



Linking the Irish Environment

Executive Summary &
Recommendations

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For references, please refer to the full, final report, available at <https://ejni.net/linking-the-irish-environment/>. This work has been commissioned by the Northern Ireland Environment Link (NIEL) and the Irish Environmental Network (IEN) - the two membership organisations for the environmental non-governmental organisations (NGOs) in Northern Ireland (NI) and the Republic of Ireland (ROI). The research has been funded through Community Foundation Ireland (CFI) and Community Foundation Northern Ireland's (CFNI) joint 'All-island fund'.

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Executive Summary

Aims of the Project

The aim of the 'Linking the Irish Environment' project is to examine how to enhance the ability of the environment sector across the island of Ireland to cooperate and engage on an all-island and cross-border basis to deal with shared environmental challenges, risks, and opportunities. This report has been commissioned by the Northern Ireland Environment Link (NIEL) and the Irish Environment Network (IEN) – the two membership organisations for the environmental non-governmental organisations (NGOs) in Northern Ireland (NI) and the Republic of Ireland (ROI). NIEL has more than 65 organisational members and IEN has 34. The report has been funded through Community Foundation Ireland (CFI) and Community Foundation Northern Ireland's (CFNI) joint 'All-island fund' and has been commissioned as part of the first stage in the development of a long-term programme for the delivery of greater north/south environmental NGO cooperation and includes recommendations to help shape the way forward.

This is an independent report setting out the views of the authors. The report should be read in light of the fluid and ongoing political context surrounding the NI Protocol and other post-Brexit arrangements.

Finally – while the report captures a snapshot of many existing all-island and cross-border collaborations, it has not been possible within the research timeframe to identify all ongoing efforts by individuals and groups across the island. The commissioning organisations and the authors would welcome communication from any projects not captured in this report in the hope that future research will reflect increasing efforts in this essential body of work. Please contact the corresponding author, Dr Ciara Brennan (admin@ejni.net) with any relevant updates.

Research Approach

The research undertaken in preparation of this report builds on previous joint work between NIEL and IEN, including the seminal report authored by Alison Hough, 'Brexit, the Good Friday/Belfast Agreement and the Environment: Issues arising and possible solutions' (Hough, 2019). This new research project also includes consideration of best practice on cross-border and EU/Non-EU linkages in light of recent political developments. The project combined desk-based analysis (involving literature reviews and analysis of secondary data) as well as engagement with stakeholders. Direct engagement and fieldwork was undertaken via 3 avenues: initial and continuous in-depth discussions with the funding environmental NGO umbrella bodies; two online stakeholder workshops (each attended by 30-40 individuals representing 25 different organisations and drawn from NGO, civil society, and policy communities both north and south of the border); and a short online survey (completed by 28

individuals). In addition, preliminary recommendations were subject to a consultation exercise in early 2023 involving participants from the stakeholder workshops. Participation in both processes was undertaken on the basis of anonymity given the (at times) sensitive subject matter of the research.

The report addresses 3 key areas:

1. Current environmental regulatory and governance arrangements on the island, considering the Trade and Cooperation Agreement (TCA), Protocol, Governance committees of agreement, international agreements, oversight, complaints, environmental standards, enforcement and risk of divergence, and how these will impact or shape future cooperation.
2. The experience of practical environmental cooperation across the island of Ireland between environmental NGOs, including NGO resourcing and support mechanisms.
3. Mechanisms which can be used or developed by NIEL/IEN to advance citizens' and NGO engagement in all-island environmental issues.

A challenging context

Despite the shared nature of almost all environmental challenges, the logic of a collaborative approach to these challenges and the acceptance on a policy level that the island of Ireland is one single bio-geographic unit, cooperation on shared environmental challenges between governments north and south of the border (with exceptions which will be discussed in this report) remains under-developed. **The two jurisdictions which exist on the island of Ireland have developed (with some exceptions) almost completely segregated environmental governance structures, legal and policy frameworks, and implementation processes. This has the potential to diverge further post-Brexit with the removal of the underpinning set of common EU legal requirements and environmental standards on both sides of the border.**

Brexit has also removed the important scrutiny and enforcement role of EU institutions in respect to environmental outcomes from one part of the island, as well as shared EU governance mechanisms in policy development, implementation, monitoring and design. Significantly, it has also removed the unifying and over-arching 'direction of travel' on environmental and social concerns brought by membership of the EU. The extent to which these factors will be mitigated by the contentious NI Protocol and other post-Brexit governance arrangements remains uncertain.

In addition to the governance implications of having two discrete sets of arrangements for protecting the environment on the island, **meaningful cooperation in an advocacy context between environmental NGOs and civil society on the island has also been inhibited.** Processes for input both at policy level and in the context of public participation in environmental decision making are generally separate and vary between the jurisdictions, making it harder for engagement on a cross-border basis. Funding streams and opportunities also differ, with

relatively low incentives and only limited and relatively recent investment in work which transcends the political boundary. **Navigating the differences between the two jurisdictions is therefore very complex for third sector organisations seeking to operate or collaborate across the island.**

Recognition of these challenges is beginning at a governance level. However, **for NGOs and civil society, there is a need for deeper consideration of the enabling conditions which are required to translate existing piecemeal cross border initiatives into impactful, long-lasting all-island cooperation on environmental matters.**

This scoping report seeks to explore these complex considerations, with the goal of highlighting existing environmental cooperation on the island of Ireland, and with reference to international examples, provides a list of recommendations for NGOs and broader civil society which could help **deliver more effective and impactful environmental cooperation on an all-island basis.**

