Federal Court Immigration Appeals: A Guide for 2026

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If the Administrative Review Tribunal (ART) has upheld a decision against you, or if a decision was made with a legal error, you may be able to seek judicial review in the Federal Circuit and Family Court of Australia (FCFCA) or the Federal Court of Australia.

What Is Judicial Review?

Judicial review is fundamentally different from merits review at the ART:

Feature	ART (Merits Review)	Federal Court (Judicial Review)
What is reviewed	The merits of the decision	Whether a legal error was made
Can substitute a new decision	Yes	No — can only send it back
Evidence	Can consider new evidence	Limited to the evidence before the original decision-maker
Outcome if successful	New decision	Decision set aside and sent back for reconsideration

Grounds for Judicial Review

The most common grounds for judicial review in immigration cases include:

1. Jurisdictional Error The decision-maker exceeded their power or failed to exercise their power correctly.

2. Denial of Procedural Fairness You were not given a fair opportunity to present your case — for example, you were not told about adverse information that was relied upon.

3. Failure to Consider Relevant Material The decision-maker failed to consider evidence or submissions that were relevant to the decision.

4. Consideration of Irrelevant Material The decision-maker took into account factors that were not relevant to the decision.

5. Unreasonableness The decision was so unreasonable that no reasonable decision-maker could have reached it.

Deadlines

Court	Deadline
Federal Circuit Court (from ART decision)	35 days from notification
Federal Court (from FCFCA decision)	28 days from notification
High Court (special leave)	28 days from Federal Court decision

[DEADLINE_WARNING]

The Process

1. **File your application** with the court within the deadline
2. **Prepare your written submissions** — these are the legal arguments for why the decision was wrong
3. **Attend the hearing** — the judge will hear arguments from both sides

4. **Receive the judgment** — this can take weeks to months

Costs

Judicial review can be expensive. Costs include:

- Court filing fees
- Legal representation fees
- Potential adverse costs orders if you lose

However, the cost of not pursuing a valid legal challenge can be far greater — particularly if the alternative is removal from Australia.

How I Can Help

I have extensive experience in Federal Court immigration litigation. I will assess whether your case has viable grounds for judicial review, prepare your application and submissions, and represent you at the hearing. Not every case is suitable for judicial review — I will give you an honest assessment.

Book a consultation today from $97.

About the Author

Nilesh Nandan is the Head of Practice at MyVisa Lawyers Pty Ltd, a specialist immigration law firm with offices across Australia. With 33 years of legal experience and 27 years specialising in immigration law, Nilesh is admitted as a solicitor in New South Wales and holds a practising certificate issued by the Law Society of New South Wales under the Legal Profession Uniform Law (NSW).

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