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The Registrar  
European Court of Human Rights  
Council of Europe  
F-67074 Strasbourg Cedex  
France

11 July, 2022

**New application: Plan B.Earth, Adetola Onamade, Jerry Amokwandoh, Marina Tricks, Tim Crosland v United Kingdom and request under Rule 41 (priority)**

Dear Registrar

Please find enclosed an application form on behalf of the above named Applicants, together with an Additional Submission and supporting documentation.

The application concerns the Respondent's failure to take practical and effective measures to tackle man-made climate change in breach of its positive obligations to safeguard Convention rights. To the contrary, the Respondent continues to advance measures inconsistent with the expert advice, which increase the interference with Convention rights.

The Applicants are victims of the Respondent's violations. First Applicant, Plan B.Earth ('Plan B'), is an NGO, whose purposes include holding the Government to account for its domestic and international commitments on climate change; preventing violations of human rights in so far as they are adversely affected by climate change; and securing justice for those suffering climate change loss and damage. First Applicant's members include young people from racially marginalised communities, whose family life is inextricably linked to communities on the frontline of the crisis in the Global South. Members have already suffered direct interference with Convention rights, including, in one case through the impact of extreme weather as a result of visiting family in the Philippines, and through adverse impacts on mental health.

Without the Court's intervention, interference with the Applicants' Convention rights will be profound and irreversible.

Under Rule 41 of the Rules of Court, we request that the Court expedite this application as its contents reflect Categories I, II, and III of the Court's Priority Policy. We rely on the extreme urgency of this application and the profound threats to the physical integrity, dignity and family

life of the Applicants, noting the comments of the UN Secretary General, Antonio Guterres from April of this year:

**“We are on a fast track to climate disaster. Major cities under water. Unprecedented heatwaves. Terrifying storms. Widespread water shortages. The extinction of a million species of plants and animals. This is not fiction or exaggeration. It is what science tells us will result from our current energy policies.”<sup>1</sup>**

The final ruling from the domestic courts in this case reads as a request for this Court’s clarification on the relationship between the Paris Agreement and Convention rights:

**“The fundamental difficulty which the Claimants face is that there is no authority from the European Court of Human Rights on which they can rely, citing the Paris Agreement as being relevant to the interpretation of the ECHR, Articles 2 and 8.”**

We are aware that the Court has recently referred to the Grand Chamber other cases concerning the relationship between the climate crisis and Convention rights, including *Agostinho and Others v. Portugal and others* (App No 39371/20) and *KlimaSeniorinnen and Others v Switzerland* (App. no. 53600/20). We support the positions of the Applicants in those cases, but it is important to note that this case also raises some distinct issues, including:

- i) the positive obligation to take practical and effective measures relating to climate change adaptation, finance flows and reparation for loss and damage;
- ii) Respondent’s denial, supported by the domestic courts, that the Paris Agreement is a relevant consideration in determining the scope of Convention rights;
- iii) Respondent’s denial, supported by the domestic courts, that family ties and origins in the Global South are a relevant consideration for the purposes of Convention Article 14.

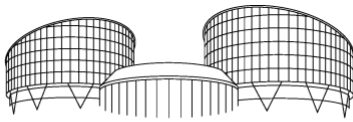
Yours sincerely



Tim Crosland  
Director, Plan B  
Correspondent on behalf of all Applicants

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<sup>1</sup> <https://press.un.org/en/2022/sgsm21228.doc.htm>



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

Please note that this form will work correctly only with Adobe Reader 9 Upwards (download available from [www.adobe.com](http://www.adobe.com)).  
Please save a copy of this form locally before filling it in using Adobe Reader, then print it and post it to the Court.

ENG - 2022/1

## Application Form

### About this application form

This form is a formal legal document and may affect your rights and obligations. Please follow the instructions given in the "Notes for filling in the application form". Make sure you fill in all the fields applicable to your situation and provide all relevant documents.

Warning: If your application is incomplete, it will not be accepted (see Rule 47 of the Rules of Court). Please note in particular that Rule 47 § 2 (a) requires that a concise statement of facts, complaints and information about compliance with the admissibility criteria **MUST** be on the relevant parts of the application form itself. The completed form should enable the Court to determine the nature and scope of the application without recourse to any other submissions.

#### Barcode label

If you have already received a sheet of barcode labels from the European Court of Human Rights, please place one barcode label in the box below.

#### Reference number

If you already have a reference number from the Court in relation to these complaints, please indicate it in the box below.

### A. The applicant

#### A.1. Individual

This section refers to applicants who are individual persons only. If the applicant is an organisation, please go to section A.2.

1. Surname

2. First name(s)

3. Date of birth

1	4	0	2	1	9	9	7
D	D	M	M	Y	Y	Y	Y

e.g. 31/12/1960

4. Place of birth

5. Nationality

6. Address

\*\*\*\*\*  
UK  
(see Annex 1 for additional applicants)

7. Telephone (including international dialling code)

8. Email (if any)

9. Sex  male  female

#### A.2. Organisation

This section should only be filled in where the applicant is a company, NGO, association or other legal entity. In this case, please also fill in section D.1.

10. Name

11. Identification number (if any)

12. Date of registration or incorporation (if any)

3	0	0	6	2	0	1	6
D	D	M	M	Y	Y	Y	Y

e.g. 27/09/2012

13. Activity

14. Registered address

15. Telephone (including international dialling code)

16. Email

**B. State(s) against which the application is directed**

17. Tick the name(s) of the State(s) against which the application is directed.

- |   |  |
|---|--|
| <input type="checkbox"/> ALB - Albania                | <input type="checkbox"/> ITA - Italy               |
| <input type="checkbox"/> AND - Andorra                | <input type="checkbox"/> LIE - Liechtenstein       |
| <input type="checkbox"/> ARM - Armenia                | <input type="checkbox"/> LTU - Lithuania           |
| <input type="checkbox"/> AUT - Austria                | <input type="checkbox"/> LUX - Luxembourg          |
| <input type="checkbox"/> AZE - Azerbaijan             | <input type="checkbox"/> LVA - Latvia              |
| <input type="checkbox"/> BEL - Belgium                | <input type="checkbox"/> MCO - Monaco              |
| <input type="checkbox"/> BGR - Bulgaria               | <input type="checkbox"/> MDA - Republic of Moldova |
| <input type="checkbox"/> BIH - Bosnia and Herzegovina | <input type="checkbox"/> MKD - North Macedonia     |
| <input type="checkbox"/> CHE - Switzerland            | <input type="checkbox"/> MLT - Malta               |
| <input type="checkbox"/> CYP - Cyprus                 | <input type="checkbox"/> MNE - Montenegro          |
| <input type="checkbox"/> CZE - Czech Republic         | <input type="checkbox"/> NLD - Netherlands         |
| <input type="checkbox"/> DEU - Germany                | <input type="checkbox"/> NOR - Norway              |
| <input type="checkbox"/> DNK - Denmark                | <input type="checkbox"/> POL - Poland              |
| <input type="checkbox"/> ESP - Spain                  | <input type="checkbox"/> PRT - Portugal            |
| <input type="checkbox"/> EST - Estonia                | <input type="checkbox"/> ROU - Romania             |
| <input type="checkbox"/> FIN - Finland                | <input type="checkbox"/> RUS - Russian Federation  |
| <input type="checkbox"/> FRA - France                 | <input type="checkbox"/> SMR - San Marino          |
| <input type="checkbox"/> GBR - United Kingdom         | <input type="checkbox"/> SRB - Serbia              |
| <input type="checkbox"/> GEO - Georgia                | <input type="checkbox"/> SVK - Slovak Republic     |
| <input type="checkbox"/> GRC - Greece                 | <input type="checkbox"/> SVN - Slovenia            |
| <input type="checkbox"/> HRV - Croatia                | <input type="checkbox"/> SWE - Sweden              |
| <input type="checkbox"/> HUN - Hungary                | <input type="checkbox"/> TUR - Turkey              |
| <input type="checkbox"/> IRL - Ireland                | <input type="checkbox"/> UKR - Ukraine             |
| <input type="checkbox"/> ISL - Iceland                |  |

**C. Representative(s) of the individual applicant**

An individual applicant does not have to be represented by a lawyer at this stage. If the applicant is not represented please go to section E.

Where the application is lodged on behalf of an individual applicant by a non-lawyer (e.g. a relative, friend or guardian), the non-lawyer must fill in section C.1; if it is lodged by a lawyer, the lawyer must fill in section C.2. In both situations section C.3 must be completed.

**C.1. Non-lawyer**

18. Capacity/relationship/function

19. Surname

20. First name(s)

21. Nationality

22. Address

23. Telephone (including international dialling code)

24. Fax

25. Email

**C.2. Lawyer**

26. Surname

27. First name(s)

28. Nationality

29. Address

30. Telephone (including international dialling code)

31. Fax

32. Email

**C.3. Authority**

The applicant must authorise any representative to act on his or her behalf by signing the first box below; the designated representative must indicate his or her acceptance by signing the second box below.

I hereby authorise the person indicated above to represent me in the proceedings before the European Court of Human Rights concerning my application lodged under Article 34 of the Convention.

33. Signature of applicant

34. Date

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
D	D	M	M	Y	Y	Y	Y

e.g. 27/09/2015

I hereby agree to represent the applicant in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

35. Signature of representative

36. Date

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
D	D	M	M	Y	Y	Y	Y

e.g. 27/09/2015

**Electronic communication between the representative and the Court**

37. Email address for eComms account (if the representative already uses eComms, please provide the existing eComms account email address)

By completing this field you agree to using the eComms system.

