Direction on the Institution of proceedings as well as the "Notes for filling in the application form".

E. Statement of the facts

58.
I am a former Government lawyer and now full time volunteer (and Director) for the climate litigation charity, Plan B.Earth ("Plan B"), which is registered in the United Kingdom with the UK Charity Commission. Plan B was established in 2016, following the adoption of the Paris Agreement on Climate Change ("The Paris Agreement") in December 2015. Its primary objective is to hold the UK Government to account for aligning domestic policy to the objectives of the Paris Agreement, which include the temperature goal of "holding the increase in the global average temperature to well below 2˚C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5˚C" ("the Paris Temperature Limit").

On the 26 June 2018, the UK Government approved a framework plan, the "Airports National Policy Statement" ("ANPS"), to expand Heathrow Airport, the UK's principal international airport, with the addition of a third runway. The Planning Act 2008, s.5(8) obliged the Government to explain "how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change". The Government stated that it had assessed the carbon impacts of the proposal under two scenarios, a "carbon capped" scenario and a "carbon traded" scenario. It stated that "any one of the three shortlisted schemes could be delivered within the UK's climate change obligations". Plan B, along with other parties (including Greenpeace, Friends of the Earth and the Mayor of London) commenced legal proceedings against the Government, on the basis that the ANPS was inconsistent with the Paris Agreement, and in particular the Paris Temperature Limit. I conducted the legal proceedings on behalf of Plan B.

There was no dispute between the parties that 1) the expansion of Heathrow Airport would lead to around 40,000,000 tonnes of carbon dioxide emissions from UK aviation by 2050; 2) that to meet the goal of limiting average global warming to 1.5˚C, global carbon dioxide emissions would need to be 'net zero' by 2050; nor that 3) breaching the 1.5˚C limit, according to the best available science, would expose the public and the wider international community to intolerable risks.

In defending the legal action the UK Government did not, however, argue that Heathrow expansion was consistent with the Paris Temperature Limit. Ultimately (after amendment) its pleaded position was that the Paris Agreement was "not relevant". It emerged in the course of the legal proceedings that the Government, in applying the "carbon traded" scenario to the expansion plans, had used as its benchmark the historic 2˚C global temperature limit not the Paris Temperature Limit. No explanation for this extraordinary error was provided.

On 1 May 2019, the court of first instance ruled in favour of the Government on the basis it was not obliged to consider the Paris Agreement, "Nor ... did [the Secretary of State] err in failing to take into account the Paris Agreement". On 27 February 2020, the Court of Appeal reversed that ruling in favour of Plan B and Friends of the Earth: "It is common ground the Secretary of State did not take the Paris Agreement into account ... It is clear that it was the Government's expressly stated policy that it was committed to adhering to the Paris Agreement to limit the rise in global temperature to well below 2˚C and to pursue efforts to limit it to 1.5˚C ... The Paris Agreement ought to have been taken into account by the Secretary of State in the preparation of the ANPS, but was not." Consequently the Court of Appeal ruled the ANPS to be unlawful. On 4 March 2020 the UK Prime Minister, Boris Johnson, informed Parliament that the Government would abide by the judgment of the Court of Appeal.

The Government did not appeal the Court of Appeal decision. Heathrow Airport Limited, however, the company that stands to make substantial profits from the expansion of Heathrow Airport, and which was an "Interested Party" to the case, appealed to the Supreme Court. The appeal was heard on 7 and 8 October 2020. On 9 December 2020, the Supreme Court sent the parties (including me, as Plan B's representative), its draft judgment under embargo (so that we could identify any factual errors in the judgment).

The judgment, which ruled in favour of Heathrow Airport Limited, reversing the judgment of the Court of Appeal contained substantial errors of fact. It made no mention of the Government's erroneous reliance on the 2˚C temperature limit. To the contrary it asserted that "the Secretary of State took the Paris Agreement into account". Nor did it mention the evidence that Heathrow expansion was inconsistent with the 1.5˚C limit, which was central to Plan B's case.

