Appeal Number: CA-2026-000583

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

President of the King's Bench Division, Swift J and Steyn J, [2026] EWHC 292 (Admin)
B E T W E E N:

THE KING
on the application of
HUDA AMMORI

Respondent

-and-

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

SECRETARY OF STATE'S SUPPLEMENTARY SKELETON ARGUMENT

References are in the following form:

(i) the Core Bundle: [CB/page]
(ii) the Supplementary Bundle: [SB/page]
(iii) the Divisional Court judgment: *R (Ammori) v Secretary of State for the Home Department* [2026] EWHC 292 (Admin), 'the Judgment', and 'J, §#'
(iv) the Respondent's cross-appeal submissions are in the form RSkel/§
(v) the Authorities Bundle [AB/Tab/page]

INTRODUCTION

1. In accordance with the order of Lewis LJ of 30 March 2026 [CB/136A], this supplementary skeleton argument is filed on behalf of the Secretary of State for the Home Department. It addresses (i) the Respondent's application for permission to cross-appeal and the cross appeal; and (ii) the submissions of Amnesty/Liberty and the United Nations Special Rapporteur on Counter-Terrorism and Human Rights (both of whom have been granted permission to intervene).

GROUND 1 – THE DUTY TO CONSULT

The principles applied by the Divisional Court

2. In dismissing this ground, the Court correctly applied long-established principles:

    a. What fairness requires when statutory powers are being exercised is context and fact specific – imposing a duty of prior consultation in relation to decisions made under such powers "*cannot be answered in wholly general terms*", *per* Lord Sumption in *Bank Mellat v. HM Treasury (No2)* [2014] AC 700 ('*Bank Mellat*'), at §31 [AB/22/708]. See J§51.

    b. It is necessary to consider whether the statute expressly or by necessary implication excludes the obligation to give prior notice and an opportunity to make representations: J§51. Alternatively, there is no obligation if the circumstances in which the power is to be exercised would render it impossible, impractical or pointless to afford such an opportunity, *per* Lord Neuberger in *Bank Mellat* at §179 [AB/22/750]. (see J§51).

    c. The governing principles are the six features of a fair process identified by Lord Mustill in *R v. Secretary of State for the Home Department ex p Doody* [1994] 1 AC 531 ('*Doody*'), at 560D-G [AB/8/249]. See J§56.

    d. In deciding whether an opportunity to make representations needs to be afforded, it is necessary to consider all the relevant aspects of the statutory scheme and the facts or context: *Bank Mellat*, at §179 [AB/22/708], *per* Lord Neuberger. See J§56.

3. In applying the *Bank Mellat* test, the Divisional Court observed that the context in which the statutory power in question was being exercised was a "*critical consideration*" (J§58). That was a conventional application of the requirement in *Doody* that fairness must be assessed "*in all the circumstances*" and in *Bank Mellat* that it depends on the "*particular circumstances*".

4. The statutory context at issue in this case was national security. Given the national security context, the Court's conclusion that it should be cautious about supplementing the procedure established by Parliament is unsurprising and properly reflects the analysis in *Begum v. Secretary of State for the Home Department (No 2)* [2024] 1 WLR

4269 (‘*Begum*’) [AB/37]. For the reasons the Court identified (J§59) the national security context also meant that this case was very different from the statutory context considered by the Supreme Court in *Bank Mellat*, which the Court rightly observed involved a power to make directions in a wide range of circumstances not all involving national security.

5. In addition, the Court correctly identified as relevant factors the nature of the organisation in question (an organisation concerned in terrorism), the extent of possible communication (very likely limited given the national security context), the possible reaction of the consultee, and the difficulty in practice in consulting an organisation of this nature. It was entitled (and right) to do so: each of these matters is an important aspect of the particular context in which the right to make prior representations was said to arise. That approach properly reflected the fact that the existence of a right to prior representations cannot be established “*in wholly general terms*”: *per* Lord Sumption in *Bank Mellat* at §31 [AB/22/708].

The merits of the Respondent’s submissions

6. The Respondent asserts (RSkel§§12-19) that there were ‘at least’ seven errors in the Divisional Court’s reasoning. None of the putative errors identified by the Respondent has merit, either individually or cumulatively.

7. **First**, the Court correctly took into consideration the national security context. National security is the paradigm example of a statutory context where the courts should be slow to supplement the procedure established by Parliament and where a precautionary approach is justified. That was the critical question under the first limb of the *Bank Mellat* approach. Furthermore, the national security context was integral to the second *Bank Mellat* question whether it would have been impossible, impractical or pointless to afford the Respondent an opportunity to make representations. The Divisional Court properly considered both limbs in the present case.

