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## *Special Issue: Environmental Impact Assessment*



# **The Irish Case of *Coyne v. An Bord Pleanála*: Assessing Indirect Climate Impacts Under the EU EIA Directive**

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### **Abstract**

This case note examines the 2023 decision handed down by the Irish High Court in *Coyne v. An Bord Pleanála*, which addresses the evolving role of environmental impact assessments (EIAs) in incorporating climate change considerations within planning decisions. Although the case was dismissed in its entirety, the judgment illuminates how indirect climate effects have been interpreted in Ireland, particularly regarding whether the planning authority lawfully assessed greenhouse gas emissions linked to electricity consumption by a proposed data centre. The Court required the assessment of indirect effects on climate change under the European Union EIA Directive, while emphasizing the practical limits of attributing diffuse, global climate impacts to individual projects. Although energy demand and emissions must be quantified, the Court noted that evaluating broader climate impacts is not feasible. Implications of the judgment for EIA practice in Ireland and beyond, as well as reflections on challenges in integrating climate change into EIAs are offered.

## Keywords

environmental impact assessment – climate change – indirect GHG emissions – Ireland

### 1 Introduction<sup>1</sup>

The case *Coyne v. An Bord Pleanála* decided by the Irish High Court in 2023 by Mr Justice Holland (Holland J), highlights the evolving role of the environmental impact assessment (EIA) as a legal mechanism for addressing climate change, particularly in the context of planning decisions in Ireland.<sup>2</sup> One of the main issues before the Court was whether the planning authority, in granting permission for a data centre, had failed to comply with the European Union EIA Directive by not assessing the indirect greenhouse gas (GHG) emissions, specifically carbon dioxide (CO<sub>2</sub>),<sup>3</sup> associated with the electricity required to power the facility.<sup>4</sup>

While the EIA Directive already encompassed climate within the scope of environmental factors to be assessed, the 2014 amendment clarified the requirement to consider impacts on the climate in EIAs.<sup>5</sup> The preamble of the amending Directive explicitly mandates the integration of climate change considerations into EIA procedures, and Article 3(1) requires that both direct and indirect significant effects of a project on climate be identified, described, and assessed.<sup>6</sup> To assist with implementation, the European Commission issued guidelines detailing how to incorporate climate-related impacts into EIA processes.<sup>7</sup> These guidelines emphasize that projects may generate both

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<sup>1</sup> The author is grateful to Benoit Mayer and Mateusz Slowik for their thoughtful editorial work and dedication in curating this special issue.

<sup>2</sup> *Mannix Coyne and Anne Coyne v. An Bord Pleanála, Ireland and the Attorney General, and Enginenode Ltd*, [2023] IEHC 412.

<sup>3</sup> The High Court clarifies that ‘GHG’ and ‘CO<sub>2</sub>’ are used interchangeably in the judgment. *Ibid.*, para. 6.

<sup>4</sup> *Ibid.*, para. 111.

<sup>5</sup> Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 Amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, [2014] OJ L 124/1 (hereinafter EIA Directive).

<sup>6</sup> *Ibid.*, preamble points 7 and 13 and Article 3(1)(c).

<sup>7</sup> European Commission, Guidance on Integrating Climate Change and Biodiversity into Environmental Impact Assessment (European Union, 2013) (hereinafter Guidance on EIA and CLIMATE CHANGE).

direct and indirect GHG emissions, particularly through increased energy demand, and advise practitioners to consider questions such as whether ‘the proposed project [will] significantly influence demand for energy’ in order to assess indirect emissions.<sup>8</sup> In line with the amended Directive, Ireland has revised its planning regulations, which now require that the climate impact of a proposed development, including the nature and extent of GHG emissions, be assessed as part of the EIA process.<sup>9</sup> Accordingly, Ireland has been described as having a ‘high level of requirements’ for integrating climate considerations into EIA practice.<sup>10</sup>

Against this regulatory backdrop, existing scholarship has identified the assessment of indirect climate impacts as one of the most significant challenges in EIA implementation.<sup>11</sup> The *Coyne* case, although dismissed in its entirety, illuminates how the issue of indirect climate effects has been interpreted by the High Court in Ireland. The judgment concluded that the CO<sub>2</sub> emissions arising from generating electricity to power the data centre constitute indirect effects requiring assessment. However, this assessment is limited to identifying and quantifying those emissions, not determining their impact on global climate change.<sup>12</sup> Therefore, the assessment of the Board was found to be appropriate, and the applicants’ claims were rejected in full.<sup>13</sup>

After setting out the facts (Section 2), this note analyses the treatment by the Court of indirect climate impacts (Section 3) before broader conclusions (Sections 4–5).

