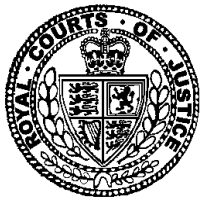

Neutral Citation Number: [2026] EWCA Civ 721

Case No: CA-2026-000583

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
DIVISIONAL COURT
President of the King's Bench Division, Swift and Steyn JJ
[2026] EWHC 292 (Admin)

Royal Courts of Justice
Strand, London, WC2A 2LL

15 June 2026

THE LADY CARR OF WALTON-ON-THE-HILL,
THE LADY CHIEF JUSTICE OF ENGLAND AND WALES
SIR GEOFFREY VOS,
MASTER OF THE ROLLS
LORD JUSTICE EDIS,
VICE PRESIDENT OF THE COURT OF APPEAL (CRIMINAL DIVISION)
LORD JUSTICE LEWIS
and
LADY JUSTICE WHIPPLE

- -

Between:

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT	**Appellant/Defendant**
- and –	
THE KING on the application of HUDA AMMORI	**Respondent/Claimant**
-and-	
(1) UNITED NATIONS SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WHILE COUNTERING TERRORISM	
(2) AMNESTY INTERNATIONAL UK	
(3) LIBERTY	
	Interveners

- -
- -

Sir James Eadie KC, David Blundell KC, Ben Watson KC, Naomi Parsons, Stephen Kosmin and Karl Laird (instructed by **Government Legal Department**) for the **Appellant**
Raza Husain KC, Blinne Ní Ghrálaigh KC, Paul Luckhurst, Owen Greenhall, Audrey Cherryl Mogan, Tim James-Matthews, Mira Hammad, Rayan Fakhoury, Rosalind Burgin and Grant Kynaston (instructed by **Birnberg Peirce Solicitors**) for the **Respondent**

Tim Buley KC, Dominic Lewis and Jesse Nicholls (assisted by the **Special Advocates' Support Office) Special Advocates for the Respondent**
Adam Straw KC and Rabah Kherbane (instructed by **Hickman & Rose Solicitors**) for the **First Intervener (written submissions only)**
Tom Hickman KC, Jessica Jones and Rosalind Comyn (instructed by **Deighton Pierce Glynn** and **Liberty)** for the **Second and Third Interveners (written submissions only)**

Hearing dates: 28 to 30 April 2026

- -

APPROVED OPEN JUDGMENT

- -

The Lady Carr of Walton-on-the-Hill, CJ (delivering the judgment of the court):

Index

A. Introduction

1. The claimant, Ms Huda Ammori (Ms Ammori), is one of two co-founders of a group operating in the United Kingdom and elsewhere known as Palestine Action. Ms Ammori has challenged the decision of the Secretary of State for the Home Department (the Home Secretary) to proscribe Palestine Action as a terrorist organisation under section 3 and schedule 2 of the Terrorism Act 2000 (the 2000 Act) (the Proscription Decision). The Proscription Decision was announced to Parliament on 23 June 2025 and the implementing order came into effect, after approval by positive resolutions of both Houses of Parliament, on 5 July 2025 (the Proscription Order).

2. Ms Ammori challenged the Proscription Decision on many grounds. The Divisional Court decided in her favour on two of those grounds.

3. First, the Divisional Court held that the Home Secretary's approach to the "other factors" that might be considered under her policy paper dated 27 February 2025 (the Proscription Policy) had not been consistent with it (see [J89]-[J92]). In essence, the Home Secretary had taken into account the fact that proscription provided "additional levers to disrupt [Palestine Action's] operations", which the Divisional Court held was not a permissible consideration on its interpretation of the Proscription Policy. The Divisional Court decided that the purpose of the Proscription Policy was to limit and constrain the use of the discretion to proscribe (see [J83] and [J91]).

4. The second decision in Ms Ammori's favour related to the fair balance that had to be struck between the rights of individuals (here, free speech under article 10 of the European Convention of Human Rights (the ECHR) (Article 10) and freedom of assembly under Article 11 of the ECHR (Article 11)) and the rights of the community

(here, national security and the protection of the rights of others under Articles 10.2 and 11.2 of the ECHR). The Divisional Court applied the well-known four-stage test of proportionality in *Bank Mellat v HM Treasury (No 2)* [2013] UKSC 39; [2014] AC 700 (*Bank Mellat*) at [20]. It concluded at [J140] that "the nature and scale of Palestine Action's activities, so far as they [comprised] acts of terrorism, [had] not yet reached the level, scale and persistence that would justify the application of the criminal law measures that are the consequence of proscription, and the very significant interference with Convention rights consequent on those measures".