8. The relevance of the national security context in considering whether a right to prior representations should be implied into a statutory scheme was considered in detail in *Begum*. The legislation at issue in *Begum* (s.40(2) of the British Nationality Act 1981 (“BNA 1981”)) [AB/5/23] empowers the Secretary of State to deprive dual citizens of their British citizenship where to do so would be conducive to the public good. It

contains no express exclusion of the right to prior representations. Thus, the question under the first limb of the *Bank Mellat* test was whether the right to prior representations was impliedly excluded. The Court of Appeal began by recalling that "*the requirements of common law fairness are not the same in every type of case*" and noted a number of statutory contexts in which "*[o]rders without prior notice are commonly made*": §105. It continued, at §106:

> *"What is required depends on the legislative purpose and context. At least a main purpose of section 40(2), if not the main purpose, is to protect the public from a threat to national security. A requirement to invite representations prior to a deprivation decision made on national security grounds could frustrate that purpose."* [AB/37/1339].

9. The Court of Appeal noted the identification by SIAC in earlier litigation of a "*general rule in national security cases … that there is no duty to seek representations before making the deprivation order*" because "*the very act of seeking representations would be contrary to the national security of the UK*" by giving the person concerned an opportunity to defeat the intended purpose of the action: §106. At §107, the Court of Appeal endorsed and approved as "*apt*" the general rule for national security cases.

10. In terms of the exclusion of the right to prior representations, the present case is *a fortiori* with *Begum*. The deprivation power in s.40(2) BNA 1981 is not limited to cases involving national security or terrorism. The test for the exercise of the power is that the underlying conduct is not conducive to the public good. It is thus used in a wide range of circumstances extending beyond the national security sphere, for example serious organised crime or other unacceptable behaviours: see the description of the Secretary of State's policy on the use of the power in *Secretary of State for the Home Department v. Kolicaj* [2026] 2 WLR 83, at §11 [AB/47/1671]. By contrast, the proscription power in s.3 of the Terrorism Act 2000 ("TA 2000") is triggered *only* where the organisation in question has been assessed as being concerned in terrorism. The "*general rule*" which the Court of Appeal in *Begum* identified as applying in national security cases thus applies with full force in the case of proscription under s.3 TA 2000 [AB/6/28].

11. **Second**, the approach taken by the Divisional Court in dismissing this ground was consistent with the approach articulated by the Supreme Court in *Bank Mellat*. There was no conflation or reversal of the approach articulated by Lord Neuberger in the way suggested by the Respondent. The Respondent's analysis ignores the critical analysis of context that is essential in any exercise of statutory interpretation and which was applied expressly in the national security field by the court of Appeal in *Begum*.

12. Having set out the statutory context for the exercise of the proscription power at J§58, the Divisional Court then found that the national security context meant that it should be cautious to supplement the express procedural requirements that Parliament had imposed. That was an application of the first limb of the *Bank Mellat* test. So much is clear from the Court's finding that "*any decision to require further procedural steps in this case would necessarily apply to all other occasions when the Home Secretary was considering use of the power to proscribe an organisation*": J§58. In so concluding, the Court was not ignoring the first limb of the *Bank Mellat* test, or in any way misapplying it; on the contrary, it was considering the consequences of the Respondent's argument as applied to that first limb. The Divisional Court identified (J§§60-65) a number of practical obstacles which weighed against the existence of an obligation to afford the Respondent the opportunity to make representations prior to the decision being taken to proscribe Palestine Action. In particular, the Court stated that the matters it identified arose "*on a comprehensive consideration of circumstances in which exercise of the power to proscribe an organisation could arise*" (J§63). This was the correct application of the principles in *Doody* and *Bank Mellat*. The Respondent's complaint misstates and misapplies the applicable principles in those authorities.

13. **Third,** contrary to the Respondent's assertion, the Court did reject the Respondent's argument under the first limb of *Bank Mellat*: see above. Its conclusions as to the practical implications of recognising a right to make prior representations also justified the finding that the second limb of the *Bank Mellat* test was not met. The two aspects of Lord Neuberger's analysis in *Bank Mellat* are alternatives, not cumulative, as the Respondent's submissions appear to suggest. But in any event the Respondent's argument failed under both limbs. The Court's conclusions on the second limb are encapsulated at J§§66, where it held that "*comprehensive consideration of the nature and purpose of the power to proscribe and of the likely practical difficulties that would*

be consequent upon any general obligation to give prior notice and invite representations points only to the conclusion that no such obligation arises". This was an orthodox application of Lord Neuberger's approach in *Bank Mellat*.

