

JOINT COMMITTEE ON IMPLEMENTATION OF THE GOOD FRIDAY AGREEMENT
Committee Room 4, Leinster House, Dublin 2.
2.15pm, Thursday 4th July 2019.

OPENING STATEMENT OF ALISON HOUGH BL

I am a barrister and law lecturer, based in Athlone Institute of Technology. I was commissioned by the Environmental Pillar and NIEL (Northern Ireland Environment Link) to produce an independent report on the role of the Good Friday/Belfast Agreement (hereinafter the GF/BA) in maintaining cross-border environmental co-operation on the island of Ireland post-Brexit. The Committee have been provided with a copy of my full submission in writing, and a copy of the report “Brexit, The Good Friday/Belfast Agreement and the Environment: Issues arising and possible solutions”¹, published in March 2019.

I am grateful to the Committee for the opportunity to present the key findings of my research carried out for this report, and I am happy to assist the Committee in any way I can.

The Good Friday/Belfast Agreement had at its heart the objectives of peace, prosperity and the protection of human rights on the island of Ireland. Our shared landscape and its ecology are the bedrock of these objectives, the stage on which they are performed, and the medium through which they occur. The drafters of the GF/BA understood this, which is why they nominated the environment as one of the areas of cross-border co-operation. They understood what was at stake if we did not preserve our shared environmental heritage, in terms of the peace process, economic growth and social wellbeing of the people of both Northern Ireland and Ireland.

The island of Ireland is a single biogeographic unit. Despite political arrangements, there are no borders in nature, and what happens in the environment of one jurisdiction unavoidably impacts the other. The only way to preserve the environmental integrity of both Northern Ireland and Ireland is through a coherent system of environmental management.

EU membership provided the ideal context for this, with shared regulatory standards, supra-national enforcement mechanisms, a funding agenda designed to encourage co-operation, and a trade agenda which removed the need for a hard border. The European Union project shared the objectives of the GF/BA of peace, prosperity and protection of rights, and in this sense they have a symbiotic relationship.

¹ Executive Summary: <https://nienvironmentlink.org/cmsfiles/Brexit-GFA-report-SUMMARY.pdf>
Full version: <https://nienvironmentlink.org/cmsfiles/Brexit-GFA-report-FULL.pdf>

The failure of full implementation of all the provisions of the GF/BA means that the full potential of cross-border environmental co-operation has yet to be realised, and environmental governance on the island of Ireland is incomplete and fragmentary.

It is likely that Brexit (in any form) will interfere with GF/BA cross-border co-operation and place obstacles in its way, through loss of the features of EU membership mentioned above. In particular, regulatory divergence between the two jurisdictions, or uneven enforcement resulting in “de facto” regulatory divergence represents the biggest threat to maintaining the environmental co-operation required by the GF/BA.

However, it is possible that the GF/BA could offer potential solutions to precisely these obstacles. More complete utilisation of the GF/BA bodies and institutions could assist in preventing regulatory and policy divergence.

Overarching Recommendation:

That full implementation of the Good Friday/Belfast Agreement be made a matter of the highest priority, and that sufficient resources be directed towards achieving this aim (such as provision of adequate facilities and support to the GF/BA bodies and institutions). To this end, practical steps, a workplan and a timeline for completion should be recommended by this Committee.

Detailed Recommendations:

A. Brexit Negotiations Recommendations:

Recommendation 1: That coherence of environmental regulation and management between Northern Ireland and Ireland be prioritised in the negotiations on a future relationship, in order to safeguard GF/BA environmental co-operation.

Recommendation 2: That common frameworks be developed between the UK, Northern Ireland and Ireland, in order to safeguard GF/BA environmental co-operation.

Recommendation 3: An independent environmental regulator be established having responsibility for Northern Ireland, as part of the terms of any future relationship, to ensure the conditions required for continued environmental co-operation are safeguarded in the absence of EU enforcement in this area.

Recommendation 4: That funding streams for cross-border co-operation continue to be guaranteed after Brexit.

B. General Recommendations:

Recommendation 5: Should an executive form in Northern Ireland, that the North-South Ministerial Council be re-established as a matter of priority, and utilised as a vehicle for discussing policy and regulatory alignment on environmental matters falling within devolved competence.

Recommendation 6: Ensure that the British-Irish Council be allocated sufficient resources, and that it prioritise maintaining common environmental policy between Ireland and Northern Ireland, in order to safeguard environmental co-operation

Recommendation 7: That the British-Irish Intergovernmental Conference be more effectively realised by allocation of a greater budget, a website, increased secretariat, more frequent meetings and any other resources needed to render it functional, and that maintaining common environmental policy be added to its remit.

Recommendation 8: That the Irish Government emphasise the importance of any future Northern Ireland Government re-establishing the Consultative Civic Forum, to provide important policy input on environmental policy from civic society.

Recommendation 9: That the All-island Consultative Forum be established as directed by the GF/BA.

Recommendation 10: That a Good Friday/Belfast Agreement Mechanism be established on a legislative basis with responsibility for monitoring implementation of the Good Friday/Belfast Agreement, interpreting its meaning, and with a function of continuously mapping ongoing North-South co-operation.