



**Friends of  
the Earth**

**Friends of the Earth Ireland**

**Submission on Ireland's 3<sup>rd</sup> Cycle Universal Periodic Review**

**23 March, 2021**

## Introduction

Friends of the Earth campaigns for environmental justice and sustainability. We believe in sustainable development - meeting the needs of the current generation without compromising the ability of future generations to meet their needs. Internationally, Friends of the Earth is the world's largest network of environmental groups with over one million supporters and campaigners organized in 70 countries. In Ireland, Friends of the Earth was launched in October 2004. We promote education and action for environmental sustainability and environmental justice and focus on Ireland's response to the big environmental challenges of our time such as climate change and energy.

Friends of the Earth welcomes the opportunity to respond on Ireland's Universal Periodic Review (UPR). There is a considerable body of evidence which highlights the impact of climate change on human rights. Climate change has a disproportionate effect on disadvantaged, marginalized, excluded and vulnerable individuals and groups. Such groups are particularly affected by climate impacts and their participation must be ensured in climate policy planning and implementation.

The absence of information on climate justice, mitigation, adaptation, renewable development, environmental degradation or biodiversity protection in reporting under the state's 2016 review constitutes a significant gap which should not be repeated in this cycle.

**Our main recommendations are that Ireland's UPR should:**

- Address policies relating to Ireland's delivery of climate obligations in accordance with the Paris Agreement, given their relevance to the state's respect for, and adherence with, obligations under human rights treaties. It should centre on delivery of amending legislation to Ireland's 2015 Climate Act, which will introduce legally binding mitigation targets and improved governance arrangements.
- Set out how the state is implementing a rights-based approach to climate action and delivery of the Sustainable Development Goals, including robust public participation and ex post and ex ante impact assessments of how climate action policies, in order to ensure they are not adversely impacting disadvantaged/marginalised groups.

## Public Participation and Consultation

One of the key principles of climate justice is the need to ensure decisions on responses to climate change are participatory, transparent and accountable.<sup>1</sup> Several human rights treaty bodies have produced a range of recommendations on the right of individuals and groups to participate in decision-making processes and the obligation on states to actively involve affected groups in the formulation, implementation and review of policies. Building on obligations under the UNFCCC, the Paris Agreement reiterates parties' commitment to enhancing access to information and public participation.<sup>2</sup> The importance of inclusive and participatory decision-making, as well as accountable and transparent institutions is also recognised in the 2030 Agenda for Sustainable Development.

**Ireland's UPR should address** how the state is progressing strategies for improving and enhancing public engagement in government decision-making related to climate and sustainable development. These include:

- The obligation on the Minister to take 'climate justice' into account in climate mitigation and adaptation planning, as stipulated in the [Climate Action and Low Carbon Development Act 2015](#) (See 3.2 (c))

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<sup>1</sup> The Mary Robinson Foundation – Climate Justice website, 'Principles of Climate Justice' Available at: <http://www.mrfcj.org/pdf/Principles-of-Climate-Justice.pdf>

<sup>2</sup> UNFCCC (2015), Paris Agreement, Article 12

- Implementation of the National Dialogue on Climate Action and Activities and plans for Public Participation Networks to deliberate on climate action at local level.<sup>3</sup>
- The delivery of the SDG Stakeholder Forum<sup>4</sup>
- Implementation of Open Government Partnership commitments, including the OGP National Action Plan 2016-18, and development of further commitments.<sup>5</sup>

Friends of the Earth is concerned that, in contrast with 2016 review, there has been **no engagement by Government to date with civil society on the Universal Periodic Review mechanism**. While a limited consultation process was instigated and circulated to certain NGOs, this is not fit for purpose, is not in accordance with public participation obligations and is disappointing given Ireland's championing of civil society space and importance of the UPR. At the current time, fewer resources have been devoted to public consultation than the UPR process in 2016 and **Friends of the Earth recommends** that Ireland's civil society engagement as part of the UPR is addressed.

## Climate Action and Human Rights obligations

The relationship between climate change and human rights has been examined in-depth by several human rights treaty bodies and special procedures, as well as in treaty body reviews and concluding observations. This submission does not seek to set out all such analysis, however a summary of relevant analysis is referenced in this document.<sup>6</sup>

In 2020 Ireland's Supreme Court ruled that the state's original climate action policy ('the National Mitigation Plan') failed to comply with the requirements of the Climate Action and Low Carbon Development Act 2015. In relation to the preceding High Court case in 2018, the **UN Special Rapporteur on Human Rights and Environment** stated that **the Irish Government** *'has clear, positive, and enforceable obligations to protect against the infringement of human rights by climate change'*. In his statement, he noted that the Government *'must reduce emissions as rapidly as possible, applying the maximum available resources. This conclusion follows from the nature of Ireland's obligations under international human rights law and international environmental law.'*<sup>7</sup> This conclusion was also underlined by Professor Philip Alston, UN Special Rapporteur on Extreme Poverty and Human Rights, during his visit to Ireland in December 2019.<sup>8</sup>