14. **Fourth**, the Court did not, as the Respondent asserts, conclude that the affirmative resolution procedure provided a basis for displacing the common law obligation of prior representation. At J§58, the Court was merely describing the context in which the question of procedural fairness fell to be considered. The Court was required by the relevant authorities to identify the context and take it into consideration.

15. **Fifth**, the Respondent takes out of context the Court's observation at J§58 that "*any decision to require further procedural steps in this case would necessarily apply to all other occasions when the Home Secretary was considering use of the power to proscribe an organisation*". For the reasons set out above, this conclusion demonstrated the failure of the Respondent's argument under the first limb of the *Bank Mellat* test. The context for the application of the power was critical: *Begum*. The Court was required to take this into consideration.

16. **Sixth**, the Respondent's assertion that the Court failed to consider the circumstances of this case is wrong. The Court did so, in detail, at J§§58-62. The Respondent errs in conflating the timing of the decision to proscribe Palestine Action with the question whether affording her the opportunity to make representations would in the circumstances "*render it impossible, impractical or pointless to afford such an opportunity*" *per* Lord Neuberger in *Bank Mellat* at §179 [AB/22/750]. The crucial issue is not the length of time it took to make the decision to proscribe, but the notice given to those affected by any such decision. As the Court correctly recognised (at J§62) the fact that the proscription process is not an instantaneous one is not to the point.

17. The Respondent's submissions also fail to acknowledge that the Secretary of State was expressly briefed that the expedited Parliamentary proscription process was "*to minimise the scope for members of the proscribed group to circumvent the provisions in TACT*" (see §48 of the 26 March Ministerial Submission) [SB/153]. That a gist of the reasons for the decision to proscribe Palestine Action could or could not have been given to the Respondent is immaterial. The question, as the Court correctly recognised at J§62, was whether "*prior notification might cause the organisation concerned either*

to take steps to pre-empt the consequences of proscription or, for example, to bring forward activity that might be frustrated by proscription". There was evidence before the Court that there were concerns in this case about the effects of delay: §11.1 of the Explanatory Memorandum stated "*Any significant delay between the laying and coming into force of the Order would alert the organisation to its impending proscription and may result in pre-emptive action by the organisation's members designed to circumvent the provisions of the Act and/or the criminal law.* As Chamberlain J recognised at §99 of the interim relief judgment: "*para. 11.1 of the Explanatory Memorandum makes clear that the Secretary of State has formed the view that it is necessary for the order to come into effect immediately to avoid the risk of pre-emptive action by PA. Parliament must be taken to have endorsed this position.*"

18. **Seventh**, the Court was right to recognise that one of the practical difficulties in inviting prior representations was in identifying who should have been given prior notice of the decision. The Respondent asserts that this is inconsistent with her role as the co-founder of Palestine Action. However, this assertion fails to engage with the substance and detail of the Court's reasoning at J§65: there the Court recognised that the Respondent expressly disavowed the notion that she was the leader of Palestine Action. In making this observation, the Court also recognised the covert nature of Palestine Action. The Respondent fails to explain why, despite her asserted limited role in the control and leadership of the organisation, and the difficulties posed by the organisational structure of Palestine Action (which the Respondent does not contest), the conclusion reached by the Court was flawed. The reality is that it was not.

GROUND 2 – ARTICLE 14

19. Article 14 ECHR prohibits discrimination in the enjoyment of ECHR rights "*on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*". Article 14 is engaged where a measure falls within the ambit of another, substantive ECHR right: *R(SC) v. Secretary of State for Work and Pensions* [2022] AC 223 [AB/31].

20. The general approach to Article 14 was summarised by the Grand Chamber in *Carson v. United Kingdom* (2010) 51 EHRR 13, at §61 [AB/52/1949]:

a. The ECtHR has established in its case law that only differences in treatment based on an identifiable characteristic, or 'status', are capable of amounting to discrimination within the meaning of article 14.
b. Moreover, in order for an issue to arise under article 14 there must be a difference in the treatment of persons in analogous, or relevantly similar, situations.
c. Such a difference of treatment is discriminatory if it has no objective and reasonable justification; in other words, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised.
d. The contracting state enjoys a margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify different treatment. The scope of this margin will vary according to the circumstances, the subject matter, and the background.

