

Dear Rule of Law Report Team (DG JUST),

I am submitting further case-based evidence relevant to the practical functioning of oversight and judicial processes in Ireland. This third submission addresses a factual and chronological error in a High Court judgment concerning my FOI appeal against the Irish Information Commissioner. Specifically, it documents the judge's reinterpretation of a 2018 letter from the Institute of Chartered Accountants in Ireland (ICAI) in a manner that is chronologically impossible and inconsistent with the FOI record.

The attached report, *Submission to DG JUST – Rule of Law Concern Regarding High Court Judgment (Ireland)*, demonstrates that the High Court judgment relied on a factual premise contradicted by ICAI's own correspondence, thereby upholding the Commissioner's decision on an incorrect basis. The judgment interpreted ICAI's 29 May 2018 letter as referring to audit plan presentations that were not disclosed, requested, searched for, or known to exist until September–October 2019. This reinterpretation contradicts the documentary record, including NTMA's FOI correspondence, and directly undermines the factual foundation upon which the Commissioner's decision was affirmed.

This submission is intended to accompany my original July 2026 submission, its subsequent addendum, and my second submission. Together, these documents form a consolidated, evidence-based account of systemic issues affecting Ireland's oversight and judicial processes, and are directly relevant to the EU Rule of Law Report's methodology.

All referenced documents — including ICAI's correspondence, NTMA's FOI emails, the High Court judgment, and related case materials — are publicly available in the “Case Study” section of my website, Failte32.org. I am available to provide direct PDF copies of any document upon request.

I respectfully request that this submission be reviewed as part of the Commission's ongoing assessment of Ireland's rule-of-law environment.

Kind regards,
Maurice D. Landers
Failte32
xxxxx, 3rd Floor
xxxxx, New York xxxxx
mauricelanders@yahoo.com

I kindly request that this submission be routed to the Rule of Law Report Team within DG JUST.

To: Directorate-General for Justice and Consumers (DG JUST) European Commission

Dear Sir/Madam,

I write to bring to your attention a serious factual and chronological error in a High Court judgment concerning my FOI appeal against the Irish Information Commissioner. This error concerns the reinterpretation of correspondence from the Institute of Chartered Accountants in Ireland (ICAI), and it directly undermines the factual basis upon which the Commissioner's decision was upheld.

1. ICAI's 29 May 2018 Letter Cannot Refer to Audit Plan Presentations First Disclosed in 2019

In its letter dated **29 May 2018**, ICAI stated (See [*Book of Pleadings*](#), Case Study section of Failte32.org, p.25):

"The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA..."

This sentence continues beyond the quoted portion, but the relevant part is clear: ICAI explicitly states that PwC provided them with a **copy of the internal audit plan**.

The High Court judge interpreted this wording to mean ICAI was referring not to an internal audit plan, but to **audit plan presentations**.

However, this interpretation is **chronologically impossible**.

The NTMA did not disclose the existence of audit plan presentations until **25 September 2019**, more than **one year after** ICAI's letter. This is confirmed in NTMA's FOI correspondence:

- **25 September 2019** — NTMA FOI Unit: "Please find attached correspondence regarding your FOI request." (The attachments included the audit plan presentations.)
- **1 October 2019** — NTMA FOI Unit: "The only records located were the three audit plan presentations..."

Before these dates:

- ICAI had **no knowledge** of audit plan presentations.
- I had **never requested** audit plan presentations.
- NTMA had **never searched for** audit plan presentations.
- NTMA had **never disclosed** their existence.

Therefore, ICAI in 2018 could not have been referring to documents that were not disclosed, searched for, requested, or known to exist until late 2019.

The judge's reinterpretation retroactively applies 2019 information to a 2018 document. This is a factual and chronological error.

2. My First FOI Invitation From NTMA Occurred in September 2019 — Not Before

The NTMA's own correspondence shows that **6 September 2019** was the first time they ever invited me to request the internal audit plans under FOI.

On 6 September 2019, NTMA wrote (See [One pager](#), Case Study section of Failte32.org, p.5, Attachment F):

“You are entitled to request those records from the NTMA under the Freedom of Information Act 2014... you might confirm by e-mail that your request for these internal audit plans should be considered as a request to the NTMA for records under the FOI Act.”

This proves:

- NTMA had **not** previously processed any FOI request for audit plans.
- NTMA had **not** disclosed any audit plan presentations.
- NTMA had **not** acknowledged their existence.

My reply on **6 September 2019** confirms that this was the first time NTMA engaged with me on the FOI process for the audit plans.

This correspondence shows that **audit plan presentations were not part of any FOI process prior to 2019**, and therefore ICAI's 2018 letter cannot possibly refer to them.

3. ICAI Explicitly Confirmed Possession of the Internal Audit Plan

ICAI's 2018 letter states plainly:

“The member firm provided us with a **copy of internal audit plan...**”

This is not ambiguous. It is not conditional. It is not referring to a presentation.

It is a direct confirmation that PwC provided ICAI with the internal audit plan document.

This contradicts the Commissioner's finding that **no audit plan exists**.

4. The Commissioner Had ICAI's Correspondence and Still Found “No Audit Plan Exists”

The Commissioner had ICAI's 2018 letter in the case file.

Thus, the Commissioner:

- **knew** ICAI possessed the internal audit plan,
- **knew** PwC had provided it,
- **knew** ICAI confirmed receipt,
- **knew** ICAI described it as an “internal audit plan,”
- yet still issued a decision stating that **no audit plan exists**.

This satisfies the statutory criteria for **Section 23 inadequacy**, which applies where a decision is based on an incorrect factual premise.

5. The High Court Judgment Repeats the Commissioner's Error

In paragraph 32 of the judgment, the judge states (See [*Judge's ruling*](#), Case Study section of Failte32.org, p.11, paragraph 32):

“This is clearly a reference to the ‘internal audit plan presentations’ as had already been supplied to the applicant by the NTMA.”

This statement is factually incorrect.

Audit plan presentations were **not** supplied to me until **September 2019**, long after ICAI's 2018 letter. The judge's assertion that they had “already been supplied” is demonstrably false.

The judgment therefore rests on a factual premise that is contradicted by the FOI record.

6. Consequence

Because the judge's reinterpretation is based on a factual impossibility, and because the Commissioner's decision was based on an incorrect factual premise, the requirements of **Section 23** were met. The Commissioner's decision should not have been upheld.

I respectfully request that DG JUST review this matter in light of the clear chronological and factual errors outlined above.

7. Additional Supporting Documents

- Prior DG JUST submissions (Failte32 Rule of Law submissions, July and October 2026)

Yours sincerely,
Maurice D. Landers
xxxxx, New York
United States