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Climate Justice Conference

Policies and Actions for a
Climate Responsive Justice
Sector

*Renewable Projects, Biodiversity
& Imperative Reasons of
Overriding Public Interest*

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Conservation of habitats and wild fauna and flora

- Habitats Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora
 - Integrity Level Effect on a Site
 - No Feasible Alternative
 - Adequate Compensatory Measures

Imperative Reasons of Overriding Public Interest?

- Sites with priority habitat /species
 - Human health
 - Public safety
 - Beneficial consequences of primary importance to environment
 - Commission's opinion
- Sites without priority habitat species
 - Social and economic reasons

Key Biodiversity Conservation & Renewable Energy Laws

- **WFD Directive** - Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy
- **SEA Directive** - Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment
- **'RES' Directive** - Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources
- **RED** - Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources
- **Birds Directive** - Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds
- **EIA Directive** - Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment
- **RED II** - Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources

'European Green Deal'

- 'European Green Deal' Regulation 2021/1119
- Objective: **climate neutrality** in the EU by 2050.
- **Intermediate target** to reduce net GHG emissions by **at least 55 % compared to 1990 levels by 2030**.
- Requires a **significantly higher** shares of energy from renewable sources.

COUNCIL REGULATION (EU) 2022/2577

- Framework to **accelerate deployment** of renewable energy in **designated areas**
- Introduces **rebuttable presumption** that **renewable energy projects** are of **overriding public interest** and serving public health and safety for the purposes of the relevant environmental legislation (i.e., the Habitats, Birds and Water Framework Directives)

Renewable Energy Directive III

- Overall target for Renewable Energy Sources consumption **by 2030** raised to **42.5% from 32%**.
- Presumption that renewable energy plants and their connection to the grid are of overriding public interest
- Except where:
 - clear evidence that those projects have significant adverse effects on the environment which cannot be mitigated or compensated for, or
 - where Member States decide to restrict the application of that presumption in duly justified and specific circumstances.

The Draft Nature Restoration Law (22/6/22)

- **Legally binding ecosystem-specific targets** - an overarching objective:

*"to contribute to the continuous, long-term and sustained recovery of biodiverse and resilient nature across the Union's land and sea areas through the restoration of ecosystems, and that the **restoration measures** together shall cover, **by 2030, at least 20 % of the Union's land and sea areas and, by 2050, all ecosystems in need of restoration.**"*

- Expected to **set targets for ensuring no net loss**
- **Restoration Plans** within 2 years of Regulation coming into force.
- Plans will show **how they will deliver** on restoration measures needed to meet ecosystem-specific targets and obligations.

The Future?

- Dual Climate and Biodiversity Crises
- Complimentary or competing objectives?
- Phase 1 Offshore Wind Farm Projects - **2030, 5GW**
- **Ongoing Litigation** – e.g. *Toole v. The Minister for Housing & Ors.*, High Record No. 2023 No. 407 JR

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Thank you for
listening!

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