Summary of research findings

1. Cross-border and all-island environmental cooperation and engagement by all environmental actors are essential to achieve much-needed positive environmental outcomes on the island of Ireland. However, the legal and political landscape is highly complex and evolving at a rapid pace. This poses its own challenges for cooperative activities but also casts a spotlight on these issues which may lead to consideration of a range of other possible tools and positive innovations.
2. Despite almost completely separate systems of environmental governance, there are similarities that facilitate (to some extent) dialogue, cooperation and engagement across the border. These similarities derive from a combination of international law, EU law, the historical political and legal influence of the UK over the island as a whole, and simply the proximity and close relations between the two jurisdictions.
3. However, significant divergence which existed even before Brexit has created a challenging context for cross-border and all-island cooperation and engagement, and this has been compounded by problematic experiences of environmental governance within each jurisdiction.
4. Brexit raises valid concerns over declining environmental standards, policy/governance uncertainty and regulatory divergence. These changes have the potential to make engaging in cross-border/all-island cooperation more difficult. Brexit has therefore increased the need for cross-border/all-island cooperation, to share resources, insights, and expertise in order to respond to shared environmental challenges. The Good Friday/Belfast Peace Agreement binds the UK/NI and Ireland and is an under-utilised tool, with multiple pathways to help promote cross-border and all-island engagement.

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5. Some external international commitments will continue to bind both NI/the UK and Ireland/the EU, providing for continued shared frameworks and understanding – and potential exists to build upon these further. Other external international commitments no longer simultaneously bind both Ireland and the UK/NI (or potentially never did, even as EU Member States) – there is scope to identify and commit to these.
 6. Numerous examples exist of effective cross-border and all-island engagement and cooperation on the island of Ireland, but these initiatives face wide-ranging and varied challenges.
 7. Diverse international examples of cross-border engagement and inter-regional cooperation exist, with deeper investigation required on how initiatives (particularly in post-conflict scenarios) might be adapted/replicated in the context of the island of Ireland.
 8. Overall, these issues highlight some key needs for environmental actors:
 - Guidance and coordination on cross-border and all-island matters;
 - Access to information, policy-making and justice in both jurisdictions;
 - Maintenance of alignment where possible (although not if this maintains poor environmental structures or practices);
 - Clear information about existing divergence and especially divergence that is newly introduced;
 - Clear information about international environmental commitments by both Ireland and NI and how these have changed;
 - Examples of positive engagements, on this island and elsewhere to inspire new initiatives/innovation;
 - Information about key actors (and avenues of engagement) in both jurisdictions or beyond;
 - Resources dedicated to cross-border and all-island matters (which do not deplete existing resources).
 9. Resourcing and funding – there are clearly a large number of issues, threats and opportunities for the environment sectors north and south. Given the lack of capacity within NGOs there is an urgent need to source funding/resourcing to build the necessary capacity to develop the cross-border/all-island linkages suggested in the recommendations set out in this report. NGOs and other actors must be prepared to move quickly to avail of these in response to emerging threats/challenges.
 10. Based on the research undertaken to produce this report, detailed recommendations designed to achieve the goal of linking the Irish environment are set out in Chapter 7. These have been designed to: reaffirm political commitment to cooperation; enhance civil society structures and strategies; monitor the impact of Brexit; enhance government accountability; support enduring and productive civil society relationships; ensure citizens are aware of and can operationalise their environmental rights; and enhance knowledge about environmental actors, activities and opportunities for collaboration.

Recommendations

These recommendations have been grouped under seven key objectives designed to achieve the goal of linking the Irish environment: reaffirming political commitment to cooperation; enhancing civil society structures and strategies; monitoring the impact of Brexit; enhancing government accountability; supporting enduring and productive civil society relationships; ensuring citizens are aware of and can operationalise their environmental rights; and enhancing knowledge about environmental actors, activities and opportunities for collaboration.

Reaffirming political commitment to cross-border/all-island cooperation on the protection of environment on the island of Ireland

1. The Irish and UK governments (in the absence of a devolved government in Northern Ireland) should develop a joint political or legal commitment on the environment.

As per NESC's recommendations, a Joint Statement (or Memorandum of Understanding) would be highly desirable. However, this should address environmental matters generally and go beyond areas such as biodiversity and climate change. It could include environmental governance structures, approaches, aims, funding etc, as well as an indicative list of areas including water, rewilding, peatlands, mining, etc. Governments should make a commitment not to introduce any significant regulatory divergence without good cause and without prior consultation on an all-island basis. This could draw on approaches within the UK's common frameworks and the idea of a 'no surprise' policy, as well as having procedures for addressing proposals for divergence where they arise. If possible, this should be created upon a legal basis that binds both parties.

2. The impact of environmental aspects of the NI Protocol/Windsor Framework should be monitored closely by both the UK and Irish Governments.

The NI Protocol/Windsor Framework creates challenges and opportunities, generally and for environmental governance. From an environmental perspective, key elements include the continued applicability of some EU laws (those in Annex II especially) to NI as if NI were still part of the EU and Article 11's provisions on implementation and application and the related obligation to maintain necessary conditions for N/S cooperation. However, there is considerable uncertainty and also political tension surrounding the implementation of the new arrangements.

- (i) A cross-border stakeholder working group could be established to engage/inform the work of NI Protocol oversight bodies: the UK-EU Joint Committee, Specialised Committee and Joint Consultative Working Group.
- (ii) In addition, an updated mapping exercise on N/S cooperation, in light of the NI Protocol, should be undertaken on a reasonably regular basis, e.g. every 3 years and if there have been major developments. The review should be the responsibility

of public bodies in both jurisdictions (with the support of the UK and EU also) and undertaken by experts/academics in the field. There should be an opportunity for civil society actors, including NIEL and IEN, to feed into this and engage in the process. This should note the data from the 2017 review, undertake a similar mapping exercise for current cooperation, note the scope and role of the Protocol in these areas, and evaluate the impact of the Protocol's application (or lack thereof). The mapping exercise should also note other initiatives that have sought to facilitate and strengthen cooperation, as well as considerations that may have hindered it. Efforts are needed not only to monitor change but also to effectively communicate about it – there is a risk of divergence occurring by default and under the radar – this has already been an [issue](#) with scrutiny of environmental legislation post-Brexit.

