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Irish Case Law Research

Abstract: This article by **Susan Brodigan** at McCann FitzGerald LLP provides an overview of Irish case law, outlining the methods used for researching Irish cases while also giving tips to those new to the profession, or to the Irish jurisdiction.
Keywords: legal research; legal sources; Ireland; case law

INTRODUCTION AND FOUNDATION OF THE COURTS

Irish case law plays a vital role in shaping the legal landscape of the nation. This article aims to outline research methodologies for Irish cases, providing a guide for those new to legal information management and those less familiar with the Irish jurisdiction, which is a common law system.

From early Irish Brehon law to its current common law system, Ireland's legal system has a long and interesting history. The basis for its current Courts Service is closely associated with the establishment of the Irish Free State in 1922. The inauguration of the judiciary in June 1924 was noted by the first Chief Justice Hugh Kennedy: "This is surely a precious moment – the moment when the silence of the Gael in the courts of law is broken. The moment when Irish courts are thrown open to administer justice according to laws made in Ireland by free Irish citizens."[1]

THE IRISH COURTS

The Superior Courts in Ireland consist of the High Court, the Court of Appeal and the Supreme Court. By way of a brief history lesson, the Courts system in Ireland is first defined by Articles 34 to 37 of Bunreacht na hÉireann / the Constitution of Ireland.[2] The Constitution outlines the framework of (i) Courts of First Instance, (ii) a Court of Appeal, and (iii) a Court of Final Appeal. The High Court is listed in Article 34.3.1 as a Court of First Instance, with "Courts of local and limited jurisdiction with a right of appeal as determined by law" defined in Article 34.3.4. The District and Circuit Courts were first created by the Courts of Justice Act 1924[3] and re-established via the Courts (Establishment and Constitution) Act 1961.[4] The Court of Appeal was established in October 2014, following a constitutional referendum in October 2013.

As well as its original jurisdiction, the High Court hears appeals from the Circuit Court in many civil matters. The High Court is known as the Central Criminal Court when hearing criminal matters that fall within its jurisdiction. The Special Criminal Court, established by the Offences Against the State Act 1939, hears criminal cases relating to organised crime and terrorism. For a more detailed description of the structure of the Irish Courts system, *Fundamentals of the Irish Legal System*[5] is an excellent resource. A new edition of this book was due to be published later in 2024.[6]

This article largely concerns searching for judgments in the three Superior Courts, and not the District and Circuit Courts, the judgments of which are not usually published or easily accessible online. This article examines free sources and subscription services.

For the purpose of compiling a book of authorities, cases fall into two broad categories: unreported judgments and reported judgments. A reported judgment will always be preferable to an unreported judgment for such purpose.

UNREPORTED JUDGMENTS

Within the category of unreported judgments, there is a further distinction between signed and unsigned judgments, which, for example, is distinct from the format of unreported judgments in England and Wales. Official judgments, which usually have the national emblem of a harp at the top of the first page, should always be used for books of authorities. Neutral citations were first introduced in Ireland in 2004.[7]

SEARCHING FOR UNREPORTED IRISH JUDGMENTS

Unreported judgments for the Superior Courts are issued on the Courts Service of Ireland (CSOI) website[8] in the first instance. Judgments dating back to 2001 are available there for free, although judgments from prior to mid-2000s are not comprehensively available. The search facility on the CSOI website has been upgraded in recent years, and full text search of judgments is available on the judgments search page.

Unreported judgments are also available on a variety of subscription sites, including vLex, Westlaw IE, Vizlegal and Lexis+ UK. While none has a comprehensive set of