21. Although Article 14 does not require the identification of an exact comparator, it does require a difference in treatment between two people who are in an analogous position. Guidance on this aspect of the Article 14 analysis was provided by the Supreme Court in *Re McLaughlin* [2018] 1 WLR 4250 ('*McLaughlin*') in which Lady Hale stated: "*It is always necessary to look at the question of comparability in the context of the measure in question and its purpose, in order to ask whether there is such an obvious difference between the two persons that they are not in an analogous situation.*" (at §26) [AB/26/897]. This echoed what her ladyship had previously stated in *AL (Serbia) v. Secretary of State for the Home Department* [2008] 1 WLR 1434 ('*AL (Serbia)*'): "*unless there are very obvious relevant difference between the two situations, it is better to concentrate on the reasons for the difference in treatment and whether they amount to an objective and reasonable justification*" (at §25) [AB/19/561-562].

22. The Respondent's submissions on both direct and indirect discrimination are premised on the contention that Palestine Action is in an analogous position to other single-issue organisations. For the following reasons, this contention is wrong.

23. **First**, the Secretary of State's officials did not conclude that Palestine Action was similarly situated to other direct-action groups. The Respondent's assertion to this effect mischaracterises the evidence. The Community Impact Assessment merely

recognised that there were "*other single-issue groups employing similar direct- action tactics such as Just Stop Oil and Extinction Rebellion*" [SB/191]. Whatever similarities may have existed between some of the *tactics* used by Palestine Action and other single-issue groups, the Respondent's assertion (RSkel§26) that it follows that they are in an analogous position for the purposes of Article 14 is wrong.

24. **Second**, applying the analysis in *McLaughlin* and *AL (Serbia)*, the context of the measure in question in this case is proscription. The proscription power can only be exercised against organisations which are concerned in terrorism. In addition, it is necessary to consider the application of the five discretionary factors in the Secretary of State's policy on the use of the proscription power. That context is crucial to determining which organisations can properly be characterised as being in an analogous situation to Palestine Action.

25. **Third,** bearing in mind that context, any consideration of the exercise of the proscription power is thus multi-faceted and nuanced. It goes well beyond the sort of tactical similarities on which the Respondent relies. The Court considered that there was nothing in the evidence to show that those organisations, through their members or supporters, engaged in terrorism: J§144. But even if they did, that would be only the beginning, and not the end, of the analysis. It would be necessary to consider also the application of the discretionary factors and any other relevant matters to each organisation. The Respondent's analysis did not do so.

26. **Fourth,** the failure by the Respondent to engage with the full range of considerations relevant to this exercise subsists. The Respondent continues to fail to engage with the fact that proscription decisions are taken on the basis of a wide-ranging assessment of relevant matters assessed through the applicable policy framework. Applying that broad-based assessment, the Respondent has failed to demonstrate that the other direct action groups she identifies are in an analogous position to Palestine Action.

27. **Fifth,** the Respondent continues to assert that Palestine Action is a direct-action organisation in the vein of organisations such as Just Stop Oil and Extinction Rebellion. However, this fails to recognise the conclusion reached by the Court at J§§29-30:

> "*29. The claimant in her case in these proceedings has sought to portray Palestine Action as a "non-violent" organisation. This is not a sustainable*

proposition. It rests on the premise that damage to property, regardless of extent, does not involve the use of violence. That is a view that many would struggle to comprehend, and we for our part are unable to accept, especially when such damage goes further than the merely symbolic. The proposition also ignores the real risk of injury (to members of the public) which may occur when individuals go equipped with sledgehammers to do damage to property as Palestine Action suggests they should do, and are intent at the same time on avoiding detection. 30. It follows from what we have said that the picture the claimant seeks to paint of an ordinary protest group engaged in activities that fall within the well-established tradition of peaceful protest is not an accurate picture. It also follows that the starting point for any consideration of the legality of the Home Secretary's decision to proscribe Palestine Action is significantly more complicated than the submission for the claimant would otherwise suggest."

28. The Respondent's submissions fail to grapple with the fact the Court rejected her characterisation of Palestine Action as a non-violent organisation falling within the well-established tradition of peaceful protest. This makes her assertion that Palestine Action is similarly situated to direct-action organisations unsustainable.