3. The UK and Irish governments must ensure the full potential of the Good Friday/Belfast Agreement as a lever for ensuring the environment on the island of Ireland is fulfilled.

The GF/BA has considerable unused potential, with improvements possible in its focus, engagement, accountability and mechanisms. Its potential in the context of the environment has been highlighted by Hough in the 2019 [report](#) 'Brexit, the Good Friday/Belfast Agreement and the Environment: Issues Arising and Possible Solutions' and the recommendations there should be re-visited. In particular: NSMC should review and develop its work programme further to cover a wider range of issues/regimes and add greater detail on how cooperation will occur; there should be improved routes for stakeholder engagement with the NSMC Environment Sector meetings; there should be enhanced roles for Treaty bodies – including the NSMC, BIIC and BIC – including expanded scope/focus points, but also more regular meetings and for adequate funding of each body; establishment of an all-island civic forum on environmental matters; and research should be undertaken into the feasibility of establishing a Treaty oversight body for monitoring and promoting full implementation of the GF/BA, and possibly resolving disputes regarding interpretation and application.

4. Full and effective implementation of the Aarhus Convention.

The Aarhus Convention is essential for environmental actors (through providing environmental rights), but also for helping deliver environmental outcomes. Ireland and NI are both bound by it and should implement it fully, with Ireland also bound by the EU's measures on it. A clearer picture is required regarding the Convention's implementation across the island, but also improved understanding and strong political and legal support.

(i) Joint political commitment to the Aarhus Convention through establishment of a dedicated all-island monitoring body

- Securing a joint political commitment on Aarhus rights would be valuable in helping to guard against erosion, highlighting their significance and indicating support for their use on a cross-border/all-island basis.

- A concrete manifestation of this could be the establishment of an all-island mechanism for ensuring coherence of environmental participatory rights, which would monitor implementation of the Convention and guide future government action towards implementation.
- One option is to have a dedicated body/centre that would help individuals and NGOs access environmental information, including about all-island and cross-border matters. It would also provide a basis for capacity-building and helping individuals utilise their Aarhus rights.
- This could take the form of an all-island Aarhus Centre that would also have an information giving and capacity building role, or as part of the body recommended above, or as an entirely separate body.

(ii) Legislative changes to fully implement the Aarhus Convention

- Governments should seek to improve implementation of Aarhus rights in both jurisdictions, in light of Aarhus Convention Compliance Committee decisions (including regarding other States) and in light of recommendations made in a 2022 review of Aarhus Convention implementation '[Finding Common Ground](#)' across the island of Ireland produced by Hough et al, (2022).
- Review and control of [SLAPPs](#), as undermining Aarhus Rights.

5. Development of rights to a healthy environment and rights of nature.

Environmental rights (broadly understood), as discussed above, can be a very valuable tool. However, they have a limited presence and function in both jurisdictions on the island. They could be developed expressly, expanded and strengthened, if the political will is there. They are becoming more and more mainstream, as their value in the various environmental crises becomes clear (as demonstrated by Ireland's Citizens' Assembly on Biodiversity Loss).

(i) Express political and legal recognition of environmental rights (both human rights and the rights of nature)

- Development of a joint statement by NI and Ireland on environmental rights, recognising them and their value.
- Development and publication of an all-island Environmental Charter and a NI Bill of Rights. This should be the responsibility of the two governments/departments, but to be undertaken by experts/academics with input from environmental stakeholders.
- Incorporation of the Environmental Charter within a binding bilateral agreement between Ireland and the UK (on behalf of NI or the UK as a whole), and/or in each jurisdiction (e.g. in the Irish Constitution and in NI human rights legislation).
- Legal and political recognition of the rights of nature in both jurisdictions.

(ii) Maintenance and protection of environmental (and human) rights as they currently exist

- Rights must be protected in both jurisdictions.
- Maintenance of human rights under the ECHR and HRA, in particular in Northern Ireland.
- Establishment of a Bill of Rights in Northern Ireland, to help enshrine human rights and protect against the reduction of protections via reviews of the Human Rights Act 1998.

6. Provision should be made for adequate, ring-fenced funding from the UK and Irish Governments for both short and long-term all-island collaboration on environmental issues.

As highlighted by international examples (such as those identified in the Salish Sea report, see Chapter 5), funding needs to be ring-fenced for cross-border cooperation and not deplete other funding for the same actors. It also needs to be on both a short and long-term basis, with the latter enabling sustained projects where appropriate. Funding for educational activities should not be limited to schools/formal education (although this is one possible avenue), but should be focused on the public at large, e.g. via online resources, MOOCs, seminars etc.) Funding such as from CFI/CFNI, PEACE Plus should be maintained. Funding should have flexible criteria, e.g. actors in NI should have access to a broad range of Irish and EU funding, beyond PEACE Plus, especially where considering cross-border or all-island matters. Likewise vis-à-vis actors in Ireland regarding UK funding. This includes funding for research projects that include higher education institutions, e.g. ESRC, IRC and Horizon Europe funding. Funding should not be limited to scientific or practical projects (although these are clearly very important), but should also extend to issues around environmental and social justice, peace-building, support for communities and upholding of environmental and human rights.

7. Dedicated support should be provided for civil society organisations seeking to operate on an all-island basis.

A one-stop cross-border information website should be established which would provide comprehensive and easily accessible information on key aspects of operating a civil society organization (e.g. environmental/social justice NGO) on an all-island basis. The core of the initiative would be practical advice on issues like compliance with lobbying, financial regulations in both jurisdictions and sign-posting to e.g. HR, accountancy support from firms with experience in cross-border working. This could be developed by a number of organisations e.g. the Northern Ireland Community and Voluntary Association, as a joint service via the umbrella bodies NIEL/IEN themselves, or in collaboration with existing all-island organisations (e.g. EJNI, who are currently developing a digital 'Manual of Environmental Justice' toolkit in collaboration with Community Law and Mediation), and potentially via the Centre for Cross-border Studies which has already developed the 'border people' [website](#) providing some of these citizen-advice type functions to cross-border workers and hosted a [technical workshop](#) for organisations operating on an all-island basis in September 2022.