5. The Home Secretary appeals these decisions on two main grounds. First, she contends that the Divisional Court wrongly interpreted the Proscription Policy as preventing the Home Secretary from taking into account the "intended and beneficial disruptive effects of the proscription regime" when considering whether to apply that regime to Palestine Action. Secondly, she contends that the Divisional Court was wrong to strike the fair balance under the fourth stage in *Bank Mellat* against the proscription of Palestine Action. The Divisional Court "failed to accord [the Home Secretary] the proper degree of margin in a context in which the protection of national security and of the public from terrorism was central and the matters under consideration were particularly apt for judgment by [the Home Secretary]". The Home Secretary relies on a number of authorities, including *Rehman v Secretary of State for the Home Department* [2001] UKHL 47; [2001] 1 AC 153 per Lord Hoffmann at [45]-[56] (*Rehman*); *R (Lord Carlile of Berriew) v Secretary of State for the Home Department* [2015] AC 945 per Lord Sumption at [22]-[34] (*Carlile*); *Begum v Secretary of State for the Home Department* [2021] UKSC 7; [2021] AC 765 per Lord Reed at [57]-[58] (*Begum UKSC*); *U3 v Secretary of State for the Home Department* [2025] UKSC 19; [2025] AC 1510 per Lord Reed at [61]-[68] (*U3*); *Shvidler v Secretary of State for Foreign, Commonwealth and Development Affairs* [2025] UKSC 30; [2025] 3 WLR 346 per Lord Sales and Lady Rose at [123] (*Shvidler*); and *R v ABJ* [2026] UKSC 8 per Lord Reed at [106] (*ABJ*).

6. The appeal raises points of general public importance concerning the use of the power to proscribe under section 3 of the 2000 Act. It engages the respective constitutional responsibilities and institutional competencies of the courts and the executive. Further, many individuals have been arrested and/or charged for offences under the 2000 Act in respect of Palestine Action; there are currently over 700 cases pending in the criminal courts of England and Wales, and many more at the pre-charge stage. We also understand that proceedings challenging the Proscription Decision have been commenced and are ongoing in Scotland: *Murray v The Advocate General for Scotland* (reference COS-P1017-25).

Our decision in outline

7. On the two main points, we have decided that the Home Secretary's appeal should be allowed. The Proscription Decision ought not to have been quashed.

8. The Home Secretary did not fail to comply with her Proscription Policy, on its proper interpretation. The purpose of the Proscription Policy was not to limit or constrain the factors available to the Home Secretary for consideration. She was fully entitled to take into account the operational benefits of proscription in dealing with Palestine Action holistically as an organisation. On the basis of the Proscription Policy, the Home Secretary's decision to proscribe Palestine Action was, subject to the questions of proportionality and fair balance, lawful.

9. We have rejected the Home Secretary's argument that Article 17 (prohibition of abuse of rights) of the ECHR meant that any expression of support for, or association with, Palestine Action fell outside the scope of Articles 10 and 11.

10. We therefore proceeded to consider the questions of proportionality and the fair balance between the rights of individuals (free speech and freedom of assembly) and the rights of the community (national security and the rights of others). We have decided that we should consider those questions afresh, following *Shvidler* at [120]-[125] and [142]-[149], rather than undertaking a review of the Divisional Court's decision. This is clearly a case of "major social [and] political significance" (see [144] in *Shvidler*).

11. We have carefully applied the four-stage test in *Bank Mellat* afresh and have decided that the Home Secretary's decision to proscribe Palestine Action was lawful. The Divisional Court was, therefore, wrong to hold that the Proscription Decision was unlawful.

12. We have balanced the free speech and freedom of assembly rights of individuals including: (i) the rights of the many law-abiding citizens wishing peacefully to protest, hold placards and otherwise support Palestine Action, and (ii) the "chilling effect" that proscription may have upon those wishing to support the Palestinian cause, but who may be dissuaded from doing so by fear of committing offences under the 2000 Act. We have considered the interveners' submissions on these matters and on the alleged emerging international consensus that the proscription of bodies such as Palestine Action is disproportionate. We have concluded that the evidence of such a consensus was exiguous and that, on the basis of authority from the European Court of Human Rights (the ECtHR), states enjoy a wide margin of appreciation in relation to the prohibition of indirect support for terrorism (see *Schwabe v. Germany* (2011) 59 EHRR 28 at [113], *Internationale Humanitare Hilfsorganisation eV v. Germany* (Application No 11214/19) 10 October 2023 unreported at [89] (*Internationale Humanitare*), and *ABJ* at [106]).