29. There is no merit in the Respondent's criticisms of the Court's judgment (RSkel§§34-36):

    a. For the reasons given above, the Court was correct to reject the Respondent's argument that Palestine Action is similarly situated to other single-issue organisations.

    b. Whilst the Secretary of State's officials recognised similarities between Palestine Action and other single-issue groups, they did not conclude that they were in an analogous situation. Accordingly, there was no discriminatory treatment to justify.

    c. In the circumstances, the Court's conclusion that the Secretary of State was entitled to consider the case for the proscription of Palestine Action on its merits was correct.

30. In terms of indirect discrimination, as the Court recognised (J§145) there was no evidence that Palestine Action drew supporters disproportionately from the Palestinian community in the United Kingdom. This was no more than an assertion.

31. As the Court noted, the Article 14 argument was "*touched upon but not fully developed*". In these circumstances, the Court was entitled to take the approach that it did and its analysis of Article 14 was without error.

PERMISSION TO APPEAL

32. The Respondent's application for permission to cross appeal should be refused: for the reasons given in the preceding paragraphs, neither ground has a real prospect of success and there are no other compelling reasons for either of them to be heard.

THE INTEVENORS

Amnesty/Liberty

33. The submissions of Amnesty/Liberty (at §§27-33) mischaracterise the submissions being advanced by the Secretary of State. The Secretary of State's position is not that the Court should abdicate its duty to assess proportionality for itself. The Secretary of State's submissions, which are supported by authority at the highest level, is that, when the Court is conducting that proportionality assessment, it ought to accord appropriate weight to the Secretary of State's own view of where the balance lies. This is a question of margin.

34. In cases concerning national security and public safety, the Secretary of State ought to be accorded a significant margin. This is consistent with the Supreme Court's judgment in *Shvidler v. Secretary of State for Foreign, Commonwealth and Development Affairs* [2025] 3 WLR 346, which is cited by Amnesty/Liberty. In their judgment on behalf of a unanimous Supreme Court, Lord Sales and Lady Rose explained that the court does not become the primary decision-maker. At §§126-130, [AB/44/1582] the Supreme Court recognised that cases involving national security are central to the constitutional responsibilities of the Government. It is the executive government, as represented by the relevant Ministers, which has the democratic authority to take decisions in this area, because it is important that those doing so should be responsible to the public for the

effective protection of national security. The court also observed that it is well established that the executive government has superior institutional competence to make the relevant judgments (in that case about sanctions), since the Government has access to relevant experts and a wide range of information, some of which may be secret. This led the Supreme Court to recognise that the Secretary of State should be accorded a wide margin of appreciation.

35. The assertion made by Amnesty/Liberty (at §33) that only limited deference should be shown to the Secretary of State's views on fair balance is not only inconsistent with *Shvidler* but with an unbroken line of authority of which *Shivdler* is merely the most recent example. For this reason, the submissions of Amnesty/Liberty replicate the same flawed approach that was taken by the Court.

36. The Secretary of State agrees that proportionality depends on the precise facts and circumstances. However, there is a vitally important part of the factual matrix that is overlooked by Amnesty/Liberty in their submissions. The characterisation of Palestine Action as a direct-action group fails to recognise that the Court rejected the Respondent's attempt to characterise Palestine Action as a "non-violent" organisation. On the contrary, it is an organisation that engages in activities that fall outside the well-established tradition of peaceful protest (see J§§29-30). The Court stated that the Respondent's characterisation of the group was not an accurate picture because it was based on the premise that damage to property does not involve the use of violence. The Court was unable to accept that contention. Accordingly, this is the prism through which the proportionality question fell to be assessed.

37. In addition, to these arguments, Amnesty/Liberty also advance arguments on Article 17 ECHR and the nature of the interference in this case with Article 10 and 11 ECHR rights. The Secretary of State has dealt with those matters in her skeleton argument and does not repeat them here.

The UNSR

38. The Court was correct to place no weight on the submissions advanced by the UNSR: J§§141-142.

39. **First**, the UNSR's contention that there is some emerging consensus amongst Council of Europe states that would justify the Court according to the Secretary of State a narrower margin of appreciation is misconceived. The Court was obligated to apply principles of domestic law. It is well-established in domestic law that in cases of this nature the Secretary of State's judgement ought to be accorded a significant margin: see *Secretary of State for the Home Department v. Rehman* [2003] 1 AC 153; *R (Lord Carlile of Berriew) v. Secretary of State for the Home Department* [2015] AC 945; *R (Begum) v. Special Immigration Appeals Commission* [2021] AC 765; *U3 v. Secretary of State for the Home Department* [2025] AC 1510. [AB/13; 24; 29; 40]