8. The UK and Irish governments should ensure continued and enhanced support for sustained, collaborative research on all-island/cross-border environmental matters.

All-island and cross-border environmental research is essential, but also requires considerable resources and political support. Governments should commission/fund all-island research and policy engagement on issues such as biodiversity, climate action and water quality – areas where cooperation typically exists, there is political momentum and which have been highlighted by NESC, but where the Protocol largely does not ensure such cooperation. Funding should not be limited to these areas but also extend to broader environmental governance, environmental and social justice, peace-building, community resilience and rights. Research funding should be provided for collaborative academic research across areas where there is a clear/emerging research need.

Enhancing cross-border/all island civil society structures and strategies to improve cooperation and collaboration

9. Both NIEL and IEN should consider appointing and maintaining a number of individuals within their permanent staff dedicated to cross-border/all-island engagement and issues.

In addition to developing expertise on cross-border/all-island issues, having such individuals based in both umbrella environmental NGOs provides additional benefits through centralising access to diverse networks and creating and sustaining forums for cooperation on wide-ranging areas of environmental matters. These roles could entail monitoring of any updated mapping exercise on cross-border cooperation and the joint creation of resources to help inform environmental NGOs and broader civil society of updates/changes to relevant policies, practices and structures. Dedicated staff would also deliver a convening function in relation to joint advocacy and policy and research efforts. Dedicated roles ensure that knowledge/expertise is not lost when staff members leave for other roles. Where feasible, other environmental NGOs (beyond umbrella bodies) should ensure consideration of these shared issues forms part of the role of permanent staff.

10. NIEL and IEN could consider the creation of a joint statement/position on cross-border and all-island environmental cooperation and engagement.

This statement could confirm their commitment to focusing on, promoting, and engaging in cross-border and all-island environmental cooperation and activities, as well as shared general ambitions and areas of interests. It could include elements such as a commitment to dedicating and developing resources (including personnel) for this purpose, as well as identifying potential next steps. This could be developed with their membership and revised as necessary in light of surrounding developments. A joint position on key headline issues could then be developed and used as a guide for further cooperation. NIEL and IEN could collaborate to identify long-term shared ambitions and strategic common purposes, along with complementary skills and

resources. This strategy document (which could include a high level ‘Memorandum of Understanding’ type commitment) could be published. Public consultation/consultation with members could be undertaken when developing this strategy. This could also be an iterative process, revising the strategy as appropriate.

11. NIEL and IEN could consider developing a joint strategy focused on cross-border and all-island environmental cooperation and engagement.

This strategy could encompass shared aims regarding (i) promotion of all-island cooperation and action on the environment and (ii) ambitions vis-à-vis environmental actions or outcomes. It could also identify and highlight the complementary areas of skills and expertise. A useful first step could be for NIEL and IEN to identify a discrete number of issues of common interest (beginning possibly with ‘easy-win’ issues where cooperation is already happening or where there is a pressing need, e.g. marine protected areas) to ‘champion’ on an all-island basis. The process of identifying these focus areas will in itself develop knowledge about how structures on either side of the border operate.

12. NIEL and IEN could consider establishing a general cross-border/all-island committee to deal with shared environmental issues.

Consideration must be given to time commitments and participation in the committee clearly defined in the job descriptions of those involved. This committee could provide for an overarching perspective, enabling direct channels of communication between people working on similar issues across the island and organising/contributing to the organising of all-island environmental conferences/dialogues/fora. A key function of this committee might be to review and evaluate the data from any updated mapping exercises, information on environmental governance changes and provide scrutiny/updates of the activities of accountability structures (e.g. the European Commission, activities of OEP in NI) and publish this information.

Themed working groups (with fluctuating membership as appropriate) to operate within a general all-island environmental NGO committee could be established to deal with more granular/detailed collaborations on shared challenges. This could build on the model developed by NIEL Brexit Coalition (different cross-organisations working groups on key environment themes such as agri-environment, marine, nature protection, governance) but on an all-island basis: e.g. on sustainable tree planting/agroforestry, on marine etc. Each group could identify and focus on their specific needs (e.g. agreeing common/similar policies, sharing knowledge on effective enforcement, sharing practices on evidence gathering etc, joint responses to consultations, applying for funding, how to engage with other types of actor etc) and context (e.g. does EU law still provide a common framework), as these vary considerably for different environmental areas. Monthly or bi-monthly online ‘hubs’ could provide an accessible space for exchange of news/views and to discuss concrete plans for cooperative actions.

In determining initial focus points/themes, options include: (i) focusing on the most urgent and/or topical issues; (ii) targeting ‘easy wins’ where positive outcomes may be more easily achievable and encourage further engagements/actions; and (iii) if and when relevant, matching the proposed strategic working groups by NESG and also the work programme for the NSMC,

enabling feeding into both of these. This Committee could also highlight existing (and evolving) accountability challenges. In particular, the Committee could seek to draw attention to breaches of international commitments relating to all-island environmental concerns and the difficulties in addressing these in international fora, as well as highlighting the length of delays involved in EU enforcement actions.

13. NIEL and IEN could consider developing a joint research programme for jointly commissioning and engaging in all-island/cross border research from a civil society perspective.

