



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C1/2020/0887



The Queen, on the application of

Dr Philip L Davies –v– FCO

ORDER made by the Rt. Hon. Lord Justice Nugee

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal, against the refusal of the High Court to grant permission to apply for judicial review

<p><u>Decision:</u> refused</p> <p>An order granting permission may limit the issues to be heard or be made subject to conditions</p>	
<p>Permission to appeal:</p> <p style="text-align: center;">OR</p> <p>Permission to apply for judicial review:</p>	<p style="text-align: center;">Refused</p> <p style="text-align: center;"><input type="checkbox"/></p> <p style="text-align: center;">Where permission to apply for judicial review is granted, the application should be returned to the Administrative Court</p> <p style="text-align: center;">OR</p> <p style="text-align: center;">There are special reasons (set out below) why the application should be retained in the Court of Appeal</p> <p style="text-align: center;"><input type="checkbox"/></p>
<p><u>Reasons</u></p> <p>Sir Wyn Williams was in my judgment right to refuse permission. It is not easy to summarise either Dr Davies' arguments or the response from the Defendants, but in essence I accept, as Sir Wyn Williams did, the Defendants' position as set out in their summary grounds of resistance. This is that Dr Davies cannot succeed unless he can show that the UK was under an obligation to refer his claim to COPUOS, and the FCO's position that (i) it is under no obligation under the 1967 treaty to do so and (ii) that to do so would be contrary to its obligations is at the very least a tenable view. Nor does the assertion of rights under the ECHR add anything; as Dr Davies recognises, the national courts cannot consider whether he does or does not have a valid proprietary claim to Mars.</p>	
<p>Where permission has been granted, or the application adjourned, any directions to the parties (including, if appropriate, any abridgement of the 35 day time limit for filing evidence provided for in CPR 54.14)</p>	

Signed:

Date: 13 November 2020

Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
 - a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Rule 52.15 provides that, in granting permission, the Court of Appeal may grant permission to appeal or permission to apply for judicial review. Where the Court grants permission to apply for judicial review, the Court may direct that the matter be retained by the Court of Appeal or returned to the Administrative Court.

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