

Climate
ChangeFRIENDS OF THE IRISH ENVIRONMENT CLG
V. IRELAND AND OTHERS

The High Court, decided 19 September 2019

An Irish NGO seeking a National Mitigation Plan with adequate interim targets.

Parties

Applicant: Friends of the Irish Environment CLG (an environmental NGO) ('FIE')**Respondent:** The Government of Ireland, Ireland and the Attorney General

Key Facts

- The Climate Action and Low Carbon Development Act, enacted in 2015, sets Ireland's goal of transitioning to a low-carbon, climate resilient and environmentally sustainable economy by 2050.
- As required by the Act, the Irish government approved a National Mitigation Plan in 2017.
- The Climate Change Advisory Council, an independent advisory board established by the Act, reported in 2017 that Ireland will fail to meet its 2020 targets for reducing greenhouse gas emissions by a substantial margin and that this will have implications for compliance with the 2030 targets.
- FIE primarily sought to revoke the Plan, arguing that it fails to provide for adequate interim emission reduction targets and is, therefore, not only in violation of the Act, but also infringes upon Constitutional rights; as well as rights under the European Convention on Human Rights.

Key Rights

Right to life, bodily integrity, respect for private and family life, a reasonable environment.

The Court's
Decision

- The Court found the Plan lawful and aligned with international obligations. It explained that the government enjoys wide policy-making discretion with respect to the mechanisms it would want to introduce in order to achieve the Act's target. Since the Act does not require the respondent to achieve particular intermediate targets, the Court found that the Plan cannot be in breach of the Act as it contains a proposal which, by virtue of the Act, it is to achieve by 2050. **The Court holds that a conclusion to the contrary would invade the government's policy-making role and violate the separation of powers.**
- While the Court finds that FIE, a non-human entity, has standing with respect to its constitutional claims, as it seeks to agitate important issues affecting its members and the public at large, the Court concludes that the Plan, a living document that is only an initial step towards the 2050 goal, does not have the effect of breaching the right to life, bodily integrity and an environment consistent with human dignity, as it is only 'a piece of the jigsaw'.

What now?

The Applicant is considering grounds for appealing the decision.

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International Impact

The judgment came only months after Ireland’s performance on climate action was ranked the worst in the European Union, and amongst the worst in the world (see Climate Change Performance Index 2019). While the decision may seem like a setback in a wave of climate litigation around the world, it is important to note that the Court did not decide against the Applicant due to a disregard for the dangers posed by climate change and the need for swift and deep emission cuts.

On the contrary, the Court ‘**made significant findings**’ according to the **Sabin Center for Climate Change Law** when it stated that, “[t]he scientific community agrees that global warming can be prevented, mitigated or reduced by ensuring the reduction of the emission of greenhouse gases into the atmosphere but significant effort is required”. Furthermore, it held that, “[t]here may be circumstances in which a court may make a mandatory order against an organ of state, but only when there is a clear disregard by the State for its constitutional obligations”. Hence, the Court recognised climate change science; however, in this particular case found its power to be limited by the principle of separation of powers.

Key Issues

Locus standi of incorporeal bodies with respect to personal and human rights under the Constitution; states’ obligation to reach interim emission reduction targets; separation of powers.

Key Principles

Principle of reasonableness; precautionary principle.

International Agreements Cited

The Paris Agreement.

References & Further Reading

Judgment: [Download PDF](#)

Additional Information:

Friends of the Irish Environment "[Friends of the Irish Environment to consider grounds for appealing High Court ruling in historic climate case](#)"

Michael Burger / Hillary Aidun "[The Significance of the High Court's Decision in Friends of the Irish Environment v. Ireland](#)"