13. We have decided that these factors are outweighed by the matters to be placed on the other side of the balance, including: (i) Palestine Action is not an organisation engaged in activities falling within the well-established tradition of peaceful protest, (ii) Palestine Action is, instead, an organisation that is concerned in terrorism as defined in the 2000 Act and is engaged in causing serious damage to property using weapons, including sledgehammers, presenting very real risks of injury to members of the public, (iii) Palestine Action's "Underground Manual" published in late 2023 advocates the disruption and destruction of and damage to its targets, and avoiding detection, (iv) Palestine Action's nationwide campaign was escalating and was not being pursued with any restraint, (v) that campaign was intended to close down the operations of companies pursuing lawful businesses, and has involved direct criminal action against businesses and institutions, including key national infrastructure and defence firms that provide services and supplies to support Ukraine, the North Atlantic Treaty Organisation (NATO), the "Five Eyes" allies and the UK defence enterprise, and (vi) a key benefit of proscribing Palestine Action was to prevent it from funding terrorism and to degrade its covert infrastructure characterised by secret cells.

14. Applying the statements of principle in the Supreme Court authorities referred to at [5] above, we have given an appropriate margin of appreciation to the Proscription Decision. The Home Secretary proceeded on the basis of the advice from the Joint

Terrorism Analysis Centre and other experts, and reached her decision properly following the Proscription Policy, making her own balance between the free speech and freedom of assembly rights of individuals and the interests of national security and of third parties, such as the companies affected by Palestine Action's activities. She had both the institutional competence and the democratic accountability to make that decision. We have given due weight to her assessment in reaching our decision on whether the proscription of Palestine Action is a justified interference with Article 10 and 11 rights.

15. We have also decided to refuse Ms Ammori permission to cross appeal the Divisional Court's decision on two grounds, namely: (i) that the Home Secretary acted unlawfully by failing to give Palestine Action the opportunity to make representations before the Proscription Order was laid before Parliament (the Procedural Fairness Ground); and (ii) that the Proscription Decision was contrary to the Human Rights Act 1998 because it amounted to unlawful discrimination contrary to the rights protected by Article 14 of the ECHR, read with Articles 10 and 11 (the Discrimination Ground).

16. Before dealing with the procedural history, the factual background, the Proscription Decision, the Divisional Court's reasoning and the individual grounds of appeal and proposed cross-appeal, it is useful to set out the relevant provisions of the ECHR and of the 2000 Act, and the relevant provisions of the Proscription Policy. In addition to this open judgment, we have produced a closed judgment dealing with the closed materials that were relied upon by the Home Secretary.

C. The relevant provisions of the ECHR

17. Article 10 of the ECHR provides as follows:

> **Freedom of expression**
> 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

18. Article 11 of the ECHR provides as follows:

> **Freedom of assembly and association**
> 1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of

> national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

19. Article 14 of the ECHR provides as follows:

> **Prohibition of Discrimination**
> The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination 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.

20. Article 17 of the ECHR provides as follows:

> **Prohibition of abuse of rights**
> Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitations to a greater extent than is provided for in the Convention.

D. The relevant provisions of the 2000 Act

21. The 2000 Act "provides the measures considered by Parliament to be necessary to protect the citizens of the United Kingdom against terrorism, and to enable a democratic society to operate without fear. It also contains measures designed to prevent the United Kingdom from being used for the purpose of terrorism outside the jurisdiction" (see *ABJ* at [18]).

22. By section 3(4) of the 2000 Act, the Home Secretary may proscribe an organisation if she believes that the organisation is "concerned in terrorism". It is a broad, discretionary power, not a duty. Any decision to proscribe must be made by the procedure specified in section 123(4) of the 2000 Act. The Home Secretary must lay an order before Parliament which takes effect only when approved by each House of Parliament by affirmative resolution.