## 2 The Facts of the Case

In *Coyne v. An Bord Pleanála*, Mannix Coyne and his daughter, Anne Coyne, who live near the proposed data centre development in Ireland, argued that

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<sup>8</sup> *Ibid.*, at 29–30.

<sup>9</sup> European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, SI 2018/296; see also Department of Housing, Planning and Local Government (Ireland), ‘Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment’ (2018), para. 4.27.

<sup>10</sup> Rose Mayembe et al., ‘Integrating Climate Change in Environmental Impact Assessment: A Review of Requirements Across 19 EIA Regimes’, 869 *Science of the Total Environment* (2023), at 5.

<sup>11</sup> Benoit Mayer, ‘Climate Effects in Environmental Impact Assessment’, 14(2) *Transnational Environmental Law* 342 (2025).

<sup>12</sup> *Coyne*, supra note 2, paras. 208–9, 213–14.

<sup>13</sup> *Ibid.*, para. 215.

the project would result in significant adverse impacts, including loss of amenity and privacy, increased noise and nuisance, and disruption to their equine business.<sup>14</sup>

Following the grant of permission by the local planning authority (Meath County Council), the Coyne—alongside other appellants, including An Taisce and Friends of the Irish Environment (FIE)—appealed to An Bord Pleanála,<sup>15</sup> the national planning appeals board (which has since been re-established as An Coimisiún Pleanála).<sup>16</sup> This aligns with the statutory appeal procedure in Ireland, under which decisions of a local planning authority may be appealed on the merits to the national planning body.<sup>17</sup> In response to the appeals, the developer amended its original proposal, which had included on-site electricity generation via a gas-powered energy centre, opting instead to source electricity from the national grid.<sup>18</sup> The Board dismissed the objections raised by the Coyne and the other appellants, and upheld the grant of planning permission.<sup>19</sup>

The Coyne subsequently initiated two judicial review proceedings before the High Court (Ireland's court of first instance), challenging two related decisions of An Bord Pleanála: one granting planning permission to Engine-Node for the data centre and the other approving its connection to the national electricity grid via dedicated cables.<sup>20</sup> Judicial review in Ireland is a supervisory mechanism whereby the High Court examines the legality of decisions made by public bodies, rather than their merits.<sup>21</sup> The Court does not re-assess the substance of the planning decision or substitute its own view for that of the decision-maker; instead, it evaluates whether the decision was

<sup>14</sup> Ibid., para. 3.

<sup>15</sup> Ibid., para. 4.

<sup>16</sup> The change was brought about by the Planning and Development Act 2024 (Act No. 34 of 2024) (Ireland), s 495; see also Department of Housing, Local Government and Heritage (Ireland), 'An Coimisiún Pleanála - Ireland's national independent planning body launched' (Press Release, 17 June 2025) available at <https://www.gov.ie/en/department-of-housing-local-government-and-heritage/press-releases/an-coimisi%C3%BAAn-plean%C3%A1la-irelands-national-independent-planning-body-launched/>; accessed 26 November 2026.

<sup>17</sup> Planning and Development Act 2024, supra note 16, s. 103.

<sup>18</sup> Coyne, supra note 2, para 4; see also 'Legal Digest: Learning from Litigation' (Office of the Planning Regulator (Ireland), December 2023) available at <https://www.opr.ie/legal-bulletin/>.

<sup>19</sup> Coyne, supra note 2, para. 5.

<sup>20</sup> Ibid., para. 1.