Although the Supreme Court found in 2020 that the specific right to a healthy environment could not be "derived" from the Constitution with regards to the National Mitigation Plan, the Chief Justice noted that, if the claimant (Friends of the Irish Environment) had established that it had standing to assert the rights-based claims, then it would have been necessary for

<sup>3</sup> See <https://www.gov.ie/ga/foilsuichan/climate-action-community/>

<sup>4</sup> See <https://assets.gov.ie/75617/25a6c7ca-910c-4e92-92ea-c901f6d49377.pdf>

<sup>5</sup> See <https://www.gov.ie/en/consultation/e5ba38-open-government-partnership-national-action-plan-2016-2018-draft-end/>

<sup>6</sup> These include: Five UN human rights treaty bodies issue a joint statement on human rights and climate change. Joint Statement on "Human Rights and Climate Change", 16 September 2019; Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy, and Sustainable Environment. Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; Individual Report on the International Covenant on Economic, Social and Cultural Rights, December 2013; CIEL and GI ESCR, [Economic, Social, and Cultural Rights Obligations of States in the Context of Climate Change](#), Synthesis of Statements on Climate Change by the Committee on Economic, Social and Cultural Rights (2019 Update); Statement of the CESCR on Climate Change and the International Covenant on Economic, Social and Cultural Rights, 8 October 2018; The Committee on Economic, Social and Cultural Rights, Climate change and the International Covenant on Economic, Social and Cultural Rights, 8 October 2018

<sup>7</sup> UN Special Rapporteur on Human Rights and Environment, [Statement on the human rights obligations related to climate change, with a particular focus on the right to life](#) David R. Boyd, October 25, 2018

<sup>8</sup> See <https://www.irishtimes.com/news/environment/stunningly-little-being-done-to-combat-climate-change-un-official-says-1.4120866>

the court “to consider the circumstances in which climate change measures (or the lack of them) might be said to interfere with the right to life or the right to bodily integrity”.<sup>9</sup>

## Irish Climate Policy

In 2016 Ireland accepted the UPR recommendation of the Maldives “to take steps to move towards increased renewable energy production, in-line with their pledges on Climate Action” (see 136.96). Ireland’s response references the state’s (then) 2050 climate target (‘the National Policy Position on Climate Action’) but it did not set out what new policies or measures would be implemented to respect climate commitments.

**Taking into account the above analysis and the previous recommendation of the Maldives, Friends of the Earth recommends that the UPR specifically addresses Ireland’s climate response, including relevant legislation, policy planning and delivery.** For several years, the state’s approach to climate action has been repeatedly criticised by both national and international authorities. Ireland failed to meet EU 2020 climate targets through domestic mitigation measures<sup>10</sup> and the Climate Change Advisory Council has noted that “huge efforts” will be needed to meet existing 2030 targets.<sup>11</sup>

In light of these weaknesses, including the deficiencies of the 2018 National Mitigation Plan, the Government produced a new and improved cross-sectoral Climate Action Plan in 2019. The 2020 Programme for Government includes several positive climate commitments<sup>12</sup>, including to net zero emissions by 2050, to an average 7% annual reduction in emissions, and to translate that 7% target into legally-binding 5-year carbon budgets. This is to be provided for through new amending legislation and implemented through a new revised climate action plan. At the time of writing, amending legislation has been considered in pre-legislative scrutiny by the Joint Oireachtas Committee on Climate Action, and an updated bill is about to be presented to the Oireachtas. A consultation on an updated climate action plan is also about to commence.

Therefore, Ireland’s climate ambition and planning has improved in recent years. However, none of the commitments are aligned with increased ambition necessitated by the Paris Agreement. It also remains uncertain that sufficient sectoral mitigation measures and investments will be made to ensure Ireland delivers on climate commitments. The Climate Change Advisory Council has noted the Government should implement additional policy measures “as a contingency for underperformance” of Ireland’s 2019 Climate Action Plan and in light of increased ambition under EU Climate Law.<sup>13</sup> The Environmental Protection Agency has stated that Ireland can only meet our current EU target to reduce Greenhouse Gas Emissions by 30% by 2030 through *full* implementation of the measures in the 2019 Climate Action Plan, which would result in 3% average annual emissions reductions from 2021 to 2030.<sup>14</sup> The EPA has also noted that ammonia emissions which impact air quality, health and the environment have continued to increase due to expanding agriculture practices and Ireland is now exceeding EU limits.<sup>15</sup>