23. "Terrorism" is defined in section 1 of the 2000 Act as the "use or threat of action" when the "use or threat" is "designed to influence the government … or to intimidate the public or a section of the public" and "is made for the purpose of advancing a political, racial or ideological cause".

24. "Action" is defined by section 1(2) of the 2000 Act, materially for present purposes, as involving "serious violence against a person" or "serious damage to property".

25. Being "concerned in terrorism" is defined by section 3(5) of the 2000 Act as:

> (5) For the purposes of subsection (4) an organisation is concerned in terrorism if it –

(a) commits or participates in acts of terrorism,

(b) prepares for terrorism,

(c) promotes or encourages terrorism, or

(d) is otherwise concerned in terrorism.

26. Section 123(4) of the 2000 Act provides that a proscription order under section 3(3) "shall not be made, subject to subsection (5), unless a draft has been placed before and approved by resolution of each House of Parliament". Section 123(5) of the 2000 Act provides that such an order "may be made without a draft having been approved if the Secretary of State is of the opinion that it is necessary by reason of urgency" and "the order … shall contain a declaration of the Secretary of State's opinion".

27. As stated in *ABJ* at [29], proscription is not an end in itself but is the basis on which a number of other provisions apply, "designed to prevent proscribed organisations from gathering support or financial aid, to counter their influence on susceptible individuals, and ultimately to reduce the threat which they pose to our democracy and to public safety". In particular, sections 11 to 13 of the 2000 Act create various offences that are a direct consequence of proscription. In summary: it is an offence to belong, or profess to belong, to a proscribed organisation (section 11); it is an offence to invite support for a proscribed organisation (other than the provision of money or property (which is an offence under section 15 of the 2000 Act)) (section 12); and it is an offence to wear any clothing in public or display any article in public in such a way "as to arouse reasonable suspicion that [the person] is a member or supporter of a proscribed organisation" (section 13).

28. The offence under section 12 includes expression of "an opinion or belief that is supportive of a proscribed organisation" being "reckless as to whether a person to whom the expression is directed will be encouraged to support a proscribed organisation". Section 12 also makes it an offence to arrange, manage (or assist in arranging or managing) a meeting which the person knows is to support a proscribed organisation, to further its activities, or to be addressed by a person who belongs or professes to belong to a proscribed organisation.

29. A person guilty of an offence under section 11 or 12 is liable on summary conviction to a maximum term of six months' imprisonment and/or a fine; on conviction on indictment to a maximum term of 14 years' imprisonment and/or a fine. A section 13 offence is summary only, with a maximum term of six months' imprisonment and/or a fine of up to £5,000.

30. Sections 15 to 18 of the 2000 Act create offences concerning (in summary): inviting, receiving or providing money or other property "for the purposes of terrorism" (section 15); the use and possession of property "for the purposes of terrorism" (section 16); arrangements for the provision of funding "for the purposes of terrorism" (section 17); and retention or control of property belonging to another when the property is "terrorist property" (section 18).

31. By section 1(5) action taken "for the purposes of terrorism" includes "action taken for the benefit of a proscribed organisation". By section 14 of the 2000 Act, the definition of "terrorist property" includes "money or other property which is likely to be used for the purposes of terrorism (including any resources of a proscribed organisation)". Thus sections 15 to 18 all apply to the property of proscribed organisations.

32. A person guilty of an offence under sections 15, 16, 17 or 18 is liable on summary conviction to a maximum term of six months' imprisonment and/or a fine of up to £5,000; on conviction on indictment to a maximum term of 14 years' imprisonment and/or a fine.

E. The Proscription Policy

33. The Proscription Policy was originally promulgated during the passage of the Terrorism Bill through Parliament. It arises from the fact that section 3 of the 2000 Act confers a power, not a duty, on the Home Secretary to proscribe an organisation if she believes the organisation to be concerned in terrorism.

34. The Proscription Policy is now set out in a lengthy policy paper said to have been updated on 27 February 2025. It includes sections on proscription criteria, aliases, proscription offences, deproscription, asset freezing, and separate lists of proscribed international and Northern Ireland terrorist groups. In the section headed "[p]roscription criteria", the following sections appear:

> **What is a proscribed organisation?**
>
> Under the Terrorism Act 2000, the Home Secretary may proscribe an organisation if they believe it is concerned in terrorism, and it is proportionate to do [sic] …
>
> **What is meant by 'terrorism' in the proscription context?**
>
> "Terrorism" as defined in the [2000 Act], means …
>
> **What determines whether proscription is proportionate?**
>
> If the statutory test is met, the Home Secretary will consider whether to exercise their discretion to proscribe the organisation.
>
> In considering whether to exercise this discretion, the Home Secretary will take into account other factors including:
>
> - The nature and scale of the organisation's activities
> - The specific threat that it poses to the UK
> - The specific threat that it poses to British Nationals overseas
> - The extent of the organisation's presence in the UK

- The need to support other members of the international community in the global fight against terrorism.