<sup>21</sup> Paul Daly, Gerard Hogan, and David Morgan (eds.), *Administrative Law in Ireland* (Dublin: Round Hall, 2019), para. 10.03.

made in accordance with the law.<sup>22</sup> In the *Coyne* judicial review proceedings, which were decided together by the Court,<sup>23</sup> this included assessing compliance with both domestic and EU legal instruments, most notably the EIA Directive.

While the applicants advanced multiple grounds in support of their challenge, the core of the case centred on the question of CO<sub>2</sub> emissions from electricity generation needed to power the data centre. In this regard, they first argued that the Board failed to 'have regard to' the Climate Action and Low Carbon Development Act 2015 (Climate Act 2015),<sup>24</sup> in particular to the statutory considerations set out in section 15, including the objective of mitigating GHG emissions (ground 4).<sup>25</sup> Second, they claimed that the Board failed to identify, describe, and assess the environmental impacts of CO<sub>2</sub> emissions arising from the data centre, including cumulative impacts with other approved data centres, contrary to Irish planning law and the EIA Directive (ground 5).<sup>26</sup> Third, the applicants maintained that, in granting planning permission, the Board breached their human rights, that is, the right to life, bodily integrity, and a healthy environment consistent with human dignity, as derived from the Constitution and protected by the European Convention on Human Rights (ECHR) (ground 6).<sup>27</sup>

The applicants also raised procedural issues, arguing that the data centre and the grid connection constituted a single project for EIA purposes but were unlawfully split into two assessments (ground 1)<sup>28</sup> and that the omission of the gas-powered energy centre from the application violated planning rules and denied public participation under the EIA Directive (ground 3).<sup>29</sup>

The analysis that follows concentrates on ground 5, that is, the alleged failure to assess the impact of electricity-derived CO<sub>2</sub> emissions, following a brief overview of the overall reasoning and approach of the Court.

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<sup>22</sup> Ibid.

<sup>23</sup> *Coyne*, supra note 2, para. 1.

<sup>24</sup> Climate Action and Low Carbon Development Act 2015 (Act No. 46 of 2015), as amended by Climate Action and Low Carbon Development (Amendment) Act 2021 (Act No. 32 of 2021) (Ireland) (hereinafter Climate Act 2015).

<sup>25</sup> *Coyne*, supra note 2, para. 151.

<sup>26</sup> Ibid., para. 165.

<sup>27</sup> Ibid., para. 217.

<sup>28</sup> Ibid., para. 350.

<sup>29</sup> Ibid., para. 333.

### 3 The Judgment: EIA Directive and Climate Change

The judgement of the High Court extends to over 150 pages, reflecting the breadth of legal arguments before the Court. Holland J begins by clarifying two key points that frame his approach.

First, the judgment emphasizes that it is not the role of the Court to evaluate the effectiveness of government policy on climate change, but rather to ensure that the decision-maker lawfully considered the relevant policies.<sup>30</sup>

Second, the Court cautions against over-reliance on the evidence before it.<sup>31</sup> The Court does not question the scientific consensus on the effects of climate change, which is recognized in law through both statutory instruments and previous judicial decisions.<sup>32</sup> It, however, emphasizes that this general consensus on climate change cannot automatically be translated into factual findings about the specific site and applicants in question.<sup>33</sup>

A substantial portion of the judgment is then devoted to establishing the applicable law. It begins with the scope of the EIA Directive and the relevant provisions relating to climate change, that is, Article 3(1), already mentioned in Section 1, and Article 5, which outlines the requirements for an EIA report.<sup>34</sup> As to the scope of the Directive, the Court refers to the reasoning of Mr Justice Hogan in *Kilkenny Cheese*,<sup>35</sup> which serves as a key reference throughout much of the judgment, as will be detailed below. It suffices here to recall Hogan J's observation—discussed further in Section 4—that the EIA

<sup>30</sup> This point is detailed at paras. 10–47, where the High Court clarifies the meaning of the obligation imposed on An Bord Pleanála (and other public authorities) to 'have regard to' under s. 15 of the Climate Act 2015, *supra* note 24. On this question, see *Coolglass Windfarm Limited v. An Coimisiún Pleanála*, [2026] IESC 5.