**D. Representative(s) of the applicant organisation**

Where the applicant is an organisation, it must be represented before the Court by a person entitled to act on its behalf and in its name (e.g. a duly authorised director or official). The details of the representative must be set out in section D.1.

If the representative instructs a lawyer to plead on behalf of the organisation, both D.2 and D.3 must also be completed.

**D.1. Organisation official**

38. Capacity/relationship/function (please provide proof)

TRUSTEE AND DIRECTOR OF PLAN B (see Annex 2)

39. Surname

CROSLAND

40. First name(s)

TIMOTHY JOHN EDWARD

41. Nationality

UK

42. Address

62 SUTHERLAND SQUARE  
LONDON  
SE17 3EL  
UK

43. Telephone (including international dialling code)

\*\*\*\*\*

44. Fax

N/A

45. Email

tim@planb.earth

**D.2. Lawyer**

46. Surname

47. First name(s)

48. Nationality

49. Address

50. Telephone (including international dialling code)

51. Fax

52. Email

**D.3. Authority**

The representative of the applicant organisation must authorise any lawyer to act on its behalf by signing the first box below; the lawyer must indicate his or her acceptance by signing the second box below.

I hereby authorise the person indicated in section D.2 above to represent the organisation in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

53. Signature of organisation official

54. Date

D	D	M	M	Y	Y	Y	Y

e.g. 27/09/2015

I hereby agree to represent the organisation in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

55. Signature of lawyer

56. Date

D	D	M	M	Y	Y	Y	Y

e.g. 27/09/2015

**Electronic communication between the representative and the Court**

57. Email address for eComms account (if the representative already uses eComms, please provide the existing eComms account email address)

By completing this field you agree to using the eComms system.

**Subject matter of the application**

All the information concerning the facts, complaints and compliance with the requirements of exhaustion of domestic remedies and the four-month time-limit laid down in Article 35 § 1 of the Convention must be set out in this part of the application form (sections E, F and G). It is not acceptable to leave these sections blank or simply to refer to attached sheets. See Rule 47 § 2 and the Practice Direction on the Institution of proceedings as well as the “Notes for filling in the application form”.

**E. Statement of the facts**

58.

INTRODUCTION: The Respondent has violated the rights of the Applicants, as guaranteed by Convention Articles 2, 8 and 14, by failing to take practical and effective measures to tackle the extreme threat from man-made climate change. Further, by denying the Applicants a full hearing of their case, despite the exceptionally serious nature of the violations, the Respondent violates the Applicants' rights as safeguarded by Convention Articles 6 and 13. Sections E and F of this form summarise the Additional Submission ('AS'), which contains further evidence in support of this application.

THE RESPONDENT KNOWS THAT MAN-MADE CLIMATE CHANGE IS AN EXTREME THREAT TO LIFE AND TO FAMILY LIFE (see AS 1): On 1 May 2019, the UK Parliament declared a climate emergency. Michael Gove, MP, stated on behalf of the Respondent: “I make it clear that the Government recognise the situation we face is an emergency. It is a crisis, and it is a threat that we must all unite to meet ... We in the United Kingdom must bear that moral and ethical challenge particularly heavily. We were the first country to industrialise, and the industrial revolution that was forged here and generated prosperity here was responsible for the carbon emissions that have driven global warming. The burden of that is borne, even now, by those in the Global South, so we have a responsibility to show leadership.” (Bundle p.53,§52). In December 2020, the Respondent published a report which begins: “Climate change is an existential threat to humanity. Without global action to limit greenhouse gas emissions, the climate will change catastrophically with almost unimaginable consequences for societies across the world.” (Bundle p.54,§53). On 23 February 2021, Sir James Bevan, Chief Executive, UK Environment Agency, said that current climate change impacts were consistent with a worst case scenario which implies that: “Much higher sea levels will take out most of the world’s cities, displace millions, and make much of the rest of our land surface uninhabitable or unusable. Much more extreme weather will kill more people through drought, flooding, wildfires and heatwaves than most wars have. The net effects will collapse ecosystems, slash crop yields, take out the infrastructure that our civilisation depends on, and destroy the basis of the modern economy and modern society.” (Bundle p. 305). On 18 March 2021, Rt Hon Alok Sharma MP, President of COP26, said on behalf of the Respondent: “The climate crisis represents a clear and present danger to people and our planet. Its real world consequences are now all too visible ... Unless we act now, we will be out of time to hold back the worst impacts.” (Bundle p.55,§59). In light of such statements, the Respondent cannot plausibly deny that man-made climate change presents an exceptional threat to the lives and family lives of those within its jurisdiction (and beyond).

THE PARTIES TO THE PROCEEDINGS (see AS 2). The first Applicant, Plan B.Earth ('Plan B'), is an NGO, registered with the UK Charity Commission, whose charitable purposes include advancing legal action to uphold the global temperature goal established by the Paris Agreement on Climate Change ('The Paris Agreement') and to safeguard human rights, in so far as they are threatened and interfered with by man-made climate change. The members of Plan B include those within the jurisdiction of the Respondent who are exposed to disproportionate and discriminatory impacts and risks, whether by virtue of age, gender, mental health or membership of racially marginalised communities, or because their family life is inextricably linked to communities on the frontline of the crisis. They include one young person who is already suffering adverse mental health impacts arising, in part, from the impacts of the climate crisis on her community; and one person, resident in the UK, who was a victim of Super Typhoon Rai (local: Odette), in the Philippines in December 2021, as a result of visiting her family there. The 2nd and 3rd Applicants are young people resident in the UK, who are members of racially marginalised communities, whose cultural and family life is inextricably linked to communities in the Global South. They are also members of the 1st Applicant, Plan B. The 4th Applicant is a young woman, resident in the UK, but with close family in Mexico. The 5th Applicant is the Director of the 1st Applicant, Plan B, and the father of two children, the younger of whom is too young to participate meaningfully in the political process or to commence independent legal action in defence of his rights. The Respondent, the UK Government, currently presides over the United Nations climate process, after hosting COP26 in Glasgow, and refers to itself as a “global leader” in tackling climate change (Bundle p.37, §4.1).

THE CONVENTION IMPOSES A DUTY ON THE RESPONDENT TO TAKE PRACTICAL AND EFFECTIVE MEASURES TO COUNTER THAT THREAT (see AS 3): This Court summarised its case law concerning the positive obligation to safeguard the right to life in *Nicolae Virgiliu Tănase v Romania* no. 41720/13, §§135-7 (2019): “This substantive positive obligation entails a primary duty on the State to put in place a legislative and administrative framework designed to provide

**Statement of the facts (continued)**

59. effective deterrence against threats to the right to life ... . It also requires the State to make regulations compelling institutions, whether private or public, to adopt appropriate measures for the protection of people's lives ...". Convention Article 2 also imposes on the Respondent "the procedural positive obligation to have in place an effective independent judicial system. Such system may vary according to circumstances ... It should, however, be capable of promptly establishing the facts, holding accountable those at fault and providing appropriate redress to the victim ...".

CONTRARY TO THE POSITION OF THE RESPONDENT, THE PARIS AGREEMENT AND SPECIFICALLY THE PARIS TEMPERATURE GOAL OF LIMITING WARMING TO 1.5°C, ARE RELEVANT CONSIDERATIONS IN DETERMINING THE SCOPE OF THE RESPONDENT'S POSITIVE OBLIGATIONS (AS 4). Since climate change is a global threat, national climate change policy must be framed as a contribution to globally agreed goals. In the absence of internationally agreed goals, there would be no anchor for domestic climate change measures nor any benchmark to determine the adequacy and efficacy of such measures. This Court has emphasised that "... the provisions of the Convention cannot be interpreted and applied in a vacuum. Despite its specific character as a human rights instrument, the Convention is an international treaty to be interpreted in accordance with the relevant norms and principles of public international law" (see *Ahunbay and Others v Turkey*, No 6080/06, §21, 2019; *Nada v Switzerland*, App no. 10593/08, §169, 2012). The courts of other Convention parties have used the Paris Agreement as a benchmark for determining the scope of positive obligations. The Supreme Court of the Netherlands has ruled for example that: "Climate science has ... arrived at the insight that a safe warming of the earth must not exceed 1.5°C ... the Supreme Court finds that Articles 2 and 8 ECHR relating to the risk of climate change should be interpreted in such a way that these provisions oblige the contracting states to do 'their part' to counter that danger." The Respondent's public statements confirm its awareness of the extreme risks beyond 1.5°C. Its Net Zero Strategy, for example, published in October 2021, states: "People are rightly concerned, with the latest IPCC report showing that if we fail to limit global warming to 1.5°C above pre-industrial levels, the floods and fires we have seen around the world this year will get more frequent and more fierce, crops will be more likely to fail, and sea levels will rise driving mass migration as millions are forced from their homes. Above 1.5°C we risk reaching climatic tipping points like the melting of arctic permafrost – releasing millennia of stored greenhouse gases – meaning we could lose control of our climate for good. But the good news is that there is, still, a path to avoid catastrophic climate change." (Bundle p.629). However it has adopted a contrary position in the domestic legal proceedings, which was supported by the courts. The final ruling from the Court of Appeal, from which there is no domestic appeal, states: "The fundamental difficulty which the Claimants face is that there is no authority from the European Court of Human Rights on which they can rely, citing the Paris Agreement as being relevant to the interpretation of the ECHR, Articles 2 and 8." (see Bundle p.432).

