

THE DISTRICT COURT
[District Court Area]
District No. [Insert District Number]

**IN THE MATTER OF THE CONSTITUTION OF IRELAND AND THE
ADMINISTRATION OF JUSTICE**

BETWEEN:
DIRECTOR OF PUBLIC PROSECUTIONS
Prosecutor

AND

[Insert Accused/Defendant Name]
Accused

**APPLICATION TO DISMISS THE PROSECUTION ON CONSTITUTIONAL
GROUNDS**

To: His/Her Honour, the Presiding Judge of this Honourable Court

I, [Insert Accused/Defendant Name], the Accused in the above-entitled proceedings, respectfully apply to this Honourable Court to raise a constitutional issue pursuant to Article 34.6.1° of the Constitution of Ireland.

As a litigant in person, I request that this application be accepted as part of these proceedings and that I be permitted to make oral submissions if the Court deems it appropriate.

This application is brought on the grounds that the present prosecution is repugnant to the Constitution and therefore invalid, as it is being conducted in a court of summary jurisdiction without lawful prosecutorial authority.

The direction of prosecution by a member of An Garda Síochána under the purported authority of the Director of Public Prosecutions (DPP) constitutes an *ultra vires* act.

RELIEF SOUGHT

1. An Order dismissing the prosecution on the grounds that it is repugnant to the Constitution and invalid.
2. A Declaration that the Director of Public Prosecutions lacks authority to prosecute or direct prosecutions in courts of summary jurisdiction, rendering the current proceedings null and void.
3. Such further or other Orders as this Honourable Court may deem just and proper, including costs.

GROUNDS OF APPLICATION

1. The Judicial Oath under Article 34.6.1°

Article 34.6.1° of the Constitution provides:

“Every person appointed a judge under this Constitution shall make and subscribe the following declaration:

In the presence of Almighty God I do solemnly and sincerely promise and declare that I will duly and faithfully and to the best of my knowledge and power execute the office of Chief Justice (or as the case may be) without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution and the laws. May God direct and sustain me.”

This solemn oath obliges the Court to uphold the Constitution above all other considerations.

Once a constitutional defect is identified, the Court must address it to ensure compliance with Article 38.1, which guarantees trial *“in due course of law.”*

2. Constitutional Limitation on Prosecutorial Authority — Article 30.3

Article 30.3 provides:

“All crimes and offences prosecuted in any court constituted under Article 34 of this Constitution other than a court of summary jurisdiction shall be prosecuted in the name of the People and at the suit of the Attorney General or some other person authorised in accordance with law to act for that purpose.”

This provision expressly limits the Attorney General’s prosecutorial authority to courts constituted under Article 34, *excluding* courts of summary jurisdiction. Accordingly, neither the Attorney General nor any delegate — including the DPP — possesses constitutional authority to conduct or direct prosecutions in summary jurisdiction.

3. Historical and Statutory Context

Under the Ministers and Secretaries Act 1924 (Section 6), the Attorney General was vested with responsibility for the enforcement of the law and the prosecution of offences.

Section 9(1) of the Criminal Justice (Administration) Act 1924 provided that indictable offences be prosecuted at the suit of the Attorney General.

However, Article 50 of the 1937 Constitution preserved pre-1937 statutes only *to the extent that they are not inconsistent with the Constitution*.

Section 9(2) of the 1924 Act, which purported to extend the Attorney General’s authority to summary prosecutions, is inconsistent with Article 30.3 and therefore constitutionally invalid.

4. Repugnancy under Article 15.4

Article 15.4 provides:

“1° The Oireachtas shall not enact any law which is in any respect repugnant to this Constitution or any provision thereof.

2° Every law enacted by the Oireachtas which is in any respect repugnant to this Constitution... shall, to the extent of such repugnancy, be invalid.”

As Section 9(2) of the Criminal Justice (Administration) Act 1924 purports to confer powers contrary to Article 30.3, it is repugnant and invalid.

This invalidity extends to any statutory or administrative framework derived from it, including the purported summary prosecution powers exercised by or under the direction of the DPP.

5. Scope of the DPP’s Authority under the Prosecution of Offences Act 1974

Section 3 of the Prosecution of Offences Act 1974 enables the DPP to exercise the Attorney General’s former functions in criminal matters.

However, this applies only to those functions consistent with the Constitution.

As the Attorney General’s authority under Section 9(2) of the 1924 Act was already unconstitutional, the DPP cannot lawfully assume or exercise that power.

Accordingly, the DPP lacks authority to prosecute or direct prosecutions in courts of summary jurisdiction.

6. Functions and Obligations of An Garda Síochána

Under Section 7 of the Garda Síochána Act 2005, the functions of the Garda Síochána include preserving peace, preventing crime, and bringing offenders to justice *by detecting and investigating* crime — not by acting as prosecutors.

Further, under Section 16 of the same Act, every member must solemnly declare to “*uphold the Constitution and the laws.*”

By conducting prosecutions under the purported direction of the DPP in a jurisdiction where that authority is constitutionally invalid, members of An Garda Síochána act contrary to their statutory and constitutional obligations.

7. Invalidity of Garda/State Solicitor Prosecutions

Section 8 of the Garda Síochána Act 2005, to the extent that it purports to authorise Gardaí to prosecute in the name of and under the direction of the DPP, is repugnant to Article 30.3.

The DPP has no constitutional authority in summary jurisdiction; therefore, any such prosecution is null and void.

8. Violation of Article 38.1 — Trial Not in Due Course of Law

Article 38.1 provides:

“No person shall be tried on any criminal charge save in due course of law.”

A prosecution conducted without constitutional or statutory authority is not a trial “*in due course of law*.”

Accordingly, the proceedings offend Article 38.1.

9. Violation of Article 40.4.1° — Liberty Not in Accordance with Law

Article 40.4.1° states:

“No citizen shall be deprived of his personal liberty save in accordance with law.”

Any deprivation of liberty arising from unconstitutional proceedings constitutes a breach of this provision.

10. Additional Protections under Articles 40.1 and 40.3

Article 40.1 guarantees equality before the law, and Article 40.3 obliges the State to defend and vindicate the personal rights of the citizen.

Invalid prosecutions violate both provisions, as they subject citizens to unlawful process and unjust deprivation of rights.

CONCLUSION

For the reasons set out above, I respectfully request that this Honourable Court:

- Dismiss the prosecution as repugnant to the Constitution and invalid;
- Declare that the Director of Public Prosecutions lacks lawful authority to prosecute or direct prosecutions in courts of summary jurisdiction; and
- Make such further or other orders as the Court deems fit, including costs.

If the Court declines to grant this relief, I reserve my right to seek judicial review in the High Court pursuant to Order 84 of the Rules of the Superior Courts.

Dated this ____ day of _____ 2025

Signed: _____
Accused/Defendant