Umbrella bodies, NGOs and similar groups with funding should commission research themselves (preferably with funding that they have received for this purpose). This research should preferably be jointly commissioned (by groups in both jurisdictions) and address cross-border or all-island matters. The present report is an example of research commissioned jointly by the umbrella bodies IEN and NIEL using funding from the Community Foundation Ireland/Community Foundation Northern Ireland's all-island fund. These efforts should then be highlighted to demonstrate the value of maintaining such activities in the long-term. In doing so, NGOs should establish links with academic researchers/academic networks/non-profit research platforms (e.g. AICBRN, EJNI) with an interest in undertaking research with a focus on all-island issues (this is also linked to recommendations on building relationships). NIEL and IEN could also play a more proactive 'match-making' role helping partners on either side of the border to jointly apply for available funding and assist with grant applications. Priority issues could include: more detailed investigation of existing cross-border/all-island cooperation, with a particular focus on 'modes' of cooperation (i.e. how did cooperation start, develop and what form did it take) as well as a cost-benefit analysis of key proposed initiatives; updated mapping exercise reviewing impact of Brexit and/or other factors; deeper investigation of the issues within this report, including engaging with public bodies and communities to a greater extent – semi-structured interviews with key actors would be a useful next step; design and implementation of an all-island consultative forum; and evaluation of the GF/BA bodies and their work in practice. International perspectives should be investigated in more depth via a systematic review, including international frameworks, case-studies – EU level and beyond – ideally this could occur with international co-investigators from other jurisdictions with cross-border environmental challenges.

Monitoring the impact of Brexit on the environment on the island of Ireland

14. NIEL and IEN could consider a joint and dedicated workstream to monitor and highlight issues regarding implementation of the NI Protocol/Windsor Framework.

This would involve identifying and highlighting key aspects of EU law that still bind NI, including as the EU laws evolve and therefore change the obligations upon NI – including in areas not highlighted within this report. This is particularly important in cross-cutting areas which will

impact on environmental governance even if the policies do not directly relate to explicitly 'environmental issues' (e.g. transport). Umbrella bodies could play an important role in raising awareness of these issues across the island and how they relate to cross-border environmental concerns. In particular, through identifying, highlighting and utilising available mechanisms to help challenge flawed implementation. These activities could act as a precursor to undertaking joint challenges, complaints, strategic litigation and/or advocacy campaigns where failures occur.

This would involve monitoring and publicising gaps emerging in post-Brexit environmental policy/frameworks in NI and regulatory divergences on the island, due to changes in NI/UK or ROI/EU environmental law. It could also identify and highlight how these impact on an all-island basis in parallel to the mapping exercise (discussed above). In addition, it would be useful to review the areas of EU law binding NI in light of potential for cross-border and all-island environmental impacts (including on cooperation) and propose additional areas to be adopted. This exercise could draw on any updated mapping exercise to achieve this. When discussing what new EU legislation may be added to the Annexes of the NIP (or considering whether new EU legislation is replacing/updating laws within the Annexes), umbrella bodies could advocate for the prioritisation of the environmental benefits of shared or differentiated action. If a shared framework would prove useful and sensible, then NIEL and IEN could outline the alternatives and their pros and cons, e.g. options of adopting EU laws within the NI Protocol, having an all-island framework, having a two-island framework, relying on international frameworks or none.

Enhancing the accountability of governments on environmental issues

15. NIEL and IEN could consider taking joint action to hold critical bodies such as the NSMC accountable.

- (i) IEN and NIEL (as representatives of NGOs across the island) could consider the preparation and presentation of a joint statement or co-signed letter to both the UK and Irish Governments highlighting the remote nature of the NSMC and the lack of transparency relating to its work on the environment. Next time (each time) an NSMC meeting takes place NGOs and umbrella bodies could have a clear statement/event on what such a venue should be delivering and clear criticism of how little is done, or how untransparent it is. This is particularly important while there is a lack of avenues for stakeholders to engage in a meaningful way with the NSMC. Umbrella bodies should consider jointly commissioning research/dedicating a workstream to examining the potential to expand the scope of the NSMC, (e.g. to play a role in coordination of climate adaptation/mitigation) and to also monitor on a rolling basis the operation and effectiveness of political structures established under the GF/BA post-Brexit – specifically in the context of the environment. Both umbrella bodies and NGOs could consider enhancing the extent to which they engage in formal structures, especially

those directed at cross-border/all-island matters. NIEL and IEN could play a useful role in publicising opportunities for engagement in these structures with their members.

- This includes, in particular, any potential NESC working group, GF/BA committee/working group (linked to the NSMC) or NI Protocol committee/working group, if access is possible. It also includes relevant working groups or taskforces in county councils, agencies or similar that may focus upon or encompass some elements of cross-border/all-island matters.
- Where working groups exist locally, advocate for membership extending to relevant (NGO and other) counterparts in the other jurisdiction.
- Actively engage in consultations and similar public inquiry activities, whether as an invited stakeholder or otherwise – this could be done on a joint or collaborative basis if seeking to highlight interest, expertise and also a common position.
- Collaborate with public authorities on policy design and implementation where relevant and possible through feeding into expert working groups established by public authorities e.g. DAERA's stakeholder groups and their work on agriculture is a positive existing example.
- If there is a cross-border or all-island element, but there is no capacity for actors from the other jurisdiction to engage directly, then environmental actors should consult with their counterparts (to the extent possible, as confidentiality issues may arise) and help provide their perspectives.

(ii) Identify key actors in relevant bodies and engage with them early

- When working with public authorities in particular, it may be useful to check what needs or gaps they have that can be usefully filled and propose activities along these lines. They may not otherwise have considered seeking assistance from environmental actors, but it may prove convenient and beneficial for them to do so.
- Similarly, it may be a matter of highlighting your own interests, expertise and remit, with an offer to engage in the future. Providing them with resources, e.g. reports, data, options to engage with networks, etc., may be influential. There may be opportunities to feed into and inform work programmes, descriptors for funding, draft policies and consultations etc.

(iii) Tailor activities and proposals in light of public bodies' work programmes, remit, interests and language

- Access work programmes (where available) for relevant departments, councils, agencies etc., and NSMC, and develop proposals/actions in light of these.
- Where unavailable, NGOs and umbrella bodies should put pressure on Governments and public bodies to enhance transparency and make the work programmes more

readily available in a more timely manner (discussed further below). Bear in mind that public bodies in particular may be curtailed as to the scope and nature of their activities. This does not mean limiting one's own remit to a public body's remit, but simply tailoring one's engagement with that body in light of their specific context.