PRACTICAL AND EFFECTIVE MEASURES ARE REQUIRED ON FOUR FRONTS: CLIMATE MITIGATION, ADAPTATION, FINANCE FLOWS AND LOSS AND DAMAGE (AS 5). Safeguarding the Applicants' rights demands practical and effective measures to i) align the UK's production and consumption emissions to the 1.5°C Paris; ii) to adapt to the impacts of climate change; iii) to align public and private finance flows to the 1.5°C Paris objective; and iv) to provide compensation, reparation and legal redress for the victims of climate change. The UK's role as a financier of the carbon economy around the world, places particular emphasis on iii). The Respondent acknowledges the imperative to act on this front: "In all sectors, we must align our public and private finance with the Paris Agreement, accelerating the flow of finance from high to low-carbon and resilient investments, improving access to finance especially for developing countries, accelerating the development and transfer of technologies, enhancing long-term capacity building and ensuring the \$100 billion climate finance goal is met." (Bundle p. 224). Likewise the Respondent has, by implication, recognised the critical importance of iv): "The most important market failure to address is the negative externality associated with the emission of greenhouse gases ..." (see Bundle p. 100, §245), which means a failure to make the polluter pay, breaching first principles of economics and justice.

THE RESPONDENT IS FAILING TO TAKE PRACTICAL AND EFFECTIVE MEASURES ON ALL FOUR FRONTS (AS 6): The Respondent has enacted the Climate Change Act 2008 ("CCA"), which establishes a legal framework for the reduction of production emissions and for climate change adaptation. Specifically, CCA establishes a "net zero" target for the year 2050. CCA also establishes a Climate Change Committee ('CCC'), which has a statutory obligation to report on the Respondent's progress towards meeting the net zero target and on preparing for the impacts of climate change. The Applicants do not agree that the Respondent's net zero target is consistent with limiting warming to 1.5°C nor with upholding the Applicants' Convention rights (the First Applicant's legal challenge to the previous target under the CCA was dismissed in separate legal proceedings, which are not the subject of this application). The Respondent's systematic failure to take the practical and effective measures necessary to meet its own (inadequate) target is the clearest possible violation of the Applicants' Convention rights. The CCC provides overwhelming evidence of that failure. Each year, its reports highlight the gulf between the Respondent's commitments and its



**Statement of the facts (continued)**

60. actions. In 2021, for example, it said: "The targets (Britain) set are not going to be achieved by magic. Surprisingly little has been done so far to deliver on them." (Bundle p. 230); and "We continue to blunder into high-carbon choices. Our Planning system and other fundamental structures have not been recast to meet our legal and international climate commitments ..." (Bundle p. 330). Likewise the CCC provides blunt evidence that the Respondent is failing to take practical and effective measures to prepare for the impacts of climate change: "UK plans have failed to prepare for even the minimum climate risks faced" (Bundle p.94, §215) and ... "The UK is less prepared for the changing climate now than it was when the previous risk assessment was published five years ago ..." (Bundle p.231,§11). Thus, although, the CCA provides a legal framework for reducing the UK's production emissions and for climate adaptation, it is clear that it is neither "practical" nor "effective". The Respondent, however, has established no legal or administrative framework at all to address the UK's consumption emissions, nor to align public and private finance flows to the 1.5°C Paris goal, nor to establish compensation and reparation measures for the victims of climate change. The Respondent did not dispute evidence relied on by the Applicants that the City of London supports at least 15% of carbon emissions around the world (Bundle p.401,§45) nor that the Bank of England has disclosed its own investments consistent with 3.5°C warming (Bundle p.100§241), nor the estimate that the FTSE100 Index is driving warming towards 3.9°C warming, which would cause loss of life on an unprecedented scale (Bundle p.99,§237). Contrary to its legal obligations, the Respondent knowingly permits private and public bodies to profit from investments that will have catastrophic consequences for the Applicants' rights. Nor has the Respondent challenged the Applicants' claim that there it has failed to put in place a legal and administrative framework to provide compensation and reparation for the victims of climate change - to the contrary, the refusal of the UK courts to grant the Applicants a full hearing serves to emphasise the absence of such a framework.

FOR THE PURPOSES OF THE CONVENTION, THE APPLICANTS ARE "VICTIMS" OF THE RESPONDENTS' VIOLATIONS (AS 7). Article 34 of the Convention states: "The Court may receive applications from any person, nongovernmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention ..." Despite being a party to the Aarhus Convention, the Respondent has enacted rules, criticised by the Aarhus Compliance Committee, which mean that for each additional Claimant in a case concerning environmental protection, the cost risk increases by £5,000, even where the factual and legal basis for the claims is the same. Such rules in the UK serve to deter those exposed to disproportionate and discriminatory risk bringing a class action (ie from sharing the cost and other risks). The only effective means to bring such a claim, where the Respondent's violations interfere disproportionately with the rights of a large number of individuals is for an NGO, such as the First Applicant, to bring a claim. The First Applicants' members include those who are exposed to disproportionate and discriminatory impacts and risks, by virtue of age, gender, membership of racially marginalised communities, family life inextricably linked with communities in the Global South, and mental health, and those who are at the intersection of such increased risks. One such member is Adetola Onamade, a young person of Afrikan and Caribbean heritage, resident in the UK but with family in the Global South, whose mental health has been adversely affected by Respondent violations. She refers, with permission from the author, to expert evidence submitted in another case concerning the adverse mental health impacts on young people arising from government failures to respond effectively to the climate crisis. Adetola is also the 2nd Applicant in this case. Sarah May is now also a member of the First Applicant NGO. She is resident in the UK but much of her close family lives in the Philippines. Following a visit to her family, she was unable to return to the UK when planned as a result of COVID-19 restrictions, and was on Siargao Island when Super Typhoon Rai struck in December 2021. Her evidence, which due to the chronology, was not before the domestic courts, serves to emphasise the discriminatory risks for all those whose family life is inextricably linked with the Global South: "[T]he roof in the kitchen blew off and rain gushed in ... I felt that I was going to die - that this would be how my life ends ... Since then, I have been suffering from symptoms of PTSD, have had night terrors and insomnia, panic attacks, depression, and feeling on edge all the time." (Bundle pps.615-617). In May 2022, the Philippines Human Rights Commission published its National Inquiry on Climate Change, holding both specific corporations (a number of whom, such as BP and Shell, are within the Respondent's jurisdiction) and governments accountable for human rights violations attributable to the climate crisis (Bundle p.435). Jerry Amokwandoh and Marina Tricks, the third and fourth Applicants, are young people at the intersection of numerous discriminatory risks from the Respondent's violations. The case-law of this court recognises that victim status may be established owing to the risk of a future violation (see *Soering v UK*, App no. 14038/88, *Taura and 18 Others v France* App no. 28204/95). Given the high risk of overwhelming and irreversible interference with the Applicants' rights if the Respondent fails to meet its legal obligations, denying them victim status would render their Convention rights "theoretical and illusory".

DOMESTIC PROCEEDINGS (AS 8): The Respondent wrongly denied the Applicants a full hearing. The domestic courts wrongly ruled the Paris Agreement and the Applicants' families in the Global South to be irrelevant to determining the scope of their Convention rights. The Applicants have been denied a fair hearing and effective remedy (Bundle p.431).

**F. Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments**

61. Article invoked	Explanation
Article 2	<p>The science is clear: man-made climate change is an overwhelming threat to life. The Respondent cannot claim to be unaware of the science, since it has made numerous public statements acknowledging that threat, including by asserting climate change to be an "existential threat to humanity". Article 2 works preventively and does not require death to occur to be invoked (see <i>Öneryıldız v. Turkey</i>, App no. 48939/99, §71, 89-90, 2004; <i>Bozkurt v Turkey</i>, App No 20620/20, 2015). In the context of the climate crisis, requiring death to occur before claims can be brought would render the right to life, which is fundamental to the Convention, theoretical and illusory.</p> <p>The Respondent knows what needs to be done to safeguard the Applicants' rights to life, which is to take practical and effective measures to i) reduce its production and consumption of carbon and other GHG emissions in line with the 1.5°C Paris objective; ii) adapt to the impacts of climate change (including by providing the public with accurate information on the threat to life); iii) aligning public and private finance flows to the 1.5°C Paris objective; and iv) make the polluter pay by providing access to justice, compensation and reparation for the victims of climate change loss and damage.</p> <p>The Respondent knows what needs to be done but it is not doing it. To the contrary it is actively exacerbating the threat with its support for the carbon economy, for example by promoting increased aviation and supporting the development of new sources of fossil fuels, contrary to the expert advice. It is failing to prepare even for the minimum impacts of climate change and failing to provide the public with good information regarding the threat. It allows the City of London to support 15% of global carbon emissions, driving warming towards 4°C, which would result in loss of life on an unimaginable scale. It has failed to put in place legal and administrative measures to provide compensation and reparation for the victims of climate change, making the victim pay, as opposed to the polluter (AS 6)</p> <p>The threat from climate change imposes "an obligation to afford general protection to society" (see <i>Bozkurt</i>, §54). The Applicants are at the intersection of numerous discriminatory risks, as a result of factors including their age and lives which are inextricably linked with communities on the front line of the crisis: Art 2 must be read with Art 14. Indeed, one member of the First Applicant was lucky to escape with her life after being caught by a Super Typhoon in the Philippines - many were not so lucky.</p>
Article 8	<p>Article 8 applies to case of environmental degradation associated with adverse health, physical integrity or private life (<i>Fadeyeva v Russia</i>, App. no. 55723/00 §68, 2005). The Applicants are already experiencing substantial interference with their Article 8 rights. One member of the First Applicant NGO (and also the second Applicant) is experiencing adverse mental health impacts. Another, suffered harm to her physical integrity while visiting her family in the Philippines. The 2nd to 4th Applicants as young people, whose family life is inextricably linked with communities on the frontline in the Global South, experience interference with their Art 8 rights in complex and discriminatory ways. The fifth Applicant, brings this case not only on his own behalf, but also on behalf of his children, who are an essential part of his family life.</p> <p>The Respondent's failure to take the practical and effective measures it knows to be necessary violates the Applicants' Article 8 rights as interpreted by this Court.</p>
Article 3	<p>On the basis of case-law existing at the time the Applicants commenced proceedings, the Applicants did not raise a distinct complaint of violation of their Article 3 rights before domestic courts. Nevertheless the evidence they submitted before the UK courts discloses violations of Article 3. Requiring Applicants to participate in processes (such as tax payments) which threaten their lives and families is inhuman and degrading.</p>

**Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments (continued)**

62. Article invoked	Explanation
Article 14	<p>Convention Article 14 requires the Respondent to secure Convention rights to those within its jurisdiction "without discrimination on any ground such as sex, race, colour ... national or social origin, association with a national minority, property, birth or other status." As the Intergovernmental Panel on Climate Change ('IPCC') sets out, climate change infringes on the right to non-discrimination because those who are already socially, economically or otherwise marginalised are disproportionately exposed to its impacts. It also notes that man-made climate change violates the principle of intergenerational equity as it unfairly shifts burdens, impacts and risks onto future generations (IPCC, AR5, WGII, p. 926); and that "existing gender inequalities are increased ... by climate-related hazards". UNICEF states that "there may be no greater, growing threat facing the world's children - and their children - than climate change" (UNICEF, 2015, Unless We Act Now).</p> <p>One of the world's most eminent scientists, Professor Johan Rockstrom, has suggested that on the current trajectory towards 4°C warming only a "rich minority" will survive (see Bundle p.148,§77).</p> <p>The Respondent's failure to take the practical and effective measures necessary to tackle the climate crisis violates Art 14 since the Applicants are exposed to disproportionate and discriminatory risk by virtue of numerous intersecting factors . In particular, members of the 1st Applicant NGO and the 2nd to 4th Applicants face disproportionate and discriminatory impacts for the following reasons: i) they are young people, aged 20-24, who face "unimaginable consequences" in their own life-times and the life-times of any children they may have; ii) their family life is inextricably linked with regions of the world which are on the frontline of the crisis; iii) the 2nd and 3rd Applicants are from racially marginalised communities, which are disproportionately exposed to the impacts and risks of social and economic breakdown, including from the rising xenophobia that is historically associated with such conditions; iv) the 3rd and 4th Applicants are female, and will be exposed to disproportionate and discriminatory impacts and risks from social and economic breakdown, including from gender-based violence; and v) The 2nd Applicant is exposed to disproportionate risk associated with her mental health.</p> <p>The Respondent cannot sensibly deny these discriminatory impacts, since it acknowledges them directly (see for example the Respondent's own threat assessment: "The UK Climate Change Risk Assessment 2017 Evidence Report highlights that climate risks will affect people differently, depending on their social, economic and cultural environment", Bundle p.57,§66).</p>
Article 6	<p>The Applicants were refused permission to bring a claim for judicial review on numerous spurious grounds, such as that the Applicants were litigants in person, that their grounds of claim were too long, and that the Paris Agreement was irrelevant to the interpretation of the scope of Convention rights (Bundle p.246). Consequently, despite the extreme danger faced by the Applicants and so many others, there was no serious consideration of the substance of the issues raised by their claim.</p>
Article 13	<p>The Applicants right to an effective remedy has been violated because no national authority has examined the substance of their complaint and the Respondent continues to violate their rights without redress.</p>

**G. Compliance with admissibility criteria laid down in Article 35 § 1 of the Convention**

For each complaint, please confirm that you have used the available effective remedies in the country concerned, including appeals, and also indicate the date when the final decision at domestic level was delivered and received, to show that you have complied with the four-month time-limit.

63. Complaint	Information about remedies used and the date of the final decision
Articles 2, 8 and 14	<p>The Applicants have exhausted domestic remedies in relation to the Respondent's ongoing violations of their Convention rights, as protected by Articles 2, 8 and 14. The final decision of the Court of Appeal was issued on 18 March 2022 (Bundle, p.431). There is no further domestic appeal from the Court of Appeal's decision.</p>
	<p>This appeal is filed within 4 months from 18 March 2022 and is therefore brought within this Court's time-limit.</p>
	<p>The Applicants originally filed their claim in the High Court of Justice, Queen's Bench Division, Administrative Court on 1 May 2021. The Court allocated it the case number CO/1587/2021. In addition to a detailed Statement of Facts and Grounds and bundle of exhibits, witness statements were filed on behalf of all the Applicants (Bundle, pps 42ff).</p>
	<p>On 29 September 2021, the High Court, without a hearing, refused the Applicants permission to have their claim heard on the basis that it was unarguable (Bundle, p.246). Specifically, the Court applied the wrong test to the question of whether the Respondent's positive obligations arising under Convention Article 2 and 8 are engaged, stating that "the evidence ... on behalf of the Claimants, does not provide an arguable case that the Claimants are in immediate risk to their lives as a result of climate change." The "immediate risk" test, however, as set out in <i>Tanase v Romania</i> (Case no. 41720/13, 2019) applies only to the duty to take operational measures, but not to the framework obligation on which the Applicants rely (ie the duty to put in place an administrative framework designed to provide effective deterrence against threats to the rights to life and to family life).</p>
	<p>The Applicants renewed their application for permission to bring their claim to the High Court. A short hearing took place on 25 November 2021, which was set to address both the Respondent's claim for £21,549.67 costs and the Respondent's assertion that the Applicants' case was outside the scope of the Aarhus Convention; and also to hear the Applicants arguments for a full hearing. The High Court published its judgment on 21 December 2021, refusing the Applicants permission to bring their claim (Bundle, p.390).</p>
	<p>The Applicants filed an appeal to the Court of Appeal against the refusal to grant them a hearing within the specified 7 day time limit. By order dated 18 March 2022 the Court of Appeal refused the Applicants appeal stating: "The fundamental difficulty which the Claimants face is that there is no authority from the European Court of Human Rights on which they can rely, citing the Paris Agreement as being relevant to the interpretation of the ECHR, Articles 2 and 8." (Bundle, p.431)</p>
	<p>There is no right of appeal from the Court of Appeal's ruling and domestic remedies have been exhausted, without the Applicants having a full hearing of their claims.</p>
Article 3	<p>Although the Applicants did not specifically raise violations of Article 3 in the courts below, the evidence they relied upon also disclosed violations of Article 3.</p>
	<p>The domestic courts refusal to grant the Applicants a full hearing likewise means that domestic remedies in relation to violations of Articles 6 and 13 have been exhausted.</p>
Articles 6 and 13	



**I. List of accompanying documents**

You should enclose full and legible copies of all documents. No documents will be returned to you. It is thus in your interests to submit copies, not originals. You **MUST**:

- arrange the documents in order by date and by set of proceedings;
- number the pages consecutively; and
- NOT staple, bind or tape the documents.

70. In the box below, please list the documents in chronological order with a concise description. Indicate the page number at which each document may be found

1.	Applicants' letter before action, 12 December 2020	p.	1
2.	Respondent reply, 14 January 2021	p.	35
3.	Applicants' Statement of Facts and Grounds, 30 April 2021	p.	42
4.	First witness statement on behalf of 1st and 5th Applicants, 30 April 2021	p.	121
5.	First witness statement for 2nd Applicant, 30 April 2021	p.	129
6.	First witness statement for 3rd Applicant, 30 April 2021	p.	135
7.	First witness statement for 4th Applicant, 30 April 2021	p.	147
8.	Respondent's Summary Grounds of Defence, 25 May 2021	p.	159
9.	Applicants' Reply to Respondent, 4 June 2021	p.	206
10.	Second witness statement on behalf of 1st and 5th Applicants, 21 June 2021	p.	221
11.	Third witness statement on behalf of 1st and 5th Applicants, 29 June 2021	p.	228
12.	Court order granting Applicants permission to rely on additional evidence, 6 July 2021	p.	234
13.	Respondent reply to additional evidence, 15 July 2021	p.	236
14.	High Court order refusing the Applicants permission to bring their claim for judicial review, 29 September 2021	p.	246
15.	Applicants' Notice of renewal of claim, 4 October 2021	p.	251
16.	Applicant bundle of evidence in support of 25 November hearing, 15 November 2021	p.	254
17.	Respondent skeleton argument for hearing, 18 November 2021	p.	355
18.	Applicants' skeleton argument for hearing, 22 November 2021	p.	365
19.	High Court judgment, refusing the Applicants permission to bring their claim, 21 December 2021	p.	390
20.	Applicants' skeleton argument to Court of Appeal for permission to appeal High Court ruling, 27 December 2021	p.	408
21.	Respondent's reply, 12 January 2022	p.	428
22.	Court of Appeal judgment refusing Applicants permission to appeal, 18 March 2022	p.	431
↙	a. Philippines Human Rights Commission, National Inquiry on Climate Change		435
↙	b. 1st update statement on behalf of the 1st Applicant, 30 June 2022	p.	596
24.	2nd update statement on behalf of the 1st Applicant, 30 June 2022	p.	610
↙	Excerpts from UK Climate Change Committee's progress report to Parliament on emissions reductions, June 2022 & Miscellaneous excerpts on 1.5°C	p.	620

**Any other comments**

Do you have any other comments about your application?

**71. Comments**

Under Rule 41 of the Rules of Court, we request that the Court expedite this application as its contents reflect Categories I, II, and III of the Court's Priority Policy. We request that the Court does so in recognition of the extreme urgency of this application and the profound threats to the physical integrity and dignity of the Applicants. We are aware there are two other cases relating to positive obligations arising in relation to the climate crisis that are currently before the Grand Chamber (Agostinho and Others v. Portugal and others, 39371/20; KlimaSeniorinnen and Others v Switzerland, 53600/20).