<sup>31</sup> *Coyne*, *supra* note 2, para. 9.

<sup>32</sup> The High Court refers to the landmark decision in *Friends of the Irish Environment v. The Government of Ireland*, [2020] IESC 49, cited in *Coyne*, *supra* note 1, paras. 9, 49. The Supreme Court quashed the 2017 National Mitigation Plan for failing to comply with the requirements of the 2015 Climate Act. For an analysis of the case, see Orla Kelleher, 'The Supreme Court of Ireland's Decision in *Friends of the Irish Environment v. Government of Ireland* ("Climate Case Ireland")' (*EJIL:Talk!*, 9 September 2020) available at <https://www.ejiltalk.org/the-supreme-court-of-irelands-decision-in-friends-of-the-irish-environment-v-government-of-ireland-climate-case-ireland/>.

<sup>33</sup> *Coyne*, *supra* note 2, para. 9.

<sup>34</sup> *Ibid.*, paras. 50–7.

<sup>35</sup> *An Taisce – National Trust for Ireland v. An Bord Pleanála, et al incl. Kilkenny Cheese Limited*, [2022] IESC 8 (hereinafter *Kilkenny Cheese* case).

Directive should not be artificially expanded beyond its remit and should not be conscripted into the general fight against climate change.<sup>36</sup>

The Court also refers to relevant national laws and policies, including the (then) Climate Act 2015, the Climate Action Plan 2019, national planning strategies, and the Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy.<sup>37</sup> These documents inform Holland J's view of the broader policy context, in which the growth in electricity demand from data centres is not seen as inconsistent with climate objectives.<sup>38</sup> Rather than restricting electricity demand, the government aims to decarbonize electricity generation through a transition to renewables.<sup>39</sup> Notably, the Climate Plan 2019 itself envisaged a 'very rapid projected growth in electricity demand', including from data centres.<sup>40</sup> The Court recognizes that such decisions may be viewed as controversial, given the heavy electricity use of data centres and the implications for GHG emissions, but it is again clear in affirming that these are matters for the government to decide.<sup>41</sup>

As indicated in Section 1, the case was rejected on all grounds.<sup>42</sup> While the remainder of this case note focuses on ground 5, a brief overview of the reasoning of the Court on the other grounds is included for context. Regarding the alleged failure to have regard to the Climate Act 2015 (ground 4), the Court acknowledges that the Board could have been more explicit about complying with section 15, but ultimately considers the matter one of substance over form and maintains that the Board had complied with its legal obligations to address climate change and reduce GHG emissions.<sup>43</sup> A significant part of the judgment focuses on the human rights-based argument (ground 6), which is dismissed on the basis that the Coyne's cannot rely on rights violations in a judicial review that were not raised during the original planning process before the Board.<sup>44</sup> While this procedural point would be sufficient to reject the argument, the Court nonetheless goes into the merits of each right invoked.<sup>45</sup> The bulk of the Court's reasoning rests on the fact that the applicants have not adduced evidence of any causal link between the operation

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36 *Coyne*, supra note 2, para. 51.

37 *Ibid.*, paras. 58–72.

38 *Ibid.*, para. 86.

39 *Ibid.*, paras. 84–5.

40 *Ibid.*, para. 77(d).

41 *Ibid.*, para. 89.

42 *Ibid.*, para. 416.

43 *Ibid.*, paras. 151–64.

44 *Ibid.*, paras. 248–9.

45 *Ibid.*, paras. 250–327.

of the data centre and breaches of their personal rights.<sup>46</sup> Finally, the Court finds no unlawful project-splitting, holding that the parallel EIAs were not intended to evade the EIA process (ground 1)<sup>47</sup> and that permitting or conditioning part of the development does not breach planning law (ground 3).<sup>48</sup>

The rest of the analysis focuses on ground 5, that is, the alleged failure to identify, describe, and assess the effects of CO<sub>2</sub> emissions from the data centre, including cumulative effects with other data centres. While the Court views the CO<sub>2</sub> issues in this case as involving both indirect and cumulative effects, it notes that both concepts raise similar questions about the extent of an EIA and the limits on assessing effects occurring off the project site.<sup>49</sup> Accordingly, the following discussion focuses on the question of indirect effects and follows the structure of the High Court's judgment. First, the note considers whether GHG emissions from electricity generation to power the data centre constitute indirect effects under Article 3(1) of EIA Directive (sub-section 3.1). Second, it examines what the EIA process requires if such emissions fall within the scope of the Directive (sub-section 3.2).