F. Procedural history

35. The Proscription Decision was implemented through the Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2025 (the Proscription Order). The Proscription Order was laid before Parliament by the Home Secretary on 30 June 2025. It was approved by the House of Commons on 2 July 2025 and by the House of Lords on 3 July 2025. It was made on 4 July 2025 and came into force on 5 July 2025.

36. In late June 2025, Ms Ammori brought these judicial review proceedings against the Home Secretary.

37. Permission was granted for Ms Ammori to pursue four of her eight pleaded grounds of challenge, namely: (i) the Procedural Fairness Ground (see [15] above), (ii) that, when making the Proscription Decision, the Home Secretary failed to take into account relevant considerations (the Consideration Ground), (iii) that the Proscription Decision was made by the Home Secretary in breach of her own Proscription Policy on the exercise of discretion to proscribe (the Policy Ground), (iv) that the Proscription Decision was contrary to the Human Rights Act 1998 because it amounted to an unjustified interference with the rights protected by Article 10 (freedom of expression), Article 11 (freedom of association and peaceful assembly) (the Proportionality Ground). (Alongside the Proportionality Ground was an additional allegation of unlawful discrimination contrary to the rights protected by Article 14 (prohibition of discrimination) (the Discrimination Ground).)

38. The Divisional Court (the President of the King's Bench Division, Swift and Steyn JJ) handed down judgment in February 2026. The Procedural Fairness, Consideration and Discrimination Grounds were dismissed, but both the Policy Ground and the Proportionality Ground succeeded. The Proscription Decision was declared to be unlawful, and the Proscription Decision and the Proscription Order (so far as it related to Palestine Action) were quashed.

39. The Divisional Court granted the Home Secretary permission to appeal and stayed its quashing order. As we have identified at [5] and [9] above, the Home Secretary appeals on three grounds, namely that the Divisional Court: (i) wrongly interpreted the Proscription Policy; (ii) should have accepted the Home Secretary's submission that Article 17 meant that support for Palestine Action fell outside Articles 10 and 11; and (iii) was wrong in its approach and findings on proportionality.

40. Ms Ammori resists the appeal and also seeks permission to cross-appeal the Divisional Court's dismissal of the Procedural Fairness Ground and the Discrimination Ground. The application for permission to cross-appeal proceeded before us on a "rolled-up" basis, that is to say that we would consider whether to grant permission with the appeal to be heard on the same occasion.

41. We allowed the following organisations, which had been permitted to intervene below, to intervene (by way of written submissions only) essentially on the Proportionality

Ground: the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism (the UNSR), Amnesty International UK (Amnesty) and Liberty.

G. Summary of Background Facts

42. Important background facts about Palestine Action are set out in the Divisional Court's judgment at [J15] to [J30]. As the Divisional Court said at [J24], the content of Palestine Action's "Underground Manual" is revealing. It was noted, we would say significantly, that the evidence from or on behalf of Ms Ammori provided "surprisingly little information" about Palestine Action. The Divisional Court stated that the extent and nature of Palestine Action's membership and organisation were "largely unexplained", although it was unlikely that an organisation committed to achieving an objective through direct action "would do nothing to direct that action to its best effect and would have no structure to promote and guide its direct action" (see [J18] and [J19]). The lack of information was, stated the Divisional Court, "intentional" and "consistent with the image of a covert organisation that is cultivated in the Underground Manual" (see [J65]). As set out in the Underground Manual, Palestine Action operated through cells of "trusted people". The Underground Manual emphasised the importance of covert action. The use of security precautions when communicating between members was encouraged, so as to avoid detection. There was advice on how to avoid being identified or arrested, and how to destroy incriminating material. There was advice on "smashing stuff … with an efficient sledgehammer in your hand" as something that was "very quick" and could cause "quite a bit of damage". Parts of the four-step guide in the Underground Manual are included in Annex A to this judgment.