**Declaration and signature**

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

**72. Date**

1	1	0	7	2	0	2	2
D	D	M	M	Y	Y	Y	Y

e.g. 27/09/2015

The applicant(s) or the applicant's representative(s) must sign in the box below.

73. Signature(s)     Applicant(s)     Representative(s)    - tick as appropriate

**Confirmation of correspondent**

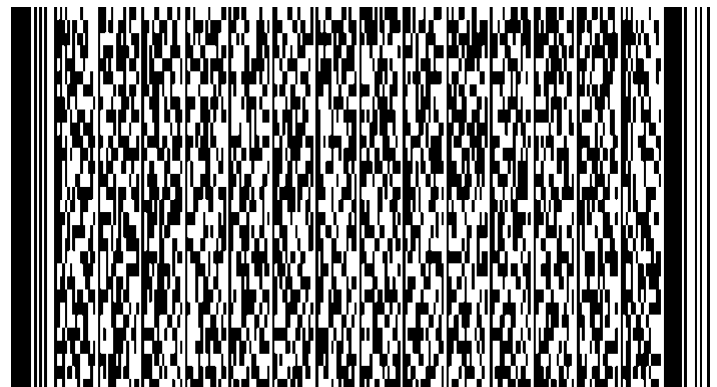
If there is more than one applicant or more than one representative, please give the name and address of the one person with whom the Court will correspond. Where the applicant is represented, the Court will correspond only with the representative (lawyer or non-lawyer).

74. Name and address of     Applicant     Representative    - tick as appropriate

TIM CROSLAND  
62 SUTHERLAND SQUARE, LONDON, SE17 3EL, UK  
tim@planb.earth  
\*\*\*\*\*

**The completed application form should be signed and sent by post to:**

The Registrar  
European Court of Human Rights  
Council of Europe  
67075 STRASBOURG CEDEX  
FRANCE



## ADDITIONAL SUBMISSION

### STATEMENT OF FACTS (SEE SECTION E OF APPLICATION FORM)

#### **AS 1. THE RESPONDENT KNOWS THAT MAN-MADE CLIMATE CHANGE IS AN EXTREME THREAT TO LIFE AND TO FAMILY LIFE**

##### *AS 1.1 - The science*

1. In February 2021, Sir David King, formerly the Respondent's Chief Scientific Adviser, said of the climate crisis:

**"What we do over the next three to four years, I believe, is going to determine the future of humanity. We are in a very very desperate situation."**<sup>1</sup>

2. On 23 February 2021, at the Respondent's invitation, Sir David Attenborough gave a presentation to the UN Security Council, in which he explained:

**"Please make no mistake: climate change is the biggest threat to security that modern humans have ever faced .... Some of these threats will assuredly become reality within a few short years."**<sup>2</sup>

3. In its 5th Assessment Report, the Intergovernmental Panel on Climate Change ("IPCC") said:

**"In most scenarios without additional mitigation efforts ... warming is more likely than not to exceed 4 degrees C above pre-industrial levels by 2100."**<sup>3</sup>

4. Professor Johan Rockstrom, one of the world's leading climate scientists, suggested to the Guardian in May 2019 that 4°C warming implies the loss of billions of human lives:

**"It's difficult to see how we could accommodate eight billion people or even half of that. There will be a rich minority of people who survive with modern lifestyles, no doubt, but it will be a turbulent, conflict-ridden world."**<sup>4</sup>

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<sup>1</sup> Bundle, p.42

<sup>2</sup> Bundle, p.55,§58

<sup>3</sup> Bundle, p.76,§141

<sup>4</sup> Bundle, p.77-8,§148



5. Such statements provide a snapshot of the extreme risks projected on the current emissions trajectory towards 3-4°C warming.

*AS 1.2 - The Respondent's knowledge of the extreme threat to life*

6. The Respondent's own statements demonstrate its knowledge of the extreme threat to life.
7. In December 2020, the Second Defendant published a report which begins:

**“Climate change is an existential threat to humanity. Without global action to limit greenhouse gas emissions, the climate will change catastrophically with almost unimaginable consequences for societies across the world.”<sup>5</sup>**

8. On 23 February 2021, Sir James Bevan, Chief Executive of the Environment Agency, said that the UK is seeing the impacts of the climate emergency hitting “worst case scenario” levels:

**“The reasonable worst case scenario for climate sounds like this:**

- **Much higher sea levels will take out most of the world's cities, displace millions, and make much of the rest of our land surface uninhabitable or unusable.**
- **Much more extreme weather will kill more people through drought, flooding, wildfires and heatwaves than most wars have.**
- **The net effects will collapse ecosystems, slash crop yields, take out the infrastructure that our civilisation depends on, and destroy the basis of the modern economy and modern society.**

**If that sounds like science fiction let me tell you something you need to know. This is that over the last few years the Reasonable Worst Case for several of the flood incidents the EA has responded to has actually happened, and it's getting larger.”<sup>6</sup>**

9. On 18 March 2021, the Rt Hon Alok Sharma MP said on behalf of the Respondent:

**“The climate crisis represents a clear and present danger to people and our planet. Its real-world consequences are now all too visible...**

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<sup>5</sup> Bundle, p.54,§53

<sup>6</sup> Bundle, pps. 305-6

**Unless we act now, we will be out of time to hold back the worst impacts. Our planet is heating up, fast. On course, scientists tell us, for temperature rises of some 3.5C by 2100 compared to pre-industrial levels. The impact of such a rise will be nothing less than catastrophic.”<sup>7</sup>**

10. In light of such statements, the Respondent cannot plausibly deny that the threat from climate change engages its positive obligations to safeguard Convention rights.

## **AS 2. THE PARTIES TO THE PROCEEDINGS**

11. The First Applicant is Plan B.Earth, an NGO, registered with the UK Charity Commission. Its charitable purposes include the following:

**“developing and advancing legal strategies and actions to prevent average global warming exceeding the temperature goal agreed by governments ...**

**... to promote human rights ... in so far as they are threatened or adversely affected by the impacts of climate change and other environmental degradation, in particular by:**

**(i) preventing infringements of such rights;**

**(ii) obtaining redress for victims where such rights are infringed.”**

12. The First Applicant’s members include those on the frontline of the crisis, including young people from racially marginalised communities, whose family life is inextricably linked with communities in the Global South. One of its members, Sarah May, who resides in the UK, after visiting her family in the Philippines found herself temporarily unable to return to the UK because of COVID-19 restrictions. In December 2021 (subsequent to the filing of evidence in the domestic proceedings) she was on Siargao Island when it was struck by Super Typhoon Rai. She describes what happened in her witness statement (see Bundle pps.614ff):

**“In December 2021, Super Typhoon Rai / Odette, made its first landfall on Siargao Island, where my partner, myself and our pet dogs were residing. This typhoon was a category 5. It made nine landfalls across the Philippines, killed more than 400 people, with**

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<sup>7</sup> Bundle, p.55-6,§59

many more still missing. Millions of survivors are still suffering the impacts ... Though we had already received text warning alerts for a signal 3 typhoon the night before Odette's landfall, there did not seem to be a sense of urgency for us to evacuate. Also, unlike many, our house was not directly on the beach front and was made of concrete.

On the morning of the storm before its landfall, the electricity was already out and I checked the news to find that the incoming cyclone had intensified into a super typhoon equivalent to a category 5 hurricane. By this point it was too late to evacuate the island, but we considered whether we should evacuate our house and try to find a safer building.

We messaged friends who were also on the island and in other parts of the Philippines to warn them that it was going to be a super typhoon. We were particularly worried about our friends living in Siargao close to the beach whose house was made of wood. We packed a bag and tried to organise for a friend to pick us up in her car but trees had already fallen and blocked the road.

We received a text warning alert for a signal 4 typhoon, and then the phone signal completely cut out. We realised that it was too late to leave the house and we thought we would probably be safe in our house anyway and so we could just wait it out.

A couple of hours later, the wind changed direction and became horrifically strong. My ears had completely popped, the wind felt like it was tearing through the walls, my front door had blown open and you could not see anything outside as the wind was so strong. My partner was panicking, my dogs were panicking, I felt paralysed. At that moment the roof in the kitchen blew off and rain gushed in. My partner wanted to leave the house and run to the neighbours but it was much too dangerous to do so.