### 3.1 *Scope of Article 3(1): GHG Emissions from Electricity Generation as Indirect Effect*

Although the impugned decisions treated and assessed the electricity-related CO<sub>2</sub> emissions as an indirect effect of the data centre, An Bord Pleanála consequently contested at trial that these emissions should be regarded as indirect effects for EIA purposes.<sup>50</sup>

To determine whether CO<sub>2</sub> emissions from the electricity required to power the data centre qualify as an indirect effect of the project on the climate under the EIA Directive, the Irish Court refers to the *Kilkenny Cheese* case.<sup>51</sup> The central issue of that case was whether An Bord Pleanála, in granting permission for a large cheese factory, was required to assess the upstream impacts of the factory's operation and, specifically, the effects of producing the milk needed to supply it.<sup>52</sup> The Supreme Court held that it was not necessary for the purposes of the EIA to consider the climate impacts of GHG emissions from the cows producing that milk as indirect effects of the cheese

<sup>46</sup> Ibid., paras. 235–6, 276–88, 328.

<sup>47</sup> Ibid., paras. 350–415.

<sup>48</sup> Ibid., paras. 329–49.

<sup>49</sup> Ibid., para. 175.

<sup>50</sup> Ibid., para. 170.

<sup>51</sup> Ibid., para. 190, which refers to *Kilkenny Cheese*, supra note 35.

<sup>52</sup> *Kilkenny Cheese*, supra note 35, para. 7.

factory, as they were too remote to fall within the scope of Article 3(1) of the EIA Directive.<sup>53</sup> It added, affirming the High Court judgment, that broader indirect climate consequences of milk production should be assessed at a programmatic level.<sup>54</sup>

Based on this precedent, the High Court in *Coyne* referred to the two interpretations offered by Hogan J in *Kilkenny Cheese* regarding the extent to which off-site activities must be considered indirect effects under Article 3(1).<sup>55</sup>

1. The ‘special case’ interpretation, such was the case in the *An Taisce Edenderry* case,<sup>56</sup> where the environmental effects of extracting peat from third-party bogs to fuel a power plant were found to fall within the ambit of indirect effects in light of the ‘functional interdependence’ of the two operations.<sup>57</sup> In that case, the Court held that the off-site activities were so closely interlinked with the on-site operation that they could not realistically be assessed in isolation.<sup>58</sup>
2. The ‘open-ended’ interpretation, under which—beyond the above category of special cases—there would be no clear limit to the range of indirect effects requiring assessment for EIA purposes.<sup>59</sup> Such an interpretation would practically lead to the imposition of an unworkable obligation on developers in preparing EIA reports and was rejected by the Supreme Court in *Kilkenny Cheese* in relation to the effects of producing the milk needed to supply the cheese factory.<sup>60</sup>

While stating that he is bound by the Irish decision in *Kilkenny Cheese*,<sup>61</sup> Holland J also refers to the English case of *Finch*.<sup>62</sup> In particular, he notes that the UK Court of Appeal judgment states that the existence and nature of

53 *Coyne*, supra note 2, para. 190.

54 *Ibid.*

55 *Ibid.*, para. 198.

56 *An Taisce v. An Bord Pleanála*, [2015] IEHC 633.

57 *Ibid.*, paras. 60–74.

58 *Coyne*, supra note 2, para. 198, where the High Court directly refers to the reasoning of the Supreme Court in *Kilkenny Cheese*, supra note 35.

59 *Ibid.*

60 *Ibid.*

61 *Ibid.*, para. 203.

