and developed specialist expertise with immigration-related judicial reviews, is best placed to hear such cases.

Delays

The High Court significantly reduced the median time to deal with judicial review cases to 151 days in 2024. This can be contrasted with the Circuit Court's most recent available figures of 740 days for 2020. It would be irresponsible for the Oireachtas to consider creating further delays in the Circuit Court, by burdening it with complex interpretations of the new International Protection Bill 2026, to be introduced by June, in line with EU law, when a competence has been developed in another, more senior, court.

Available Remedies

The availability of High Court remedies is also relevant. The High Court, or the Supreme Court, can make a declaration that a statutory provision or rule of law is incompatible with the State's obligations under the Convention provisions." No such remedy is available to the Circuit Court. The issuing of Declaratory relief is an important recognition that rights have been breached. There is a risk that the Circuit Court would not have the resources to consider whether Irish law or practice was in breach of EU law.

Thresholds

The Scheme further suggests increasing the threshold for leave for Judicial Review in this area, requiring a "significant benefit" to the Applicant and introducing a "public interest" element. The State already enjoys significant procedural protections in asylum cases: higher thresholds than other Judicial Review proceedings, the requirement of a two-stage process, and the shorter timeframe of 14 days. In 2024, 97% of leave applications in asylum judicial reviews were granted, indicating that High Court judges consistently identify relevant grounds for challenging decisions of the State.

Both a change of standard of leave and a change of jurisdiction is unnecessary and arbitrary.

Thank you for inviting us to speak at this Committee, we look forward to engaging with you further.