(iv) Active engagement in public events

- This may include hosting or co-hosting events (e.g. field trips, workshops, seminars, conferences, or some version of a public assembly or all-island forum) with representatives from key bodies.
- Consideration should be given to the roles played, funding sources and questions of independence and politics. It may also simply include participating in events organised by others – whether environmental NGOs, broader civil society or public bodies.

16. Governments must ensure improved, meaningful access to policy-making/decision-making through ensuring existing mechanisms function properly.

Although access to environmental decision-making by stakeholders is an Aarhus Convention right and also helps improve the quality of decision-making and outcomes, it is frequently very limited and tends to either rely on informal mechanisms or entail participation at later stages when the core direction of policies and decisions has already been largely decided or shaped. Early and meaningful access to underpinning documents and actors/groups is crucial. As with building relationships with public bodies above, this involves convincing other parties of the benefits offered, but also entails highlighting how this is based in existing rights and frameworks. Considering the broader significance and the potential for wide-sweeping effects, access to all-island groups and committees designing, reviewing and implementing environmental policy is especially important. This is the focus of the recommendations, but these could be adapted for other contexts.

(i) Formal, meaningful access by environmental NGOs to cross-border/all-island committees/working groups

- Creation of formal structures to enable stakeholder engagement within the GF/BA and NI Protocol remit - especially with the NSMC, Protocol Committees/working groups and an All-Island Civic Forum.
- Provision for a 'northern' voice in Irish Citizens' Assemblies (and vice-versa), beyond speakers or members of the expert advisory group.
- Invitation for NIEL (and other relevant bodies from NI) to become formal members of the NESC Council and any strategic working groups proposed by NESC in the interest of all-island cooperation.
- Greater transparency of work programmes, agendas and decisions from Governments relating to the operation of bodies such as the NSMC and Protocol committees/working groups. To ensure greater access this will require: advance information regarding work

programmes, areas of interest, potential needs, future funding streams etc.; the early publication of detailed work programmes and more detailed records of discussions.

(ii) Expansion/adjustment of the focus of cross-border/all-island groups

- There should be engagement with organised civil society on draft work programmes by key groups or committees, including those of the NSMC and regarding the NI Protocol. As highlighted above, this will require that groups/committees make accessible their draft work programmes at an early stage, e.g. via an open consultation and/or direct engagement with relevant stakeholders several weeks or months in advance of finalising the work programme. It should also provide for revising the work programme if necessary.
- Advocate for additional themes for NESC's proposed strategic working groups, including e.g. environmental governance.

17. New governance mechanisms could enhance accountability.

Good governance requires appropriate accountability mechanisms, including fora, standards/rights and avenues of access. These relate to the recommendations on the Aarhus Convention and environmental rights also, e.g. the creation of an all-island Environmental Charter and a NI Bill of Rights. Accountability can be on a domestic, all-island or international basis. We are not addressing issues of enforcement actions against individuals or companies here or, for instance, the limited nature of fines applied, as this is far beyond the scope of the report. Instead, the focus is on the structures and holding public bodies or the state(s) accountable.

(i) Establishment of an independent environmental agency in NI

- Independent environmental agencies are required in both jurisdictions. Highlight the presence (in principle) of such bodies on the island of Ireland and the rest of the UK.
- Note the difference between this and the OEP, and the need for both bodies to co-exist. This could be a revised version of the NIEA, provided it is truly independent and insulated from political decision-making.

(ii) Establishment of an oversight body/commission/rapporteur dealing specifically with cross-border/all-island environmental challenges

- This body should have a dedicated and very defined remit and it should supplement/complement, rather than replace existing accountability mechanisms.
- First, it could monitor the implementation of international agreements such as the Aarhus Convention, the Espoo Convention and even the Good Friday/Belfast Agreement (without supplanting the bodies provided for within these agreements).

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- Second, it could monitor and review regulatory alignment on an all-island basis to ensure that retained EU law in Northern Ireland does not needlessly diverge from how EU law is implemented in Ireland (and vice-versa), and that procedures at local level and national level retain sufficient common elements that they are not preventing cross-border exercise of legal rights. This would not involve oversight of the implementation of the NI Protocol, but specifically the areas of environmental governance (currently) outside the Protocol's scope – including cross-cutting issues.
 - Thirdly, a further function could be to identify and suggest policy responses to emerging environmental threats.
 - This body need not be along the lines of the European Commission or CJEU with strong enforcement powers, however, it should be able to, at a minimum, monitor and report on problems to bodies tasked with holding governments (including where relevant EU bodies) on either side of the border to account.

*Supporting enduring and productive relationships between
environmental civil society actors across the island*

18. An all-island event/convention/civic forum on environmental matters should be established.

An all-island event/convention/forum could be held annually (at least), led by environmental NGOs and broader civil society, but also engaging with other actors including public bodies, politicians and academics. If a formal version of the civic forum under the GF/BA is established by the two governments, this could be amalgamated/run instead, but the environmental NGOs and civil society could play key roles in its design and running. In light of their overarching nature, relatively enhanced capacity and focus points, IEN and NIEL could lead on this. Besides some general content on cross-border/all-island environmental cooperation and governance, it could have specific focus points, decided in collaboration with the public/stakeholders in advance.

19. Existing cross-border/all-island networks and engagements should be expanded and enhanced.

Where parties engage in existing cross-border or all-island activities, these could be developed further, e.g. expanding the role of the Best Kept Town (beyond the top participants in both jurisdictions), mirroring primary school activities in the Republic of Ireland regarding bees within the AIPP, or applying approaches in CANN and CABB to other nature sites. It could also entail expanding projects/events that are only run in one jurisdiction to be mirrored in both jurisdictions or preferably run on a cross-border/all-island basis. IEN and NIEL are already very active members of the Ad Hoc Group set up by the Centre for Cross-Border Studies (CCBS). However, actors should engage with and promote the [Common Charter](#) developed by the CCBS (a set of agreed principles for civic society organisations participating in North-South and

East-West cooperation), which also has the potential to function as a valuable informal network fostering and supporting cross-border cooperation between a wider group of stakeholders.