Statement of the facts (continued)

59.
I wrote to the Supreme Court to draw its attention to these matters, stating inter alia, "It is a matter of public concern and interest that the ANPS was assessed against a benchmark by then known to be dangerous. The current draft judgment omits any reference to this critical matter." I requested permission to discuss the position with an external lawyer - a request the Court refused.

Following this correspondence, the Court made some minor changes to the judgment, but the judgment continued to conceal from the public the critical facts - i.e. that the Government had used the wrong temperature limit to assess the expansion of Heathrow Airport - the historic 2˚C limit not the Paris Temperature Limit. Further, the judgment concealed from the public the evidence that Heathrow expansion was inconsistent with the Paris Temperature Limit. I considered that, given the extraordinarily serious implications, I should do what I could to correct the suppression of evidence and to draw the true position to public attention.

On 15 December 2020, the day before the judgment would be published, I shared a personal statement with various press organisations via Twitter and email, disclosing the outcome of the proceedings (but not the judgment itself) and explaining my reasons for doing so. I informed the Court of my action and, because I am a barrister, also self-reported to the Bar Council.

On 17 December 2020, Lord Reed, President of the Supreme Court, submitted a complaint against me to the Attorney General. He also filed a complaint against me to the Bar Council. A further complaint against Plan B was made to the UK Charity Commission. On 12 February 2021, the Attorney General applied to the Supreme Court for my committal to prison for contempt of court. The Supreme Court has not previously heard a first instance claim for contempt of court. There was no clarity on the procedure to be followed. Ordinarily Supreme Court proceedings are live-streamed to the public but the Court ruled, contrary to my submissions, that these proceedings would not be live-streamed (despite the Covid restrictions limiting public attendance at court).

On 26 March 2021, more than a hundred scientists, economists, and lawyers, including Sir David King, the UK Government's former Chief Scientist, Marie Toussaint, Member of the European Parliament, France, Dennis van Berkel, Legal Counsel Urgenda Foundation, Netherlands, Clive L. Spash, Professor of Public Policy & Governance, WU Vienna and Dr James E. Hansen, "the godfather of climate science", wrote a letter to the Supreme Court in support of my position on the Heathrow judgment: "We urge you to consider the grave implications of this judgment. The highest court in the United Kingdom has set a precedent that major national projects can proceed, even where they are inconsistent with maintaining the temperature limit on which our collective survival depends. Indeed, the precedent goes further still. It says that the Government is not bound even to consider the goals of an Agreement that is near universally agreed. Not only does that undermine the UK's status as a "champion of the Paris Agreement," just ahead of the critical climate talks in Glasgow later this year (COP26). It also substantially reduces humanity's prospects of maintaining that limit and hence, averting disaster ... The climate crisis jeopardizes civilization and the natural world alike, with those who have contributed least to the crisis, the younger generation and the Global South, on the frontline. With all that is at stake, in the UK and beyond, we urge the Court to take appropriate steps to mitigate the profound harm its judgment has caused and to consider the actions of Tim Crosland in this light."

The date for my trial for contempt of court was set for Monday 10 May 2021. I was notified of the procedure to be followed only on the afternoon of Friday 7 May 2021. I represented myself throughout the proceedings. The hearing was completed in only a few hours. I gave evidence and was cross-examined. I admitted that I had broken the embargo on the court judgment (as I had done from the outset) but denied that my action was criminal: my motivation was to correct the suppression of evidence concerning breach of the Paris Agreement to prevent mass loss of life and my statement was therefore protected by Article 10 of the European Convention on Human Rights - the right to freedom of expression. At the conclusion of the hearing the court of 3 judges retired for a period of just 6 minutes. They returned to deliver a lengthy judgment, finding me guilty of contempt of court. The inference was that the judgment had been written prior to the hearing as it could not have been composed in the 6 minutes between the judges leaving and returning to the courtroom.

