



Cross-Border Access to Justice: Ireland/Northern Ireland

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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 independent regulator in NI.
- ◇ 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.