20. Support should be provided to enable a broader range of civil society organisations to undertake informed, efficient funding applications.

Funding applications can vary in their complexity, hurdles, eligibility criteria, deadlines etc and it takes considerable effort to apply – successfully or unsuccessfully. There may also be strict timelines for when activities need to be undertaken. Some funding will also open and close other doors, e.g. opening up follow-on funding or restricting the number of applications that may be made. If successful, undertaking funded projects can entail considerable burdens – this can be disproportionate to the value of the funding or the activities to be undertaken. It would be helpful if NIEL and IEN could collaborate in creating a database of funding sources available to actors on the island – this information should not necessarily be limited to members of each umbrella organisation. This database could include elements such as: funding bodies, usual or previous focus points for funding, nature of activities/resources funded, eligibility requirements, whether complementary funding is permitted or required, usual timing or frequency of funding calls/opportunities etc. Once established, it could be updated relatively easily and also shared across relevant organisations and individuals. Actors would then be able to identify sources relevant to them and new potential collaborators. Engaging with funding bodies in advance to check their normal criteria and also future focus points in order to design proposals effectively and allow time to identify suitable collaborators. Sometimes there may be discretionary funding or rolling funding available, that is not advertised in the same way as other sources – engagement may help identify these. (These steps can also help inform any database). It may also be possible to feed in to review activities for funders and the development of funding calls prior to their finalisation, thereby helping shape calls in a mutually advantageous fashion.

Ensuring citizens on the island of Ireland are aware of, and can operationalize their environmental rights

21. Civil society organisations should develop, share and utilise expertise on Aarhus Convention and other ‘environmental’ rights.

Environmental rights, broadly understood, exist that may be of use to protect environmental interests, including via the courts. However, they vary in nature, source and implementation. For instance, they can be procedural (e.g. a right of access to information or the courts) or substantive (e.g. a right to a clean and healthy environment); and they can be human-focussed (commonly referred to as ‘environmental rights’, but narrowly understood) or nature-focussed (commonly referred to as ‘rights of nature’). Reliance upon them can be highly challenging, knowledge and understanding of them varies considerably, and they can also evolve. It is essential to understand their potential, but also their limits in order not to rely pointlessly on them and to identify where legal changes might be required. Clearly, this will therefore also relate to advocacy goals. It is worth noting that it may be possible to use environmental rights

without being aware that is what is happening, but fuller knowledge and understanding may allow effective, enhanced use and application, as well as the development of these rights in society. This also includes understanding their limitations.

(i) Highlight the role of environmental rights (broadly understood)

- In doing so, highlight examples from across the world (including developed countries and especially in Europe), demonstrating how these rights are becoming more mainstream and can ‘fit’ within existing legal systems and structures, even while leading to a fundamental rethink of how we operate/exist and providing useful tools for environmental governance.
- To this end, highlight the incorporation of both rights of nature and human rights to a clean and healthy environment in a range of jurisdictions, highlight the ECtHR’s and various domestic courts’ interpretation of the ECHR to encompass environmental rights and highlight the gaps and discrepancies across this island, including in recent case-law.
- Hold events, commission reports, and disseminate widely on this front. Engage with community leaders (as above) on rights of nature when undertaking this work.

(ii) Host an all-island civic forum/conference/assembly on environmental rights

- Avail of experts in the field of environmental rights to provide introductions and explain the significance of these rights (as above). Seek to co-design an environmental charter (as discussed above), encompassing rights, duties, and objectives. Consider potential avenues for how the charter could be developed and incorporated within policy or law and what role it should play.

(iii) Undertake and publicise a detailed review of compliance with the Aarhus Convention

- Detailed information is required regarding implementation and compliance across the island, especially bearing in mind concerns of the Compliance Committee. This is currently being undertaken in an IRC-funded project addressing implementation across the island of Ireland led by Alison Hough. It will need to be publicised widely and updated regularly.

(iv) Support the education of individuals regarding their Aarhus rights

- Propose the provision of clear, accessible information to individuals regarding Aarhus rights and how to avail of them – including on a cross-border/all-island basis. Feed into the process and help identify practical resources and guides.
- Support, including through helping co-design, the development of an educational programme on Aarhus rights – tailored depending on the role of individuals. The explainer(s) proposed above would be a valuable tool here, but the state(s) should also

play a role through supporting educational activities for citizens. This should not be limited to schools/formal education but should encompass the population at large.

(v) Develop and disseminate basic explainer(s) on environmental rights (broadly understood) and their practical use

- Key NGOs and umbrella bodies could work with public bodies/academics and develop and make available (an) explainer(s) on environmental rights and their practical use (the forthcoming IRC-funded report¹ led by Alison Hough could feed into the process of developing recommendations in this area).
- This should focus primarily on rights as they currently exist within NI and Ireland (e.g. under the Aarhus Convention, ECHR and HRA) and how this manifests in practice, e.g. impacts on standards of judicial review or standing for NGOs, rights regarding consultation, EIAs, FOIs etc. It should highlight also the greyer areas of rights that might be relevant and useful, with examples of where they have been used elsewhere previously, but noting any relevant caveats, e.g. the role of a right to life in another jurisdiction, or potential developments in the ECtHR. However, information regarding practical limitations and disadvantages should also be included, e.g. costs of litigation, likely practical outcomes even if successful in court, standards of proof etc.
- The explainer(s) should be in accessible language and from a practical perspective, including for example discussing what the right of access to environmental information means regarding policy making or planning permission or the like – ‘Aarhus Convention rights’ means little to most people. These should be updated as significant developments occur.