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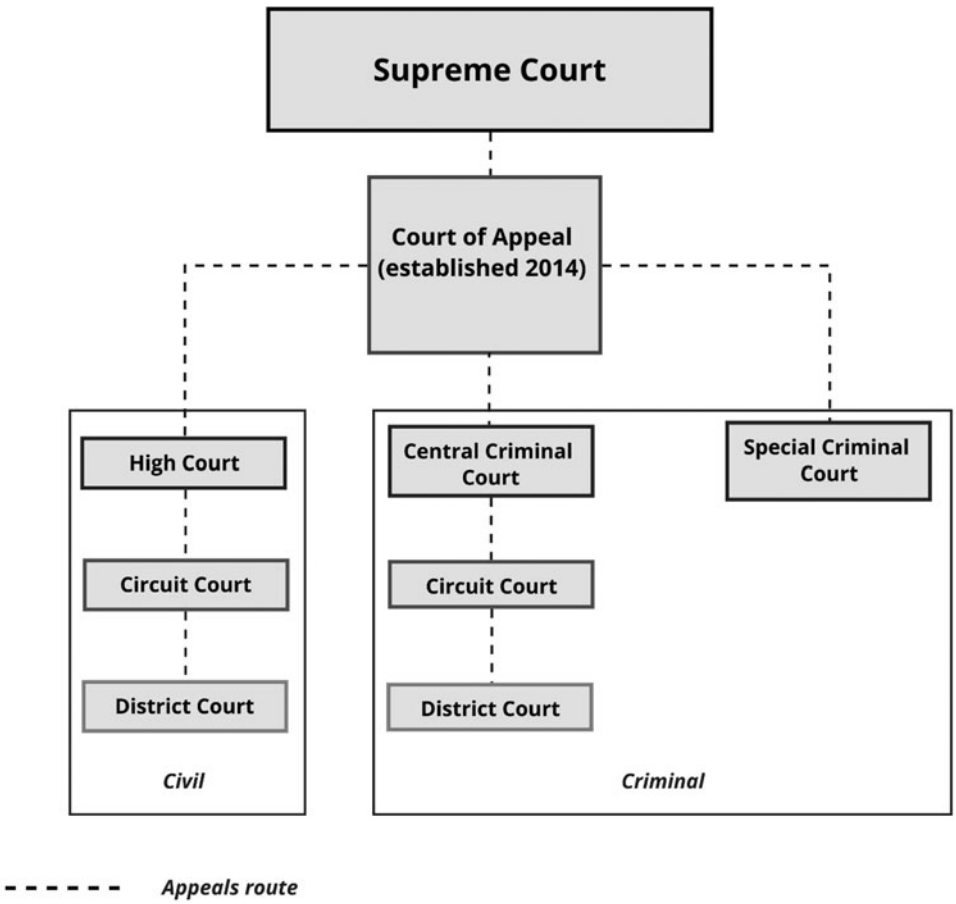


Figure 1: Simplified structure of the Irish Courts

judgments available, vLex's set goes back to 1978 and Westlaw IE's to 2002.

BAILII / IRLII

BAILII[9] lists Irish judgments for the Superior Courts. Whilst the CSOI website is the best source for recent judgments, this database lists cases back as far as 1878, though is "reasonably comprehensive" only from February 2001 forward.[10] IRLII's database (Irish Legal Information Initiative[11]) aims to complement BAILII's services. Though it is not as up to date as BAILII, IRLII promotes access to case law via social media platforms. Cases relating to a variety of practice areas can be browsed, though as a result of changes to Twitter / X's platform, a login is required to view these.

SIGNED JUDGMENTS

Signed judgments are available on vLex. Members of the Law Society of Ireland can use the Society's library to access scans of unsigned and signed judgments within the online catalogue.

The CSOI website now flags cases as having the status of "approved" or "unapproved" by the relevant judge or court. An "approved" status generally indicates that the Court has received a signed copy from the judge.

REPORTED JUDGMENTS

There are two series of general law reports in Ireland: the Irish Reports (IR) (published by the Incorporated Council of Law Reporting for Ireland (ICLR Ireland)) and the Irish Law Reports Monthly (ILRM) (published by Thomson Reuters Round Hall). When using a reported judgment for a book of authorities, the Irish Reports should always be the first choice, if the relevant decision is reported in that series; if not, the ILRM is the second-best option. Two other specialist series are also available: the Employment Law Reports (ELR) (published by Thomson Reuters Round Hall) and the Irish Tax Reports (ITR) (published by Bloomsbury).

SEARCHING FOR REPORTED IRISH JUDGMENTS

The IR are available in print from ICLR Ireland and online on vLex and Lexis+. vLex includes citations for the ILRM, but the full text is not available on this platform. vLex also uses its own internal citation, JIC, which is not a

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generally accepted citation and should not be used as a reference outside of the platform itself.