62 Holland J refers to both the High Court of England and Wales judgment in *R (Finch) v. Surrey County Council*, [2020] EWHC 3566 (Admin) and particularly, the Court of Appeal of England and Wales judgment in *R (on the application of Finch) v. Surrey CC*, [2022] EWCA Civ 187. Since then, the UK Supreme Court delivered its judgment on 20 June 2024, see *Finch v. Surrey County Council*, [2024] UKSC 20. For an analysis of this judgment, see Daria Shapovalova, ‘The Legal Significance and Practical Implications of the Finch Decision of

indirect, secondary, or cumulative effects ultimately depend on the specific facts and circumstances of the project at hand, with the key question being the degree of connection required to link the project to a putative effect—a matter of evaluative judgement for the planning authority and reviewable only on *Wednesbury*<sup>63</sup> irrationality grounds.<sup>64</sup>

It follows that the High Court judgment in *Coyne* finds that GHG emissions from the electricity generation required to power the data centre constitute a special case of an off-site indirect effect, which must be assessed under Article 3(1) of the EIA Directive.<sup>65</sup> Although *Kilkenny Cheese* generally excluded upstream emissions as too remote, the judgment in *Coyne* does not explicitly explain how the two cases differ, nor does it identify a distinct legal test to reach its conclusion. The different approach seems to lie primarily in the factual context: while in *Kilkenny Cheese* the indirect effects concerned milk production as an input to the operation of the proposed cheese factory, in *Coyne* they were related to the energy-related GHG emissions associated with powering the data centre. While the Court observes that '[e]lectricity is as much an input to the productive capacity of the Data Centre as was the cheese an input to cheese production' in *Kilkenny Cheese*,<sup>66</sup> it relies on the explicit requirement in the EIA Directive that the description of the operation of a project include 'energy demand and energy used,' anchoring its conclusion in the text of the Directive.<sup>67</sup> While not binding, the Court also cites the Commission 2013 Guidance on EIA and climate change to support this interpretation, which underscores the need to consider 'indirect GHG emissions due to an increased demand for energy'.<sup>68</sup> In Holland J's view, it is difficult to regard the environmental relevance of energy demand as excluding the GHG emissions resulting from its generation.<sup>69</sup>

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the UK Supreme Court – A New Hope for Climate or Business as Usual?', 37(2) *Journal of Environmental Law* 365 (2025).

63 *Associated Provincial Picture Houses Ltd v. Wednesbury Corporation*, [1948] 1 KB 223. The irrationality standard for judicial review has also been repeatedly adopted by Irish courts, see *The State (Keegan) v. The Stardust Compensation Tribunal*, [1986] IR 642; *O'Keeffe v. an Bord Pleanála*, [1993] 1 IR 39.

64 *Coyne*, supra note 2, para. 204.

65 *Ibid.*, para. 208–9.

66 *Ibid.*, para. 210(c).

67 *Ibid.*, para. 208.

68 *Ibid.*

69 *Ibid.*

Therefore, the Court concludes that the Board properly regarded the GHG emissions from electricity generation as indirect effects of the data centre, despite its later argument to the contrary.<sup>70</sup>

### 3.2 *EIA Obligations in Respect of Indirect Effect in the Context of Climate Change*

To determine what the assessment of indirect effects entails in the context of climate change, the High Court in *Coyne* considers whether this assessment should be limited to quantifying GHG emissions and their contribution to the national inventory, or whether it should also seek to determine the impact of these emissions on global climate change.

The Court emphasizes that the unique nature of climate change requires a tailored approach to the EIA of individual projects.<sup>71</sup> The CO<sub>2</sub> emissions associated with electricity used by a data centre are not localized, but are generated across the national grid at multiple sources.<sup>72</sup> While these emissions are treated as environmental effects in themselves, the judgment clarifies that what matters are the effects of those emissions on climate change, which are planetary in nature and diffuse.<sup>73</sup> Since the contribution of each project to global emissions is proportionally infinitesimal, the link between the electricity-derived emissions of a project and actual climate effects can be seen as insignificant.<sup>74</sup>

The Court holds that there is not ‘a shred of evidence’ that EngineNode or An Bord Pleanála were in a position to supply more precise data than they did regarding the magnitude of emissions or the significance of their effects.<sup>75</sup> Article 3(1) of the EIA Directive requires a ‘significant effect’, while Article 5 mandates that the EIA report submitted by the developer must contain the information that may reasonably be required to reach a reasoned conclusion on those significant environmental effects, taking into account current knowledge and methods of assessment.<sup>76</sup> Similarly, any obligation on the

<sup>70</sup> Ibid., para. 209.