(vi) Develop enhanced expertise on environmental rights (broadly understood) and reflect on desired outcomes and potential pathways

- Engage with experts (NGOs/community leaders with practical experience, academics, practitioners etc.) who have deeper knowledge of the wide range of environmental rights (broadly understood) to develop and share expertise.
- Investigate the range, nature and role of relevant rights within human rights instruments and constitutions. Through research and engaging with experts, identify the potential roles for environmental rights (broadly understood) across the island and what would need to be achieved to facilitate their optimal role, e.g. incorporation within constitutional, legislative and/or policy documents; incorporation within NGO/groups’ key aims or remit; public engagement and engagement with policy-makers to help shift perceptions, attitudes and approaches to these rights.

¹ Synthesis Report on all-island Aarhus Implementation” (2022) - Forthcoming report on Aarhus implementation in Ireland by Alison Hough, available at www.findingcommonground.ie.

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- Host events on environmental rights to help share key information and debate the future of environmental rights on this island, e.g. including the points above, and the framing and content of rights.
 - In light of the particularly challenging position of ‘rights of nature’ and the surrounding movement, consider how environmental NGOs can provide suitable support. Reach out to community leaders and environmental NGOs already engaged with this issue. Again, this understanding will require updating as significant developments arise on the island and internationally.

(vii) Use rights effectively and strategically

- Rights can be used on a daily basis in accessing information or engaging in policy-making, but also in holding bodies to account through complaints and litigation. Typically, this will not involve expressly referencing environmental rights, but might be about making an FOI request, submissions to a planning or licensing application, taking a judicial review or otherwise. In some instances, references to rights may be helpful in this context, e.g. if claiming a breach of rights in the context of a JR. Rights can also be used in publicity and advocacy campaigns, through highlighting or supporting various points – in this situation, making express reference to environmental rights (broadly or narrowly understood) can be very useful when undertaken in light of legal advice.
- Work together on an all-island basis to ensure compliance with international commitments through jointly authored complaints to compliance bodies/ strategic litigation. If the Aarhus Convention is undermined or has flawed implementation in either jurisdiction, then this makes the work of environmental actors much more difficult – including on cross-border/all-island basis.
- Sharing knowledge, expertise, input etc. can help. For instance, identify breaches of the Aarhus Convention and challenge/complain about these breaches (including co-authoring of complaints to bodies such as the Aarhus Convention Compliance Committee).
- Undertake joint advocacy efforts designed to enhance rights across the island (see below).

(viii) NGOs could consider jointly engaging in strategic litigation relating to environmental human rights and rights of nature on the island of Ireland

- Careful consideration must be given to the selection of, and approach to, potential cases.
- Lawyers and groups that are experts in the field should be consulted with and international examples of strategic litigation should be considered – in particular where issues transcend political borders.

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- Support should be given to grassroots rights of nature movements and consideration should also be given to potential legal opportunities (beyond litigation) which may arise as legislation is developed in the short to medium term (e.g. constitutional changes, creation of legally enforceable rights via other mechanisms). Some current opportunities are set out in EJNI's [recent submission](#) to the Citizens' Assembly on Biodiversity Loss.

Enhancing knowledge about environmental actors, activities and opportunities for collaboration on the island of Ireland

NGOs and civil society members all have their own networks but would benefit from developing these further – including with actors from other stakeholder groups and also other backgrounds. Knowledge of key actors (including 'allies' or friendly faces), as well as their activities, projects, resources etc., is highly valuable. This is more so where one party is seeking to engage on a cross-border or all-island basis, but does not have local knowledge or expertise. Becoming familiar with the regime involves considerable investment (of time, money and energy), whereas others may already hold that expertise. Consequently, it can be highly beneficial to be able to identify relevant actors. Each actor has their own individual expertise and also has their own networks, across the island and beyond, which may be of help to others. Enabling the sharing of these networks and information regarding activities is central to cross-border and all-island cooperation. Including examples of previous or on-going projects can also help provide further insights and inspire further cooperation. Although the focus should be on this island (and also GB), including actors and projects internationally would also be desirable. This recommendation will also help support the recommendations regarding building relationships, funding applications etc.

22. NGOs and umbrella bodies should collaborate to develop and make freely available a database of environmental actors.

- A database could be created outlining environmental groups/bodies/individuals, issues they focus upon, roles and key contacts (while complying with GDPR). This should primarily focus on the island of Ireland (N.B. EJNI, Community Law and Mediation, with contributions from Friends of the Earth NI, are working on a collaborative online 'Manual of Environmental Justice' -funded by CFI/CFNI- which will at least partly fulfil this recommendation and is scheduled for publication in October 2022). This could also include actors beyond this island, focusing on GB and the EU in particular, but also internationally.
- It could also include a section on public bodies – those that environmental actors would be engaging with depending on the issue, area, etc. This database should be hosted on a website that is openly accessible and also publicised to environmental actors. It should be updated regularly.

23. NGOs and umbrella bodies should collaborate to develop, make freely available and publicise a database of collaborative projects where successful elements are highlighted.

- A database could be created outlining collaborative projects across a range of areas, indicating where they highlight successful elements, e.g. in effective cooperation, establishing long-term relationships or environmental outcomes. The database should also outline what mechanisms and aspects helped facilitate the successes. Particular challenges or considerations should also be outlined.
- The database could focus on projects across the island of Ireland, e.g. the CANN project, the CABB project, the Gathering, the activities of NIEL and IEN etc. It could include GB and international examples, e.g. regarding the Ramsar Convention, the Common Implementation Strategy for the Water Framework Directive and any others that seem particularly illuminating. This database should be hosted on a website that is openly accessible and also publicised to environmental actors. It should be updated regularly. One possible location could be the CFI/CFNI funded digital 'Manual of Environmental Justice' website being developed by EJNI and FOE NI which incorporates a mapping element. Individual projects from this should be publicised more generally as positive examples highlighting the benefits of transboundary cooperation and engagement.