

Friends of the Irish Environment v. Ireland

Filing Date: 2017

Reporter Info: 2017 No. 793 JR

Status: Decided

Case Categories:

- Suits against governments

- Human Rights

Jurisdictions:

- Ireland

- High Court of Ireland

Principal Laws:

- Ireland

- Constitution

- Ireland

- Climate Action and Low Carbon Development Act 2015

- European Convention on Human Rights

Summary:

An advocacy group, Friends of the Irish Environment (FIE), filed suit in the High Court, arguing that the Irish government's approval of the National Mitigation Plan in 2017 violated Ireland's Climate Action and Low Carbon Development Act 2015 ("the Act"), the Constitution of Ireland, and obligations under the European Convention on Human Rights, particularly the right to life and the right to private and family life. FIE alleged that the National Mitigation Plan ("the Plan"), which seeks to transition to a low-carbon economy by 2050, is inconsistent with the Act and Ireland's human rights commitments because it is not designed to achieve substantial short-term emissions reductions. The case was argued before the High Court on January 22, 2019. FIE

asked the High Court to quash the government's decision to approve the Plan and, if appropriate, order that a new plan be written.

On September 19, 2019, the Court ruled for the government. The Court rejected FEI's claim that the Plan was invalid for failing to achieve substantial short-term emissions reductions, concluding that the Act does not require particular intermediate targets. The Court recognized that "there is now limited room, or . . . carbon budget, for greenhouse gas emissions" given the "safe temperature rise target" of 1.5 degrees Celsius. The Court reasoned, however, that the government appropriately exercised policy making discretion afforded by the Act, explaining that the current Plan is only an initial step in achieving targets for transitioning to a low-carbon, climate resilient, and environmentally sustainable economy by 2050, and will be subject to review and revision. The Court concluded that FEI had standing to bring rights-based claims, but rejected the argument that the government had violated Ireland's Constitution and commitments under the European Convention on Human Rights because the Plan is "but one, albeit extremely important, piece of the jigsaw."

On November 22, 2019, FEI appealed the ruling to the Court of Appeal. FEI also submitted an application to leapfrog the traditional appeal route and go directly to the Supreme Court. On February 13, 2020 the Supreme Court agreed to hear the case, determining that exceptional circumstances warranted direct appeal. The Court explained that, "[t]he applicant and the respondents accept that there exists a degree of urgency in respect of the adoption of remedial environmental measures. There is no dispute between the parties as to the science underpinning the Plan and the likely increase in greenhouse emissions over the lifetime of the Plan."

On July 31, 2020, the Supreme Court reversed the lower court and issued a ruling quashing the Plan. The Court determined that the Plan falls short of the sort of specificity that the Act requires because a reasonable reader of the Plan would not understand how Ireland will achieve its 2050 goals. The Court explained that "a compliant plan

must be sufficiently specific as to policy over the whole period to 2050." The Court, however, determined that FIE lacks standing to bring its claims under the Constitution or ECHR. The Court also concluded that FIE had not made a compelling enough case for identifying an unenumerated right to a healthy environment, separate from the rights expressly conferred by the Irish Constitution, "[w]hile not ruling out the possibility that constitutional rights and obligations may well be engaged in the environmental field in an appropriate case."

At Issue: Whether Ireland's National Mitigation Plan violated statutory law, the Irish Constitution, and human rights obligations because it is not set to reduce greenhouse gas emissions sufficiently over the near-term.