I explained that as a full time volunteer I had only a modest disposable income. Nevertheless, the Court fined me £5,000 and ordered me to pay the Attorney General's costs. The Court then asked me to make further submissions regarding my financial position. Since I am financially dependent on others, and my financial position is connected to members of my family, including my children, I provided the court with an annex, marked "Confidential", which included sensitive financial information relating to those others. On 21 June 2021, the Court ordered me to pay a further £15,000 costs to the

Statement of the facts (continued)

60.
Attorney General. The Court published on its website a judgment which included confidential financial information relating to my children. I objected to this. Subsequently the Court amended the judgment, without informing the parties that it had done so, removing the reference to my children. This amendment, however, is noted on the face of the Court website, so that the net effect is to make the confidential information even more prominent.

The Administration of Justice Act 1960, s. 13 confers a right of appeal from "any order or decision of a court in the exercise of jurisdiction to punish for contempt of court". The Attorney General argued that the right should not apply in these circumstances, since the Supreme Court was already the UK's highest court. The Court, however, granted me a right of appeal. My 5 grounds of appeal were as follows:

GROUND 1: In violation of Articles 6 and 10 of the European Convention on Human Rights ("ECHR"), the court below cast a veil over [my] principal line of defence, which was that evidence that Heathrow expansion would breach the Paris Temperature Limit of 1.5˚C, with catastrophic implications, had been wrongly concealed from the public ...

GROUND 2: The court below wrongly disregarded a letter, submitted into evidence ... which had been sent to the Supreme Court by leading scientist and economists, including the Government's former Chief Scientific Adviser, Sir David King ...

GROUND 3: Contrary to Article 6 of the ECHR, the court below was not an independent and impartial tribunal since it was also the complainant in the case, in that it had lodged the original complaint against the Appellant to the Attorney General, and also separately filed a complaint against [me] to the Bar Council ... it adopted a number of measures which reinforced the appearance of bias.

GROUND 4: The Respondent failed to disclose to [me] evidence that in July 2020 the Government had a) deliberately breached the Court embargo in the judgment in the case of Shamima Begum; and b) subsequently failed to conduct an investigation into that breach. Such evidence was capable of assisting [me] in the conduct of [my] defence ...

GROUND 5: The ruling of the court below on costs, which combined with the fine, resulted in an overall financial penalty ... of £20,000, was oppressive and arbitrary. [I am] a full-time volunteer for a small charity ...

My appeal was heard on 18 October 2021 by a panel of 5 Supreme Court judges. The hearing, which addressed both the Attorney General's argument that I had no right of appeal in the first place, and my 5 grounds of appeal, was completed in a total of 2 hours. I did not have sufficient time even to outline all my grounds. The Supreme Court gave its judgment on 20 December 2021. It ruled by a majority of 4-1 that, contrary to the Attorney General's position, I had a right of appeal from the Supreme Court to another panel of the Supreme Court. But it unanimously rejected all my grounds of appeal, ruling that the previous panel of the Supreme Court had judged correctly. The Attorney General now claims a further £21,657.45 costs against me in relation to the appeal. The Supreme Court has yet to make an order on the costs of the appeal.

Relevant context for this matter comes from the UN Secretary General, Antonio Guterres, who said on 4 April 2022, at the launch of the new report on the Intergovernmental Panel on Climate Change ("IPCC"):

"Some government and business leaders are saying one thing - but doing another. Simply put, they are lying. And the results will be catastrophic ... ".

