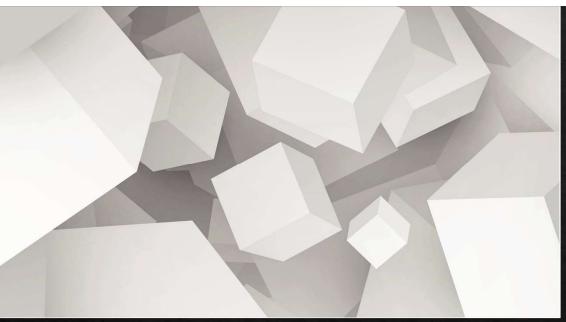


Cross-Border Access to Justice: Ireland/Northern Ireland Alison Hough BL, EJNI ahough@tus.ie



## Some Key issues

- 1. "The Level Playing Field" of Environmental law.
- 2. Litigation challenges.
- 3. Access to justice standards.





## 1. The "Level Playing Field"

- Divergence is now permitted in many areas of retained environmental law.
- Habitats, Waste Framework Directive, Water Framework Directive, Aarhus Directives, not covered by Annex II & IV of the Protocol.
- The UK Environment Act 2021 and OEP offer insufficient protection even if commenced.
- No oversight/enforcement any more by the EU Commission/CJEU in areas not covered by the Protocol.

## 2. Litigation Challenges e.g.

Recognition and enforcement of judgements. Loss of the Cross Border legal aid Directive.

## 3. Access to Justice Standards

- Access to justice is under attack across the island potential breaches of the non-regression principle, and the GF/BA guarantee of equivalence of human rights standards (covered in detail in other presentation).
- Divergent approaches/norms/procedures either side of the border present obstacles for citizens from one jurisdiction pursuing a cross-border claim in another.
  e.g. J.R. costs, substantive vs procedural review, standing, time limits, delays.
- Participation obstacles (e.g. residency requirement for NI Planning participation) and costs (e.g. €200 for an IE forestry licence appeal) cause downstream access to justice issues.