I was in a state of paralysis and adrenaline was pumping through my veins. I felt like I was going to faint and that my heart was going to stop. I realised that I had to protect my partner and my dogs who were completely freaking out. I told myself that none of us can die. I was worried that the roof in the bedroom might collapse and so I ordered my partner not to go outside and to instead help me arrange the bed so that we could hide under the mattress, which could give

**us some protection. We managed to get two of the dogs under the mattress with us, with the other one too panicked and pacing up and down the room. Lying on the cold floor, not being able to hear anything but the most terrifying and brutal wind, my heart racing and my head spinning, I felt that I was going to die - that this would be how my life ends.**

**Water was gushing through the ceiling at this point, the floor was flooding and the mattress, which was now getting soaked, was starting to squash us. I thought of my parents, both in the UK, and how much this would break their heart and I thought of the dogs that I rescued and brought to this island from Cebu. And I thought of my partner who was lying on the floor scared beside me, who 7 years ago had survived and was still traumatised by Typhoon Haiyan/Yolanda, one of the strongest, if not the strongest, storm to ever make landfall.**

**We had worked so hard and made so much effort to move to Siargao Island, which we had just moved to 2 days before. I thought about the journey we had been on and the future we had planned. I thought that this was the end.**

**My partner got up from under the mattress and was trying to get the other dog to come under with us. But the water on the floor was rising and the mattress was about to suffocate me and the dogs with me. I asked my partner if the roof was okay in the bathroom. He said it was. We ran into the bathroom, threw blankets on the floor to sit on, got the dogs to go in first, then got in ourselves.**

**We had no water, no food, we were wet and cold, we had no signal, just the flashlight on our phones. But we knew this was the safest place to be and we would just wait for it to pass ... We got through the night, and the next morning we went out to try to find our friends and to see what had happened to the island. We still had no phone signal.**

**It did not feel real what we were seeing. The island had been completely flattened. There were broken trees, electrical poles, roofs, broken glass and all kinds of things everywhere. I'd never seen anything like it. It looked like an apocalyptic movie set.**

**The days following the storm we had no signal, so no contact with the outside world, our families did not know if we were alive or dead,**

**we had no idea if anyone would come to help and when, if the rest of the Philippines also got hit, if my family in Cebu were okay, if my partner's family were okay. We didn't know what was going on.**

**The island was running out of drinking water, food was running low, we had no running water, just water from the well pumps, gasoline was running out, it rained nonstop so we could never stay dry.**

**The majority of houses had been destroyed, particularly the roofs. The hospital did not have enough beds for all the patients, had no electricity, and medicine was running out. The evacuation centres had all been destroyed. Lots of children were getting diarrhoea from drinking dirty water. There were mosquitoes everywhere.**

**When we could finally get information, we had seen that this typhoon had destroyed so much of the country, including the nearest mainland, and Cebu, where we had been living previously and where my family reside, and that millions had been affected or displaced. But still the extent of the damage has not been fully collated.**

**We had no electricity or running water in our house for 2 months, and when we finally got connected again, our house got flooded by red signal rain. I was terrified of getting electrocuted and so we switched our electric fuse off.**

**Four months after Typhoon Odette, in April 2022, Typhoon Agaton struck the Philippines. We were not so badly affected by it in Siargao, however Leyte, where my partner's family lives, flooded due to the heavy rains that Agaton was battering on them and they had been cut off from electricity. Typhoon Agaton, though only being a signal 2 typhoon, caused catastrophic floods and landslides killing hundreds, and leaving entire towns caked in mud ...**

**Since then, I have been suffering from symptoms of PTSD, have had night terrors and insomnia, panic attacks, depression, and feeling on edge all the time ...”**

13. The Second Applicant, Adetola Onamade, who is also a member of the First Applicant NGO, recounts as follows (Bundle pps.129ff):

**“I am first-generation British-born Afrikan, born in Lewisham. My family's heritage is difficult to trace when the roots have been severed due to the displacement of enslaved peoples and indentured**

**workers, in my case, from Afrika and India. As a result, my family is scattered on almost every continent ...**

**My right to life cannot be separated from the right to life of my family, both those who are alive now, and future generations who do not have a voice or a vote concerning the trajectory the Government is pursuing ...**

**When I think about the threat to my own life arising from the Government's inaction, I am not only thinking about current and impending floods, storms or pandemics. I am also fearing the consequences of social breakdown, and the role of the climate crisis as a "threat multiplier" and what that might entail for communities, like those I belong to ...**

**When I see the Government break its own commitments under international law, including the Paris Agreement and the duty to prevent harm, the impact on me is profound. Those breaches are directly impacting my own family and heritage communities, which are an inextricable part of my own family life.**

**My own mental health is bound up with the impacts and experiences of my Global family. Particularly when those impacts are linked to extractivism and excess pollution and consumption in the Global North. People without that family may be able to blind themselves to what is happening in a way which is not possible when it's your family and friends on the frontline of the 'sacrifice zones' engineered by the industries and policies of countries like the UK ...**

**Partly in consequence of these concerns, and the impacts of food insecurity for my family in West Afrika, I developed an anxiety disorder and an eating disorder as a teenager. This was medicated without any real understanding of the underlying causes and drivers, it also seems that this disorder may have impacted my fertility and ability to have children.**

**I have permission to submit in evidence the expert testimony of a psychiatrist from another legal case, concerning the mental health impacts of young people of governments' failure to act on the climate crisis:**

***"Chronic climate mental health impacts and fear about the future especially ravage sensitive and highly empathic***

***children. It has the power to unravel them. Without trust in our government institutions and in the people expected to serve the public, the fabric of society breaks down. Mental health professionals know this from working within the family model of mental health: when dysfunctional parents do not take care of their children, in the chaotic home environment that results, families fall apart. Similar chaos and mental health impacts can result at the societal level, in ways that resemble the family model, when the heads of our society are behaving in dysfunctional and dangerous ways toward society and children.”***

14. The Third Applicant, Jerry Kobina Noel Amokwandoh, who is also a member of the First Applicant NGO, states as follows (Bundle, p.135ff):

**“My name is Jerry Kobina Noel Amokwandoh (“Kobina” is not on my passport). I am a first generation British-born Ghanaian ... I was born in London and have grown up in South London and Croydon. My parents were both born in Ghana, a relatively low consuming country in the British Commonwealth ...**

**Firstly, it must be clear that my ‘right to life’ cannot be separated from my right to family life, since the destruction of one’s own family is self-destruction. This fact cannot be appropriately addressed by distinct rights articles. The right to life is founded on the freedom, equality and dignity of humans. There can be no dignity in a life lived at the expense of and complicit in the sacrifice of one’s own family.**

**My experience is necessarily bound up in article 14 – the right to not be discriminated against. The Government’s failure to take practical and effective measures to tackle the climate emergency discriminates against me because of my Afrikan heritage, my racial identity, and my age ...**

**The Government knows and acknowledges that this reality is an ‘existential threat to humanity’. This reality has already violated the rights of many this year where I study in Oxford where livelihoods here and up and down the country have been destroyed by flooding (the same reality which has long been experienced by my family globally) ...**

**In 2019 members of my family experienced devastating floods in Takoradi while floods are now regularly disrupting lives and**

**livelihoods in the capital city of Accra where many of my family live and were forced to migrate to due to climate change and the presence of extractive industries ...**

**The Government acknowledges that the Climate Crisis as well as related consequences such as Covid-19 have had and will continue to have a disproportionately destructive impact on Afrikan heritage communities. That the Government acknowledges this and acts anyway is the clearest signal to the world that our lives and rights do not matter, Black lives globally have never mattered, and the rights of the Majority in the Global South cannot matter. Only by taking urgent action to implement the commitments of the Paris Agreement into domestic law, can it begin to show the contrary.”**

15. The Fourth Applicant, Marina Tricks, recounts as follows (Bundle pps. 147ff):

**“I am a 20 year old, British Mexican living in South London ...**

**Financial flows from the UK are currently funding ecocide and genocide in our heritage communities by putting us on track towards 3-4°C of global warming above preindustrial levels instead of the Paris Agreement limit they have committed to. As a young person and member of the diaspora, I should not have to be complicit in this criminality. My future tax money should not have to go towards financing the death and destruction of my own future and global family -- but we are given no choice - there is no consent to any of this ...**

**I have always dreamed of having children but if we carry on with this unlawful trajectory of ‘business as usual’, then my children would grow up in a fundamentally dangerous world and my ability to safeguard their lives and the survival of future generations of my family would be massively eroded. My own Article 8 right demands that the Government should take practical and effective measures to ensure the future security of any children or grandchildren I might choose to have -- right now it is evident that they are violating this right, breaking the foundation of the social contract and the principle of sustainable development ...**

**The anxiety that comes with knowing that so much is at stake yet there is no political will to safeguard our lives is painful. I am only 20 years old yet I have protested, I have gone on hunger strike, I have school striked alongside millions of young people across the globe,**



**all the time calling for climate justice. Our government's blatant disregard for the future of our generation as well as future generations is terrifying and unjust ...**

**Right now, the place that I consider home is a coastal village called Playa Ventura. This village is directly being exposed to the effects of climate change as we speak. According to the UN Human Settlements Program, Guerrero -- the state in Mexico where my home is located -- is one of the eight states in the country most immediately exposed to the climate crisis and is considered highly vulnerable to hazards caused by hydro-meteorological phenomena. People in the community are telling me of the struggles that they are already facing. Sea levels are already starting to rise and are taking away land from villagers ...**

**So much anxiety comes from knowing that we are working within a country that is funding the destruction of our future and global family. The fact that we have to defend our humanity, and the humanity of our heritage communities time and time again is dehumanising ...The government has a duty to safeguard our lives and so it must align itself with the Paris Agreement targets, which it has advanced and ratified and which it promotes as vital to national and international security, and it must start funding planet repairs ...**

**As a young person, with most of my life ahead of me, I will face the consequences of the Government's inaction, which contributes to the escalating climate crisis. As a woman I will be more vulnerable in the face of the projected societal collapse and the loss of essential support services. And with family in the Global South, already on the frontline of the crisis, my right to family life is also disproportionately affected ...**

**Women are on the frontline of every crisis; the climate crisis is no different. Over the course of the COVID-19 pandemic we have seen a rise in sexual violence and domestic abuse towards women as well as a massive decline in support services such as helplines, domestic violence shelters and therapy. As women, we have been failed by this government. I personally have been affected by these cuts and by this violence. The government's lack of commitment to the Paris Agreement puts us on track for a much larger crisis that we are not prepared for, and that we as women will pay the price for - whether**

**that violence is inflicted onto our bodies, our dignity or our mental health.”**

16. The Fifth Applicant, Tim Crosland, recounts as follows (Bundle p.121ff):

**“I am ... fearful ... for my two children, who without urgent action, will find themselves on the frontline of the escalating crisis. The Government’s failure to take the action necessary to safeguard the lives of my children is a breach of the social contract as well as the [Human Rights Act]. The taxes I pay should not be applied to stealing my own children’s future ...**

**It will be some years before my 12 year old son has the right to vote - yet the political decisions taken now will determine his future. His future, and my daughter’s, depend on the Defendants taking reasonable and proportionate measures to implement its Paris Agreement commitments. The Defendants’ failure to translate climate talk into action and their ongoing financial support for the carbon economy is a direct threat to the lives of my children and a breach of my right to family life, as protected by ECHR Article 8.”**

### **AS 3. THE CONVENTION IMPOSES A DUTY ON THE RESPONDENT TO TAKE PRACTICAL AND EFFECTIVE MEASURES TO COUNTER THAT THREAT**

17. Convention Articles 2 and 8 impose on States a positive legal obligation to safeguard life and family life and Article 14 requires them to do so without discrimination.