40. The UNSR's submissions are also inconsistent with the recent judgment of the Supreme Court in *R v. ABJ* [2026] UKSC 8, which was expressly concerned with proscription:

> "*Deciding where and how to balance the value of freedom of expression against the need to combat terrorism is a highly sensitive matter falling primarily within the responsibility of the elected national authorities. Judicial supervision, whether by domestic courts applying the Human Rights Act or by the European court applying the Convention, has to respect the institutional expertise and constitutional legitimacy underlying the judgment made by those authorities by according them a correspondingly wide margin of appreciation. Although a strict approach is generally taken to restrictions on political speech, the European court has recognised that states must enjoy a wider margin of appreciation when countering terrorism: see, for example, Schwabe v Germany (2011) 59 EHRR 28, para 113, and Internationale Humanitäre Hilfsorganisation eV v Germany, para 89 ("the aims pursued by the prohibition of indirect support for terrorism as being contrary to the concept of international understanding are necessarily very weighty and states enjoy a wider margin of appreciation in that regard".)* (at §106) [AB/49/1821].

41. As the Supreme Court held, the ECtHR itself has recognised that states enjoy a wider margin when countering terrorism even when in cases involving political speech. This is not reflected in the submissions advanced by the UNSR.

42. The UNSR's submissions are flawed because they do not accept the context of this decision, namely that Palestine Action is an organisation concerned in terrorism as

defined in the TA 2000 (see J§142). That proposition was not contested, and it was the prism through which the Article 10/11 analysis fell to be conducted.

43. Professor Saul's view is clear from his evidence: direct action protest causing serious damage to property is not, without more, sufficient to qualify as an act of terrorism in international law: witness statement, §16. The Special Rapporteur is entitled to that view. But it does not reflect the legislative choice that the United Kingdom Parliament has made and the respect which the Strasbourg Court has determined it should be accorded. Indeed, it appears that the Special Rapporteur has misunderstood the nature of that legislative choice when, in §31 of his witness statement, he refers to the "*overbroad application of the definition of terrorism by the Home Secretary in making her proscription decision*". The Secretary of State faithfully applied the definition of "terrorism" in the TA 2000 in making the proscription decision. The UNSR thus proceeds on a flawed understanding of the domestic and ECHR position.

44. Furthermore, it is not, in fact, clear that the asserted consensus does exist across the Council of Europe. The analysis in Professor Saul's statement focuses largely on a range of international conventions. There is no attempt to explain which Council of Europe states are signatories to them, what the status of the conventions within those states is or, importantly, how, if at all, they have implemented them domestically. Nor does the reference to Directive (EU) 2017/541 assist the UNSR since that instrument is a piece of secondary EU legislation which, by definition, does not bind all Council of Europe states.

45. The only reference to the position within the Council of Europe is to the Council of Europe Convention on the Prevention of Terrorism 2005 [AB/4/8]. That convention has been signed by all Council of Europe states but has not been ratified by Ireland, Iceland, Greece and Georgia, as well as the United Kingdom. Thus, a number of states which are also members of the EU have not ratified it. No detail is provided by the UNSR as to how the convention has been implemented in the domestic law systems of the states which have ratified it. And, in any event, no detail is provided in Professor Saul's evidence of any provision in the convention which could be said to be inconsistent with the definition of "terrorism" in the TA 2000. The Council of Europe Convention on the Prevention of Terrorism 2005 is the instrument which could, even arguably, be said to be relevant to the question of consensus; and yet it takes matters no further at all. It does

not provide evidence of "*a virtually general consensus*" such as would be required, even if this issue were relevant: *Bayatyan v. Armenia* (2012) 54 EHRR 15, §108 [AB/55/2004].

46. **Second**, in terms of the scale of the interference with Article 10/11, the Secretary of State does not repeat the points she made at §§72-76 of her skeleton. It is, however, notable that the UNSR's characterisation of the impact of the proscription decision fails once again to grapple with the reality that Palestine Action is an organisation concerned in terrorism. Accordingly, he fails to address the fact that individuals remain free to express their support for Palestine and disapproval of Israel, just not under the Palestine Action umbrella.

CONCLUSION

47. Accordingly, the Court is invited to refuse the Respondent's application for permission to cross-appeal and/or to dismiss the cross-appeal.

SIR JAMES EADIE KC
DAVID BLUNDELL KC
BEN WATSON KC
NAOMI PARSONS
STEPHEN KOSMIN
KARL LAIRD

10 April 2026
Replaced 17 April 2026