The ILRM and the ELR are available in print and online on Westlaw IE. The Irish Law Times Reports (ILTR), though no longer published, are another significant Irish law report and were published between 1871 and 1980.

Finally, the Irish Tax Reports are available in full online and in print on the Bloomsbury website.

Subscriptions are required for accessing all of these reports, with no single service offering access to all of them.

OTHER JUDGMENTS / DETERMINATIONS

- **Tax Appeals Commission** (TAC) determinations from 2016 are available on the Tax Appeals website.[12] A downloadable, searchable database of determinations is also available, which includes a summary and the legislation referenced within each determination.
- The **Workplace Relations Commission** (WRC) website[13] holds decisions of the Labour Court since 1986, the Employment Appeals Tribunal (EAT) since 2007 and decisions of the Workplace Relations Commission since 2015.
- For those undertaking research in consumer protection, the **Competition and Consumer Protection Commission** (CCPC)[14] website is a useful starting point, and it lists court cases under criminal enforcement and civil competition enforcement.
- **Coimisiún na Meán**,[15] established in 2023, is the successor to the Broadcasting Authority of Ireland and is the regulator of Ireland's broadcast and online media. Its decisions are published in its publications section.
- **The Office of the Commissioner for Environmental Information**[16] (OECI) reviews decisions made by public authorities on access to information on the environment (AIE) requests. Its decisions are available on the OCEI website.
- **The Office of the Information Commissioner**[17] (OIC) is the appeals body for freedom of information (FOI) requests. Decisions from January 2022 onwards are available on the OIC website, with earlier decisions available on request.
- The **International Protection Appeals Tribunal**[18] (IPAT) website holds redacted decisions made by the tribunal and its predecessor, the Refugee Appeals Tribunal, dating back to 2000. User registration is required in order to access these decisions.
- **An Bord Pleanála**[19] is the planning body that makes decisions on planning appeals and direct applications. Its decisions are available on its website.
- Patent, trademark and design registers and databases can be searched on the **Intellectual Property Office of Ireland** website.[20] This website is generally useful for those undertaking IP research in Ireland.

TAC decisions, Irish trademarks, decisions held on the WRC website, OCEI decisions, OIC decisions, An Bord Pleanála decisions and IPAT decisions can also be searched on the subscription site Vizlegal.

TRACKING ONGOING CASES

The Courts Legal Diary is available on the CSOI website[21] for free. Subscription services such as Vizlegal and My Legal Diary allow users to track ongoing proceedings and search terms.

BOOKS

Useful texts on the Irish legal system include the previously mentioned *Fundamentals of the Irish Legal System*[22] and *Byrne and McCutcheon on the Irish Legal System.*[23] *Murdoch and Hunt's Encyclopedia of Irish Law*[24] (more up-to-date online than the most recent print edition from 2016) is an excellent resource when looking for definitions of legal words, phrases or concepts, and it also provides relevant case law where applicable. The 2023 edition of *Delany and McGrath on Civil Procedure*[25] has been a welcome update to one of the key Irish texts on civil procedure and practice in the Superior Courts.

SEARCH TIPS AND CONCLUSION

When searching for Irish judgments on any platform, it is best to search for either the party name(s) or the neutral citations, but not both. Also, not all search functions recognise Irish surnames: while most databases will search for vowels with or without a fada / accent (á, é, í, ó, ú), the presence or lack of an apostrophe (Ó Muircheartaigh / O'Muircheartaigh / O Muircheartaigh) can hamper researchers in trying to locate a case.

Where a researcher is relying on publicly available websites to track new case law, browser extensions that monitor changes to webpages can flag relevant changes.

While in the coming months and years AI developments may assist in case law research, it is unlikely that researchers in the short-term or medium-term will be able to rely on any generative AI.

Google searches may find a version of a case, but may not find the best version available or show if a case has been reported. Therefore, a researcher will likely need to use a combination of resources included in this article to identify and locate the best version of a case that is available.

As stated by the then-Chief Justice Susan Denham in 2017: "for the rule of law to flourish in a democracy, an understanding and knowledge of what happens in our

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court is required".[26] I hope this article provides legal information professionals with a framework in which to research and locate Irish case law.

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Endnotes

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BIOGRAPHY

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