18. In 2019, the Grand Chamber of the European Court of Human Rights helpfully summarised the case law on positive obligations in its judgment, *Nicolae Virgiliu Tănase v Romania* (41720/13, §135, 2019):

**“This substantive positive obligation entails a primary duty on the State to put in place a legislative and administrative framework designed to provide effective deterrence against threats to the right to life ... . It also requires the State to make regulations compelling institutions, whether private or public, to adopt appropriate measures for the protection of people’s lives ...”.**

19. It is this legal obligation to put in place an appropriate legislative and administrative framework to address threats to life (“the framework obligation”) on which the Applicants primarily rely. This duty is not satisfied, however, simply by

establishing a framework: the framework must also be practical and effective (see *Moreno Gomez v Spain*, 4143/02, §56, 2004).

20. The Court in *Tănase* (§137) also emphasised the “positive procedural obligation”, arising from Article 2, to put in place a judicial system “capable of promptly establishing the facts, holding accountable those at fault and providing appropriate redress to the victim”:

**“ ... the Court reiterates that the State’s duty to safeguard the right to life must be considered to involve not only these substantive positive obligations, but also, in the event of death, the procedural positive obligation to have in place an effective independent judicial system. Such system may vary according to circumstances ... It should, however, be capable of promptly establishing the facts, holding accountable those at fault and providing appropriate redress to the victim ...”**

21. Further, the Court in *Oneryildiz v Turkey* (48939/99, §90, 2004) highlighted the duty arising from both Articles 2 and 8 to provide the public with accurate information concerning threats to life and to family life:

**“Among these preventive measures, particular emphasis should be placed on the public’s right to information, as established in the case-law of the Convention institutions. The Grand Chamber agrees with the Chamber ... that this right, which has already been recognised under Article 8 (see *Guerra and Others*, cited above, p. 228, § 60), may also, in principle, be relied on for the protection of the right to life ...”**

#### **AS 4. CONTRARY TO THE POSITION OF THE RESPONDENT, THE PARIS AGREEMENT AND SPECIFICALLY THE PARIS TEMPERATURE GOAL OF LIMITING WARMING TO 1.5°C, ARE RELEVANT CONSIDERATIONS IN DETERMINING THE SCOPE OF THE RESPONDENT'S POSITIVE OBLIGATIONS**

22. The central issue in this Application is whether the Paris Agreement, and the global temperature limit it establishes, are relevant considerations for determining the scope of the Respondent’s positive obligations arising under Articles 2 and 8. The Applicants say that they are, whereas the Respondents say they are irrelevant.
23. The criticality of this issue to the determination of the case before the UK courts was summed up by the Court of Appeal as follows:

**“The fundamental difficulty which the Claimants face is that there is no authority from the European Court of Human Rights on which they can rely, citing the Paris Agreement as being relevant to the interpretation of the ECHR, Articles 2 and 8.”** (Bundle, p.432,§5)

24. Such a statement implies the UK judiciary itself would welcome clarification on this matter from the Court. In reality, even if this Court has not yet directly confronted the relationship between the Paris Agreement and Convention rights, its jurisprudence leaves little room for doubt: rights cannot be interpreted in a vacuum (see *Ahunbay and Others v Turkey*, 6080/06, 2019; *Nada v Switzerland*, 10593/08, 2012) - reasoning particularly applicable to the context of a global threat such as climate change. In *Demir and Baykara v Turkey* (34503/97, 2008), the Grand Chamber emphasised the role of “common ground” as an interpretative tool that the Court must take into account when defining terms and notions within the Convention. This “common ground” includes other international human rights treaties, other “elements of international law,” states’ interpretation of such elements, and state practice reflecting common values. There is political and scientific consensus on the imperative to limit warming to 1.5°C, in accordance with the Paris Agreement.

25. The comments of the President of this Court, Judge Spano, at the *Conference on Human Rights for the Planet* in October 2022, explicitly acknowledge the significance of this precise issue:

**“As the Court has stated on many occasions, the Convention cannot be construed in a vacuum and must thus be interpreted in harmony with other rules of international law, of which it forms part. It is worth noting, however, that many of these references are somewhat dated and that the Court has not, as yet, mentioned more recent climate change texts such as the United Nations Framework Convention on Climate Change nor the Paris Agreement. On this issue, I note the argument presented this morning by Professor Christina Voigt pleading for the Court to interpret the States positive obligations under Articles 2 and 8 consistently with provisions of the Paris Agreement.”<sup>8</sup>**

26. The Respondent’s position that the Paris Agreement is irrelevant to the determination of Convention rights, contradicts this Court’s existing jurisprudence, as well as the decisions of national courts. It is not possible to

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interrogate rationally the adequacy of national climate change policy without reference to the overarching goals of the Paris Agreement. The Supreme Court of Ireland, for example, has said: “ ... *MacGrath J. in the High Court in this case noted that, since the Paris Agreement 2015, which forms part of the United Nations Framework Convention on Climate Change (1992), scientific thinking has moved in the direction of a lower figure which is in the region of 1.5°C above preindustrial levels.*” (Bundle, p.110, §294)

27. Likewise, the Supreme Court of the Netherlands has ruled: “*Climate science has ... arrived at the insight that a safe warming of the earth must not exceed 1.5°C ...the Supreme Court finds that Articles 2 and 8 ECHR relating to the risk of climate change should be interpreted in such a way that these provisions oblige the contracting states to do ‘their part’ to counter that danger.*”(Ibid. §296)

28. Significantly, the Respondent itself has made frequent public references to the catastrophic consequences of breaching the 1.5°C Paris goal. Its *Net Zero Strategy* describes the existential danger beyond that point due to the crossing of critical tipping points. On 18 May 2022, the Respondent published guidance on Climate and Health, which quotes the medical journal, the Lancet, as follows:

**“The science is unequivocal; a global increase of 1.5°C above the pre-industrial average and the continued loss of biodiversity risk catastrophic harm to health that will be impossible to reverse.”**  
(Bundle, p.630).

29. With such statements the Respondent effectively acknowledges that policy inconsistent with the 1.5°C goal is inconsistent with safeguarding Applicants’ rights.

## **AS 5. PRACTICAL AND EFFECTIVE MEASURES ARE REQUIRED ON FOUR FRONTS: CLIMATE MITIGATION, ADAPTATION, FINANCE FLOWS AND LOSS AND DAMAGE**

30. The Respondent cannot plausibly deny that safeguarding the Applicants Convention rights, demands a practical and effective legal and administrative framework to:

- a. Align domestic carbon and other GHG emissions to the Paris temperature goal;
- b. Adapt to the impact of climate change (including by providing the public with accurate information);
- c. Align public and private finance flows to the Paris temperature goal; and to
- d. Ensure appropriate redress for the victims of climate change.

31. Such may be inferred from the Paris Agreement, general principles of law, this Court's jurisprudence regarding positive obligations arising under Convention Article 2 and 8 and from the Respondent's own statements (see Form E.59).

## **AS 6. THE RESPONDENT IS FAILING TO TAKE PRACTICAL AND EFFECTIVE MEASURES ON ALL FRONTS**

32. The Applicants support the position of the applicants in *App No 39371/20 Agostinho and Others v. Portugal and others* that the Respondent's net zero by 2050 target is insufficient to safeguard the Applicants' rights. First, that target is grounded in the IPCC estimate that global net zero by 2050 would give only a 50% probability of avoiding 1.5°C. Applicants deny that a 50% chance of avoiding catastrophe is sufficient to safeguard their rights. Second, even if such a 50% probability of catastrophe were deemed to be tolerable, and global net zero by 2050 were to be the goal, the UK as a historically high polluter and as a "developed country party" within the terms of the Paris Agreement, has an obligation to set its national target according to principles, grounded in equity, which if applied consistently by all countries would be sufficient to maintain the global goal. That requires the Respondent to reach net zero substantially in advance of 2050. The Applicants did not pursue this argument before the domestic courts, because the First Applicant had previously had a similar argument rejected by the UK courts - and there was no realistic prospect of success in pursuing that matter again.

33. The Applicants' principal argument, in relation to both emissions reduction and adaptation, is that the Respondent is systematically failing to take the action necessary to meet even its own inadequate targets. The Climate Change Act 2008 establishes the Climate Change Committee ('CCC') as expert adviser to the Respondent on such action. Each year the CCC publishes progress reports to Parliament; each year the CCC highlights the Respondent's failure to take the necessary action.