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

61. Article invoked	Explanation
Article 10, the Right to Freedom of Expression	I broke the embargo on the Heathrow judgment because I believed that: i) the evidence that Heathrow expansion would breach the Paris Temperature Limit of 1.5˚C, exposing the public to extreme danger, was being deliberately suppressed from the public domain, to smooth the progress of the £14bn project; and that ii) the antidote to that suppression was the spotlight of publicity that would follow from breaking the embargo. My conviction for contempt of court, and the substantial financial penalties imposed by the Supreme Court, were a disproportionate and unnecessary interference with my right to freedom of expression, which is protected by Article 10 of the Convention. Breaching the court embargo caused inconvenience and embarrassment to the Court. But it did not interfere with the rights of others nor cause any substantial harm. The information I disclosed, ie that the Court would rule in favour of Heathrow expansion, was to be published the following day in any event. As a volunteer for a small charity, breaching the embargo was the only practical means at my disposal to sound the alarm loudly enough for it to be heard publicly. It prompted leading international scientists and economists to write to the Supreme Court concerning its legitimisation of projects incompatible with the Paris Agreement, a letter which was then publicised in the national press. Numerous news outlets, such as the BBC, gave me the opportunity to explain my action (under headlines such as "Tim Crosland explains why he disclosed the Heathrow judgement"(BBC), "Prison a tiny price to pay to get truth out there, climate campaigner says" (Evening Standard).

	It can be difficult to demonstrate the outcome of an action such as the one that I took. But on 30 October 2021, on the eve of COP26 and less than two weeks after my appeal, it was reported that Ferrovial, the leading shareholder for the third runway project, would cut funding ("Death knell for Heathrow's third runway as Spanish investor cuts off funding", Daily Telegraph). Ferrovial is backed by Sir Christopher Hohn, who is also a backer of climate activism. My action made it more likely that those who had been misled by the Government into believing the project was compatible with the Paris Agreement would understand the true position and act on that good information. Relevant authorities of the European Court of Human Rights include Mor v. France, 28198/09, 15.12.2011, which concerned the prosecution of a lawyer for breaching the confidentiality of a French court by speaking to the press. The French Court imposed a symbolic fine of one euro. This court ruled in that context: "The issue had therefore been of undoubted interest to the general public. In that connection there was little scope under Article 10§2 for restrictions on debate on question of public interest. The disclosure of information to the media was apt to safeguard the public's right to be informed of the activities of the judicial authorities ...". Also, Kyprianou v. Cyprus, 73797/01 [2005] ECHR 873 (15 December 2005), concerning a conviction for contempt of court against a lawyer in Cyprus: "This being so, the Court considers that the Assize Court failed to strike the right balance between the need to protect the authority of the judiciary and the need to protect the applicant's right to freedom of expression." Also relevant are authorities concerning acts of protest such as Kudrevičius v Lithuania (2016) 62 EHRR 34 and Navalnyy v Russia (Application No 29580/12). The text on the draft Supreme Court judgment, the outcome of which I disclosed, read as follows: "The contents of this draft are confidential ... A breach of any of these obligations may be treated as a contempt of court". In my submission, that wording is insufficiently precise to meet the test of "prescribed by law" as is required by Article 10(2). There was no other court order concerning the draft judgment.

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

62. Article invoked	Explanation
Article 6, right to a fair and public hearing by an independent and impartial tribunal	My trial for contempt of court was conducted by the same court (i.e. the UK Supreme Court) which: i) I had initially accused of suppressing evidence; ii) which had then initiated the complaint against me to the Attorney General; and iii) which had filed a complaint against me to the Bar Council. The complaint against me to the Attorney General was submitted by the Registrar of the Supreme Court, on behalf of Lord Reed in his capacity as President of the Supreme Court. The letter of complaint noted "Lord Reed also intends to make a complaint about Mr Crosland's conduct to the Bar Standards Board". The UK Supreme Court is a small court, currently consisting of just 10 judges, who are consequently well known to each other. It is not divided into different chambers. It is a single, unitary court.

Following receipt of the complaint, the Attorney General's application for my committal was heard by the same court (ie the UK Supreme Court), which had initiated the proceedings against me and which therefore had a vested interest in the outcome.