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<sup>9</sup> See <https://www.irishtimes.com/opinion/supreme-court-ruling-a-turning-point-for-climate-governance-in-ireland-1.4323848> and [https://www.courts.ie/view/judgments/681b8633-3f57-41b5-9362-8cbc8e7d9215/981c098a-462b-4a9a-9941-5d601903c9af/2020\\_IESC\\_49.pdf/pdf](https://www.courts.ie/view/judgments/681b8633-3f57-41b5-9362-8cbc8e7d9215/981c098a-462b-4a9a-9941-5d601903c9af/2020_IESC_49.pdf/pdf)

<sup>10</sup> See <https://www.epa.ie/ghg/indicatorsprogressstotargets/>

<sup>11</sup> See <https://ccpi.org/country/irl/>

<sup>12</sup> See [https://www.greenparty.ie/wp-content/uploads/2020/06/2020-06-15-ProgrammeforGovernment\\_Corrected-Final-Version.pdf](https://www.greenparty.ie/wp-content/uploads/2020/06/2020-06-15-ProgrammeforGovernment_Corrected-Final-Version.pdf)

<sup>13</sup> See <https://www.climatecouncil.ie/councilpublications/annualreviewandreport/>

<sup>14</sup> See <http://www.epa.ie/newsandevents/news/pressreleases2020/name,69130,en.html>

<sup>15</sup> See <http://www.epa.ie/newsandevents/news/pressreleases2020/name,68846,en.html>

**Friends of the Earth recommends** that the necessary amending legislation to the 2015 Climate Act is progressed as matter of urgency in 2021, respecting Programme for Government commitments, recognising the need for increasing action in accordance with the Paris Agreement, and introducing carbon budgets to ensure suitable mitigation policies are delivered and supported by relevant Departments, public bodies and semi-state entities.

It also important that Ireland implements commitments under the 2019 Climate Action Plan (and planned revisions under a new Climate Action Plan in 2021) and makes progress on the National Climate Change Adaptation Framework and sectoral adaptation plans, in particular how marginalised and vulnerable groups will be protected from climate impacts.

## Renewable Energy and Fossil Fuel Phase out

With regards to the Maldives recommendation on renewable energy (see above), steps to ensure greater renewable energy production were not addressed in Ireland's response. The 2020 Programme for Government includes relevant commitments to at least 70% renewable electricity by 2030, to a just transition for communities and to the phase out of fossil fuels. Friends of the Earth **recommends** that UPR addresses in detail how the Government is taking forward relevant renewable energy commitments in the Programme for Government in order to ensure Ireland does its fair share and progressively reduces polluting emissions.

Article 15 of ICESCR recognises not only cultural rights but also the right to enjoy the benefits of science and its applications. The OHCHR has noted that all States should therefore actively support the development and sharing of new climate mitigation and adaptation technologies.<sup>16</sup> In this context, the response should reference policies and strategies related to public involvement and knowledge-sharing in the field of renewable energy. Friends of the Earth **recommends** that the UPR address how the state intend to fulfil EU obligations to increase community and citizen participation in renewable energies, including the Government's proposed Microgeneration Support Scheme. **It is particularly important** that supports are not limited to private homes and restrictions are removed for farmers, schools, or communities to develop and receive payment for renewable energy generated on their premises.

Under the current planning regulations, schools and community buildings also need to get planning permission in order to install solar panels. While businesses and homes can be exempted from planning permission for solar panels in certain circumstances, the current planning regime is not fit for purpose and has a chilling effect on citizens and communities which wish to take part in the energy transition. **Friends of the Earth recommends** that current planning restrictions on the installation of solar panels are removed.

It is also important that Ireland ends support for new fossil fuels exploration and fossil fuel infrastructure and prevents further subsidisation of fossil fuels. The Central Statistics Office has noted that '*total fossil fuel subsidies were €2.4 billion in 2018 which was 8% higher than 2017 and 71% higher than 2000 when the series began*'.<sup>17</sup> In February 2021 it was announced that Government had approved a proposal to include a ban on new licences offshore exploration<sup>18</sup> and extraction in the forthcoming climate legislation. **It is important**

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<sup>16</sup> OHCHR, Key Messages on Human Rights and Climate Change,

[https://www.ohchr.org/Documents/Issues/ClimateChange/KeyMessages\\_on\\_HR\\_CC.pdf](https://www.ohchr.org/Documents/Issues/ClimateChange/KeyMessages_on_HR_CC.pdf)

<sup>17</sup> <https://www.cso.ie/en/csolatestnews/pressreleases/2020pressreleases/pressstatementfossilfuelsubsidies2000-2018/>

<sup>18</sup> See overview of current offshore oil and gas licences here in the following links:

[https://www.oireachtas.ie/en/debates/question/2021-02-17/38/#pq\\_38](https://www.oireachtas.ie/en/debates/question/2021-02-17/38/#pq_38)

<https://www.oireachtas.ie/en/debates/question/2021-02-10/82/?highlight%5B0%5D=extension&highlight%5B1%5D=offshore>

<https://www.oireachtas.ie/en/debates/question/2020-11-03/268/?highlight%5B0%5D=extensions>

**that** this ban is given statutory footing this year and **Friends of the Earth recommends** that the state takes further steps to phase out existing offshore licences and prevent fracked gas imports through LNG infrastructure, as recommended by the Joint Oireachtas Committee on Climate Action<sup>19</sup>.