<sup>71</sup> Ibid., para. 210(d).

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid., para. 210(h).

<sup>76</sup> Ibid., para. 129. To reinforce the point of reasonableness, the High Court draws on the case law of the Court of Justice of the European Union, including Case C-2/07 *Abraham and Others*, [2008] ECR I 1197; Case C-535/18 *IL v. Land Nordrhein-Westfalen*, [2020] ECLI:EU:C:2020:391; Case C-463/20 *Namur-Est Environnement ASBL v. Région Wallonne, Cimenteries CBR SA*, [2022] ECLI:EU:C:2022:121.

planning authority must be limited by what is reasonable.<sup>77</sup> On this basis, the High Court accepts that the developer clearly supplied the information required by the EIA Directive, and finds that the conclusion of the Board could not be considered irrational.<sup>78</sup> The Court invokes the risk of creating an unworkable obligation if an assessment of the knock-on effects of off-site, indirect emissions from electricity generation of the data centre was required.<sup>79</sup> In the words of Hogan J in *Kilkenny Cheese*, the Court describes such effects as ‘elusive, contingent, speculative and incapable of measurement’.<sup>80</sup>

The judgment concludes that, while the EIA of a project involving indirect CO<sub>2</sub> emissions from electricity generation must consider factors such as ‘energy demand and energy used’, ‘climate change’, and ‘the impact of the project on climate (including the nature and magnitude of GHG emissions)’, it is sufficient to (1) identify and quantify the energy demand and usage; (2) quantify the nature and magnitude of the resulting GHG emissions; and (3) assess their contribution to national GHG emissions from electricity generation within the framework of EU climate requirements (e.g., the Emissions Trading System Directive) and national renewable energy policies.<sup>81</sup> In the view of the Court, it is neither necessary nor feasible to determine the impact of these project-derived indirect CO<sub>2</sub> emissions on future significant climate change events, nor their effect on a small number of individuals living near the data centre.<sup>82</sup> This exercise would be ‘speculative to the point of uselessness’.<sup>83</sup>

In conclusion, the Irish Court finds that the Board carried out the assessment appropriately and declines to quash its decisions.<sup>84</sup>

#### 4 Key Takeaways and Forward-Looking Observations

The *Coyne* judgment shows how Ireland, like other jurisdictions, has extended the scope of EIA to include climate-related effects, a trend confirmed in recent research.<sup>85</sup> However, as Mayer observed, the integration of climate

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<sup>77</sup> *Coyne*, supra note 2, para. 129.

<sup>78</sup> *Ibid.*, paras. 210(h), 210(f).

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*, para. 213.

<sup>82</sup> *Ibid.*, para. 214.

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*, para. 215.

<sup>85</sup> Mayer, supra note 11.

considerations into impact assessments is far from straightforward.<sup>86</sup> The judgment reflects this complexity, providing important clarity on the scope and limits of assessing GHG emissions under the EIA Directive, particularly in relation to electricity generation as an off-site indirect effect of a proposed development. The overall approach of the High Court is restrained and cautious, reflecting the limits of judicial review.

First, the Court reaffirms the principle established in previous case law that indirect effects must be sufficiently connected to the project to fall within the scope of Article 3(1). In this respect, the case is somewhat distinct from other recent EIA litigation on indirect GHG emissions. Whereas cases such as *Finch* and *Kilkenny Cheese* concern downstream or upstream emissions (Scope 3), *Coyne* relates to emissions linked to electricity consumption (Scope 2).<sup>87</sup> The judgment nevertheless suggests that the legal question under the EIA Directive remains the same: whether the indirect effects are capable of meaningful assessment within EIAs.