34. The CCC's 2021 progress report, for example, states:

**"We continue to blunder into high-carbon choices. Our Planning system and other fundamental structures have not been recast to meet our legal and international climate commitments ...**

**.... the Committee's advice to step-up the ambition and resourcing of adaptation continues to go unheeded. And the willingness to set emissions targets of genuine ambition contrasts with a reluctance to implement the realistic policies necessary to achieve them ..."**

**“Without a much stronger and urgent effort, we will breach 1.5°C of warming in the early 2030s and remain ill-prepared for the future ... The UK is less prepared for the changing climate now than it was when the previous risk assessment was published five years ago ...**

**... The UK has been a strong contributor to international climate finance ... However, recent cuts to the UK’s overseas aid are undermining these commitments ...**

**Not one of the 34 priority areas assessed in this year’s progress report on adaptation is yet demonstrating strong progress in adapting to climate risk ...**

**... Decisions on road building, planning, fossil fuel production and expansion of waste incineration are not only potentially incompatible with the overall need to reduce emissions but also send mixed messages and could undermine public buy-in to the Net Zero transition. We recommend implementation of a ‘Net Zero Test’ to ensure that all Government policy decisions are compatible with the legislated emissions targets.” (Bundle, pps. 329ff)**

35. Also in 2021, the CCC published its third report on climate risk for the UK. Speaking publicly at the launch of the report, Chris Stark, CEO of the CCC said:

**"It's really troubling how little attention the government has paid to this. The extent of planning for many of the risks is really shocking. We are not thinking clearly about what lies ahead.” (Bundle, p.222,§5)**

36. The report itself states:

**“Alarmingly, this new evidence shows that the gap between the level of risk we face and the level of adaptation underway has widened. Adaptation action has failed to keep pace with the worsening reality of climate risk ...**

**... The UK has the capacity and the resources to respond effectively to these risks, yet it has not done so. Acting now will be cheaper than waiting to deal with the consequences. Government must lead that action ...**

**... The Government has not heeded our past advice on the importance of setting this framework and resourcing it adequately. Adaptation governance has weakened over the past ten years at the**

**same time as the evidence of climate risk has grown. This must change ...**

**... The UK is not prepared for unprecedented extreme weather events that could occur now ... adaptation is a pressing priority now. It cannot wait for another year, or the next five-yearly assessment of risk.”** (Bundle, pps.309ff)

37. In so far as the Respondent relies on the framework established by the Climate Change Act 2008 as evidence that it is taking practical and effective action, the Respondent makes the case against itself: since the CCC’s reports, which articulate the Respondent’s failure to take the necessary action, are integral to that framework.

38. The CCC highlights the discriminatory impacts of such failure, supporting the Applicants position with regard to Convention Article 14:

**“Climate change is likely to widen existing inequalities through its disproportionate effects on socially and economically disadvantaged groups. For example, lower income households are relatively more exposed to flood risk in the UK ... Lack of action today stores up negative impacts for future generations, creating intergenerational inequalities ...”.** (Bundle, p.327)

39. Crucially, the CCC emphasises that there is no self-isolating from the climate crisis: climate impacts overseas translate into risks for the UK:

**“8. Multiple risks to the UK from climate change impacts overseas**

**Extreme weather events in the UK and globally can create cascading risks that spread across sectors and countries, with impacts an order of magnitude higher than impacts that occur within a single sector. The COVID-19 pandemic is a shocking example of a cascading global impact, albeit not a climate-driven event, which has resulted in terrible impacts to society and huge costs to Government.**

**There is growing potential for weather-related hazards, such as floods, hurricanes, or drought, to spark these kinds of cascading impacts globally.”** (Bundle, p.324)

40. Likewise, the CCC highlights systemic failings in the approach to aligning UK finance to the Paris Agreement objective. In December 2020 it published its report, *The Road To Net-zero Finance*:



**“Making finance consistent with the delivery of a net-zero and resilient economy is the crucial third goal of the Paris Agreement. As the UK seeks to deliver its target of reaching net-zero emissions by 2050, a more systematic approach to financing is now needed.”**  
(Bundle, p.97,§229)

41. The Respondent has acknowledged the imperative to act on finance flows:

**“In all sectors, we must align our public and private finance with the Paris Agreement, accelerating the flow of finance from high to low-carbon and resilient investments, improving access to finance especially for developing countries, accelerating the development and transfer of technologies, enhancing long-term capacity building and ensuring the \$100 billion climate finance goal is met.”** (Bundle, p.96, §224)

42. It has conspicuously failed, however, to put words into action. The Applicants rely on evidence from the Bank of England and Aviva Insurance, unchallenged by the Respondent, that public and private finance flows in the UK are supporting between 3 and 4°C warming, which would lead to loss of life on an unimaginable scale.

43. Nor has the Respondent met the other requirements of Article 2 - introducing a legal and administrative framework to ensure justice for the victims of climate change; and establishing a programme of public awareness raising regarding the threat from man-made climate change.

#### **AS 7. FOR THE PURPOSES OF THE CONVENTION, THE APPLICANTS ARE "VICTIMS" OF THE RESPONDENTS' VIOLATIONS**

44. The first to fourth Applicants are direct victims of the Respondent's violations, both in terms of interference with rights already experienced (including damage to physical and mental health); and in terms of potential future violations. The fifth Applicant is primarily an indirect victim, who brings proceedings on behalf of his children, one of whom is too young to bring legal action on his own behalf.

45. The interpretation of the term “victim” is liable to evolve in the light of conditions in contemporary society and it must be applied without excessive formalism (Gorraiz Lizarraga and Others v. Spain, § 38; Stukus and Others v. Poland, § 35). The Court has held that the issue of victim status may be linked to the merits of the case (Siliadin v. France, § 63). Applicants have produced reasonable and convincing evidence of the likelihood that further violations affecting them personally will occur, both in terms of the threat to all humanity and also their

exposure to disproportionate and discriminatory risk (Senator Lines GmbH v. fifteen member States of the European Union (dec.) [GC]; Shortall and Others v. Ireland (dec.)).

46. The UN High Commissioner for Human Rights, Michelle Bachelet, has said of the climate crisis, “**The world has never seen a threat to human rights of this scope**”. The Respondent’s violations threaten irreversible interference with Convention rights on an exceptional scale, and victim status should be considered in that light (see *Goodwin* (28957/95, §74, 2002): “*It is of crucial importance that the Convention is interpreted and applied in a manner which renders its rights practical and effective, not theoretical and illusory. A failure by the Court to maintain a dynamic and evolutive approach would indeed risk rendering it a bar to reform or improvement.*”)
47. The First Applicant’s purposes include upholding international norms in relation to climate change and preventing human rights violations arising from climate change. It is directly affected by Respondent’s ongoing failures to take practical and effective measures to align its policies to the Paris Agreement.
48. In September 2021, the Aarhus Compliance Committee criticised the Respondent for rules which prevent multiple claimants from sharing the costs of environmental claims, even where the factual underpinning is the same: “*The Committee continues to see no basis for the rule requiring separate costs caps for each claimant, in particular where the claimants make the same legal arguments on the same factual basis. The Committee does not agree that it is undesirable for claimants to be able to share the costs burden for challenges within the scope of the Convention.*”<sup>9</sup>
49. Those exposed to disproportionate and discriminatory impacts and risks from the Respondent’s violations in relation to the climate crisis, such as young people from racially marginalised communities, are also the least likely to be able to finance legal action in defence of their rights in isolation. In light of the Respondent’s non-compliance with the Aarhus Agreement in particular, the First Applicant offers members, in some cases, the only viable way to defend their rights.
50. The First Applicant’s members include those who are already directly suffering interference with their Convention rights, including, through the direct impacts of extreme weather events and through impacts on mental health and interference with family life.

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<sup>9</sup> [https://unece.org/sites/default/files/2021-09/ece.mp\\_pp\\_2021.59\\_ac.pdf](https://unece.org/sites/default/files/2021-09/ece.mp_pp_2021.59_ac.pdf), §46

51. The Second to Fourth Applicants are young people who are already suffering interference with their Convention rights as a result of the Respondent's violations, and will suffer future irreversible harm, including gross violation of their Convention rights, if the Respondent (along with other countries) fails to take practical and effective measures to counter the extreme threat from man-made climate change now.
52. The principles in *Goodwin* demand that the Applicants, who are at the intersection of numerous discriminatory impacts from the Respondent's violations, be afforded victim status. It would be inhuman and degrading and a violation of Convention Article 3 to require the Applicants to wait to suffer the worst impacts of climate change, before conferring on them 'victim' status such as to enable them to seek to uphold their fundamental rights before this Court. Such an approach would render Convention rights "theoretical and illusory", contrary to the principle of "crucial importance" set out in *Goodwin*.
53. Applicants have produced overwhelming evidence of the likelihood of future violations and their exposure to disproportionate and discriminatory risk. The most effective means of safeguarding Convention rights from the extreme threat from climate change is via preventative action, with reference to the prospect of future violations.

## **AS 8. DOMESTIC PROCEEDINGS**

54. The Court of Appeal's ruling of 18 March 2022 (CA-2021-003448), exhausted domestic remedies. Applicants file this appeal on 12 July 2022, within the 4 month time limit.
55. The refusal of the domestic courts to grant the Applicants permission to apply for judicial review has meant that the Respondent's violations have gone unaddressed. In breach of Convention Articles 6 and 13, the domestic courts relied on numerous, spurious grounds to deny the Applicants a full hearing, including the following: (i) that the Applicants were litigants in person, without legal representation; (ii) that the Applicant's grounds were "unduly and unnecessarily lengthy"; (iii) that the Paris Agreement is irrelevant to determining the scope of the Applicants' Convention rights; (iv) that the Applicants' close family relationships in countries on the frontline of the climate crisis were irrelevant to the determination of their Convention rights.
56. Breach of the 1.5°C temperature threshold threatens collapse of a human rights-based order and the end of the rule of law - yet Respondent denies it is even a relevant consideration in terms of defining the scope of Convention rights. The Applicants' case should be heard - before it is too late.