In these circumstances, the Supreme Court was not operating as an independent and impartial tribunal. To the contrary, it was a judge in its own cause. Likewise with the appeal court, which was a differently constituted panel of the same court.

Further the Supreme Court reinforced the appearance of bias with numerous arbitrary procedural decisions, adverse to my position, including the following:

i) informing me of the procedure to be followed at my trial only on the Friday afternoon before the Monday hearing;
ii) denying me sufficient time to present my case in court;
iii) preventing the hearing from being live-streamed, contrary to the Supreme Court's ordinary practice;
iv) reading out what appeared to be a prepared written judgment , only 6 minutes after the conclusion of the hearing;
v) imposing a disproportionate financial penalty, beyond my capacity to pay;
vi) publishing confidential financial information concerning my children, and continuing to do so, even after deleting it from the judgment (without informing the parties that it had done so).

Further, the Attorney General failed to disclose to me an incident in July 2020, when the Sun Newspaper broke an embargo on a highly sensitive and politicised court judgment, apparently following a leak from the UK Government itself. No legal action was taken by the Government in relation to this matter. It would have assisted my submissions on Article 10 to know of this situation in advance of my trial. If it was not necessary and proportionate to prosecute in that case, where there was no motive of conscience for the breach and where those concerned already had powerful platforms to advance their opinions, why was it necessary and proportionate in this instance? The omission was even more striking, as the Attorney General cited previous breaches of embargos on draft judgments (which had not been prosecuted) as a positive reason to prosecute me. A journalist informed me of this matter towards the end of my trial.

The Attorney General's position was that my motives and beliefs were irrelevant to the analysis: "... on the question of liability we say motives and reasons for acting don't come into it". The Supreme Court adopted the same position. This disregard for my motives and beliefs was inconsistent with the requirements of both Article 6 and Article 10.

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
Breach of Article 10	I invoked Article 10 throughout the domestic proceedings, and appealed against my conviction and penalty on the basis of Article 10. Both the Attorney General and the Supreme Court acknowledged that prosecuting me and punishing me amounted to an interference with Article 10. But they considered such interference to be necessary and proportionate. According to the law of this court, the assessment of proportionality should include consideration of a person's intentions, motivations and beliefs. However the Supreme Court ruled to the contrary: "The Respondent submits that the court should have regard to his intentions, beliefs and motivations in disclosing the result of the appeal ... In our view these matters do not assist the respondent in relation to the issue whether there has been a contempt of court". The Supreme Court's first judgment against me was issued on 10 May 2021. Breach of Article 10 was also central to my appeal to a differently constituted panel of the Supreme Court. The second ruling of the Supreme Court (the appeal hearing) was published on 20 December 2021, which again ruled against me.
	The Supreme Court is the highest court in the UK. I have exhausted domestic remedies and the European Court of Human Rights is now the only way for me to challenge the decision. The Supreme Court has not yet ruled on the issue of the costs of the appeal. However the judgment of 20 December 2021 is the final ruling of the domestic courts concerning the interference with Article 10. As this decision was prior to 1 February 2022, the 6 month time limit applies. Consequently the deadline for filing this claim is 20 June 2022.
Breach of Article 6	I submitted at the first instance hearing that "the Supreme Court is in this case both complainant and judge". That submission was rejected by the Supreme Court in an order of 19 April 2021, which denied any such compromise to impartiality: “Contrary to the submission of the respondent, the applicant in these proceedings is the Attorney General and not the Supreme Court. It is the Attorney General who is bringing these proceedings and who made the decision to do so ...”. I had not submitted that the Supreme Court was "the applicant". I had submitted that it was the Supreme Court which submitted the original complaint to the Attorney General - which is a matter of record (see accompanying document 1) Likewise, the breach of Article 6 was central to my appeal. The Supreme Court's final ruling on this issue was the judgment of 20 December 2021. Consequently domestic remedies on this issue have now also been exhausted and the deadline for filing the claim is likewise 20 June 2022.