Second, the Court finds that the EIA procedure should identify and quantify the indirect GHG emissions and assess their contribution within the national and EU legal and policy frameworks on climate change, without requiring an evaluation of the specific impacts of those emissions on climate outcomes or on individuals living near the project. The Court emphasizes that, due to the global, diffuse, and cumulative nature of climate change, establishing a causal link between emissions from a particular project and climate impacts is likely impossible. According to the Court, broader climate considerations are more appropriately addressed via programmatic measures, most notably the EU Emissions Trading System (ETS),<sup>88</sup> rather than in the context of a project-level EIA.<sup>89</sup> The reasoning of the Court is grounded in the doctrine of the separation of powers, affirming that decisions on policy lie

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<sup>86</sup> *Ibid.*, at 2.

<sup>87</sup> For an overview of the categorization of GHG emissions into scope 1, scope 2, and scope 3, see *Coyne*, *supra* note 2, para. 113.

<sup>88</sup> The High Court explains that the ETS caps total electricity-sector emissions at the EU level. This means that growing electricity demand in one Member State does not increase the overall emissions cap, since the system is supply-led rather than demand-led, limiting total CO<sub>2</sub> allowances rather than directly restricting electricity consumption. *Ibid.*, para. 210(e).

<sup>89</sup> A particularly illustrative passage in the judgment notes that, although the applicants did not formally challenge the government's policy favouring data centre development, their submission effectively sought to undermine that policy by portraying such developments as incompatible with Ireland's climate obligations. However, Holland J makes clear that such matters do not fall within the scope of judicial review and lie beyond the proper role of the courts. *Ibid.*, para. 51.

within the remit of the executive and legislature, and are not questions for judicial determination.<sup>90</sup>

In upholding the approach of the planning authority and refusing to quash its decisions, the Irish Court reinforces the principle that EIA assessments of indirect GHG emissions must be evidence-based and cognizant of the practical limitations of their scope, while serving to inform how a proposed development may contribute to climate change through increased emissions. The judgment reaffirms a narrow and technically grounded understanding of the EIA process.<sup>91</sup> While impact assessment frameworks may hold promise for addressing climate-related effects, for example, CO<sub>2</sub> emissions from electricity generation, they remain constrained in their function as technical instruments. Ultimately, the case highlights the limitations of legal tools like EIAs in tackling global challenges.

At the same time, climate-informed EIAs can serve an important informational function by keeping the public and planning authorities aware of activities that may contribute to climate change, and can also reveal potential inconsistencies between individual projects and broader climate policies.<sup>92</sup> In *Coyne*, the Court acknowledged the possibility of tensions between the government policy on data centre development and climate obligations, or at least recognized that such policies could be seen as controversial. Thus, even if indirectly, EIAs may contribute to climate mitigation by exposing policy incoherence and prompting reform.

In relation to future trends in EIAs, one area to watch is the treatment of renewable energy projects. While climate impacts are increasingly being integrated into EIAs, provisions at both the EU and national levels now often assume that energy infrastructure projects have minimal environmental impact and should be considered to be in the overriding public interest, with a view to accelerate the transition to a low-carbon society.<sup>93</sup> These provisions could lead to situations where developers seek exemptions from EIA requirements for renewable energy projects, potentially overlooking the environmental effects of climate-mitigation infrastructure. This could lead to

<sup>90</sup> Ibid., para. 88.

<sup>91</sup> Richard K. Morgan, 'Environmental Impact Assessment: The State of the Art', 30(1) *Impact Assessment and Project Appraisal* 5 (2012), who carries out a review of the state of the art of the EIA process.

<sup>92</sup> Mayer, *supra* note 11, at 23.

<sup>93</sup> For example, Directive 2023/2413/EU of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652, [2023] OJ L 1/77, Article 16(f).

cases similar to *Coyne*, where residents challenge the likely environmental impacts of energy infrastructure, thereby highlighting a potential area for future research into EIA practice and the need to balance climate goals with broader environmental protection.<sup>94</sup>

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94 See Alison Hardiman, 'Climate, Energy – and Environment? Reconciliation of EU Environmental Law with the Implementation Realities of EU Climate Law', 12(3–4) *Climate Law* 242 (2022), at 251–7, who has already begun to address these challenges in relation to EIAs.