In the High Court of Justice
Queen's Bench Division
Administrative Court

CO Ref no: CO/1587/2021

In the matter of a claim for Judicial Review

The Queen on the application of

PLAN B EARTH and Others

versus PRIME MINISTER and Others

Notice of RENEWAL of claim for permission to apply for Judicial Review (C P R 54. 12)

1. *This notice must be lodged in the Administrative Court Office, by post or in person and be served upon the defendant (and interested parties who were served with the claim form) within 7 days of the service on the claimant or his solicitor of the notice that the claim for permission has been refused.*

2. *If the claim was issued on or after 7 October 2013, a fee is payable on submission of Form 86B. Failure to pay the fee or lodge a certified Application for Fee remission may result in the claim being struck out. The form for Application for Remission of a Fee is obtainable from the Justice website http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do*

3. *If this form has not been lodged within 7 days of service (para 1 above) please set out below the* ***reasons for delay:***

4. *Set out below the grounds for seeking reconsideration:*

GROUND 1: The judge was wrong to hold that the claim was "*based on the contention that the Claimants have a cause of action derived from the UK's breach of treaty obligations, which have not been incorporated into domestic law".* That assertion betrays a fundamental misunderstanding of the claim. The Claimants case, in so far as it concerns the Paris Agreement, is based on breaches of the Government's obligations under the Human Rights Act 1998, which in the context of climate change, must be interpreted in light of the international scientific consensus, as reflected in the objectives of the Paris Agreement. Such as approach is consistent with both the Supreme Court's judgment in *Supreme Court in R (SC, CB and 8 children) v SSWP [2021] UKSC 26*. the Strasbourg case-law, and the jurisprudence of other parties to the European Convention on Human Rights, including judgments from the Supreme Courts of Ireland and the Netherlands concerning specifically the relationship between Articles 2 and 8 of the ECHR and the Paris Agreement.

GROUND 2: The judge was wrong to rule that even if the factual dispute at the heart of the claim, ie that the measures taken by the Defendants are obviously and systematically insufficient to meet the legal obligation established by the Climate Change Act 2008 s. 1 (the "net zero" target) and to safeguard the lives and family lives of the Claimants, the claim would still be unarguable on the basis that *"This case is concerned with a field of political choice and policy decision-making in respect of which the Government has a wide margin of discretion".* Such an approach is inconsistent with the existing jurisprudence of both Strasbourg and member countries, which recognise the threat to human rights presented by the climate crisis, and the consequent legal obligation on governments to take practical and effective measures to mitigate that threat. On the judge's interpretation, the discretion afforded to the Government in relation to climate change is so wide, that its policies in this area are outside the scope of judicial supervision, even where they fail to meet the scientific assessment of what is required to avert disaster.

GROUND 3: The judge was wrong to hold that the Government's obligations under the Climate Change Act 2008, sections 13 and 58, are satisfied simply by publishing reports, irrespective of

whether the strategy and policy they contain are capable of safeguarding the public from the climate crisis, in accordance with the purpose of the Act and the advice of the Government's statutory adviser on climate change, the Committee on Climate Change. If the judge were right about this, and there were no obligation to publish and implement policies that were adequate in terms of the legislative objective, the purpose of the legislation, which is to protect the public from the worst impacts of climate change, would be frustrated.

GROUND 4: The judge applied the wrong test to the question of whether the Claimants' rights under ECHR Articles 2 and 8 are engaged. The test is not whether their lives are in immediate danger, as suggested by the judge, but, as the Defendants acknowledge, whether the test in the case of *Taura* is met (*"[The Claimants] must have an arguable and detailed claim that, owing to the authorities' failure to take adequate precautions, the degree of probability that damage will occur is such that it may be deemed to be a violation, on condition that the consequences of the act complained of are not too remote"*. The Claimants provided plentiful evidence that the risk of harm to the Claimants, arising from the Defendants' failures to take adequate precautions, far from being remote, was real and substantial.

GROUND 5: The judge was wrong to restrict the analysis of the Claimants Article 8 rights to the *"risk to their rights to a family life in this country".* The 2nd, 3rd and 4th Claimants have family outside the jurisdiction, in regions of the world exposed to disproportionate risk from the impacts of climate change. The Claimants are within the jurisdiction and their right to family life must be secured without discrimination. The judge was wrong to exclude from consideration their family life extends beyond the jurisdiction and his approach was itself a violation of ECHR Article 14.

GROUND 6: The judge was wrong to consider it a "serious procedural defect" that the claimants are not legally represented. The claimants are all litigants in person, who are free to adopt the legal submissions of one or more of the claimants. There is no rule of law that excludes litigants in person from applying for judicial review. To the contrary, such an approach would preclude the vast majority, who are unable to afford legal representation, from enforcing their rights through the courts. In any event, the judge failed to explain why such a "defect" did not apply to the Fifth claimant, nor why, if it did not do so, the Fifth Claimant's case should be dismissed nevertheless.

GROUND 7: The judge was wrong to rule that the Prime Minister, who has delegated to himself overall responsibility for the UK's climate change strategy, was not properly joined to proceedings and that HM Treasury was only properly joined in relation to the third ground of claim. In any event such reasoning provided no basis for dismissing the claim against HM Treasury on Ground 3, nor the claim against the Secretary of State for Business, Energy and Industrial Strategy on all Grounds.

GROUND 8: The judge was wrong to treat the length of the claim as a "serious procedural defect". The length of the Statement of Facts and Grounds was proportionate to the significance of the claim, which concerns the UK Government's role in jeopardising the conditions which make the planet habitable, as indicated by the length of the response on behalf of the Government (which was 47 pages, with a further 10 page response to the additional evidence concerning the reports of the Committee on Climate Change).

5. Please supply

CLAIMANTS' NAMES (LITIGANTS IN PERSON): Plan B. Earth, Timothy John Edward Crosland (signing on his own behalf and as Director for Plan B.Earth), Adetola Stephanie Kezia Onamade, Jerry Noel Amokwandoh, Marina Xochitl Tricks

TELEPHONE NUMBER*:* 07795 316164

Signed 

Dated: 4 October 2021

Claimant's Ref No. Tel.No: 07795 316164 Fax No.

To the Administrative Court Office, Royal Courts of Justice, Strand, London, WC2A 2LL

FORM 86B