### Right to Just and Favourable Conditions of Work

Ireland's climate action and fossil fuel phase out must proactively support vulnerable works and communities and strengthen the rights of people living in poverty.<sup>20</sup> In its report of March 2019, the Joint Oireachtas Committee on Climate Action produced a series of recommendations in order to ensure that the state's climate response includes just transition measures, as well as decent work and quality jobs as a central objective. In response to the Oireachtas Committee's report and to the worsening conditions for peat workers in the Midlands in particular, a Just Transition Commissioner was appointed and a Just Transition Fund was established. **Friends of the Earth recommends** that Ireland address how the state is taking forward recommendations of the Progress Report of the Just Transition Commissioner, as well as delivery of the Just Transition Fund.<sup>21</sup>

### Right to Adequate Standard of Living

Given the relevance of fuel poverty and home heating to the right to an adequate standard of living, the **Ireland's UPR should address:**

- Steps to ensure that older people who are at greater risk of fuel poverty and the respiratory illnesses associated with air pollution be prioritised in climate action and climate mitigation plans, as noted in the Programme for Government
- Government commitments relating to new funding, a grouped approach to housing retrofits, and a phase out of domestic fossil-fuel use, as set out in Project Ireland 2040 and the 2019 Climate Action Plan.
- Sustainable Energy Authority of Ireland's energy efficiency schemes.
- The Department's commitment to '*examine the impacts on low-income and rural households and those experiencing fuel poverty,...the interaction between carbon tax rates with...the National Fuel Allowance Scheme, the Diesel Rebate Scheme, and the Sustainable Energy Authority of Ireland's... energy efficiency Schemes*' in the 2019 Climate Action Plan<sup>22</sup>.

### Sustainable Development Goals and Climate Justice

A significant gap in Ireland's 2016 national report was the lack of information on delivery of the Sustainable Development Goals. Friends of the Earth endorses the submission of Coalition 2030 and **recommends** that the UPR is structured such that progress on relevant SDG targets is clarified. It should also address Ireland's National Implementation Plan on the Sustainable Development Goals 2018-2020, progress on commitments contained therein and the preparation of a new implementation plan.

The obligation in Article 2(1) to deliver on ICESCR rights through international cooperation is also relevant to the abovementioned areas. In this regard, **it is important that the state**

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<sup>19</sup> See

[https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint\\_committee\\_on\\_climate\\_action/reports/2020/2020-12-18\\_pre-legislative-scrutiny-on-the-draft-of-the-climate-action-and-low-carbon-development-amendment-bill-2020\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_climate_action/reports/2020/2020-12-18_pre-legislative-scrutiny-on-the-draft-of-the-climate-action-and-low-carbon-development-amendment-bill-2020_en.pdf)

<sup>20</sup> See Committee on Economic, Social and Cultural Rights, *Climate change and the International Covenant on Economic, Social and Cultural Rights*, 8 October 2018

<sup>21</sup> See <https://www.gov.ie/en/press-release/06b7f-just-transition-progress-report-is-published/>

<sup>22</sup> See <https://www.gov.ie/en/publication/ccb2e0-the-climate-action-plan-2019/>

**takes forward the following policy commitments:**

- The 2020 Programme for Government commitment to revise Ireland's trade and investment strategy, to include the promotion of human rights and environmental protection as key goals.
- In Ireland's 2019 Policy on *International Development, A Better World*, climate action is a central pillar of the policy. It includes a commitment to '*scale up our funding on climate action and explore innovative approaches to climate finance, risk insurance and climate adaptation*', as well as to increase support for Small Island Developing States which are vulnerable to climate impacts.<sup>23</sup>
- Ireland's support for the 2015 Geneva Pledge for Human Rights in Climate Action (of which Ireland was a founding member). The Geneva Pledge includes a commitment to exchange expertise and best practice between human rights and climate experts and the UPR should address how this has been fulfilled in the previous 5 years.<sup>24</sup>

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<sup>23</sup> See <https://www.irishaid.ie/about-us/policy-for-international-development/>

<sup>24</sup> See <https://carbonmarketwatch.org/wp-content/uploads/2015/02/The-Geneva-Pledge-13FEB2015.pdf>