43. The main target of Palestine Action's activities in the United Kingdom was Elbit Systems UK Limited (Elbit) but its activities were also directed at any other company or organisation considered by Palestine Action to enable Elbit's business in the United Kingdom (see [J17] for an explanation of Elbit's Israeli defence contracting activities). Palestine Action had a "wide range of targets" (see [J23]), with criminal activities undertaken with "no suggestion of restraint or proportionality". Thus, financial institutions such as Barclays Bank plc and JP Morgan, as well as other businesses, had been targets. This is reflected in the wording of the Underground Manual, which encouraged readers to "be creative" and to "disrupt damage or destroy" targets "without restraint" (see [J25] and [J26]).

44. The Divisional Court identified that three incidents had been assessed to have resulted in serious damage to property amounting to terrorism within the meaning of the 2000 Act. Those three incidents were: (i) in 2022 at the premises of Thales SA in Glasgow, (ii) in June 2024 at the premises of Instro Precision in Kent, and (iii) in August 2024 at Elbit's premises in Bristol (the three incidents). The Divisional Court found that the three incidents could not safely be regarded as "outliers" in terms of Palestine Action's activities, either as to scale or extent (see [J28]). The Divisional Court was clear that Palestine Action could not properly be portrayed as a "non-violent" organisation; it was not accurate to describe it as an ordinary protest group engaged in activities falling within the well-established tradition of peaceful protest (see [J21] to [J30]).

45. We reject Ms Ammori's challenge to these conclusions (raised by way of Respondent's Notice). Palestine Action was an organisation engaged in causing serious damage to property using weapons, including sledgehammers. It presented a very real risk of

injury not only to property but also to members of the public. Its campaign was intended to close down the operations of a company pursuing a lawful business. The campaign has not been pursued with restraint. The wide range of targets is significant. It was designed to intimidate the persons and businesses targeted to end their relationships with Elbit. It operated covertly to prevent its operations being known or perpetrators being apprehended. It was not "engaged in any exercise of persuasion, or at least not the type of persuasion that is consistent with democratic values and the rule of law" (see [J23]).

H. The Proscription Decision

46. The Proscription Decision was announced shortly after an incident in the early hours of 20 June 2025 when three Palestine Action activists broke into RAF Brize Norton and damaged two military planes with spray paint (the Brize Norton incident).

47. The detail of the Home Secretary's decision-making process is set out in [J31] to [J46]. In overview, on 10 February 2025, a cross-departmental Proscription Review Group (the PRG) was tasked by the Home Secretary with considering certain candidate organisations for proscription, including Palestine Action. The PRG included Counter Terrorism Policing (CTP), comprising specialist police officers from many police forces.

48. The PRG was provided with the following five documents to assist in its deliberations:

    i) The Joint Terrorism Analysis Centre (JTAC) produced a report dated 7 March 2025, concluding that Palestine Action met the requirements under section 3(5) of the 2000 Act to be an organisation concerned in terrorism. In summary, it assessed that the volume and seriousness of Palestine Action's activity had increased in 2024. Two incidents that year had caused property damage valued at over £1 million. The Bristol incident involved the use of violence and weapons against security staff and responding police officers. Palestine Action committed or participated in acts of terrorism, was involved in preparing for acts of terrorism and had promoted terrorism. It had a large social media following and frequently held online training sessions which were highly likely intended to train members and supporters in its direct action strategy.

    ii) CTP produced a General Report dated 5 March 2025. The General Report considered the benefits and disadvantages of proscription in detail. In terms of benefits, it was assessed, amongst other things, that additional disruptive options would be beneficial in surmounting the high standard of operational security used by Palestine Action online and in the real world, which had the effect of frustrating the efforts of law enforcement to detect and prevent its activities. Reference was made to what were described as the limitations of the legislation outside proscription, and the "benefit" of proscription in terms of the additional offences available. In headline terms, CTP's view was that "operationally, existing legislation is seen as insufficient to address high-level offences, which meet the definition of terrorism … concerning serious violence and/or serious damage".

    iii) CTP also produced an accompanying letter dated 6 March 2025, saying that: "[w]hilst current legislation has enabled individual activists to be prosecuted,

> we are concerned that criminal charges fail to capture the organisational capability and high culpability of offending, namely in the complexity of the planning, extent of preparations, severity of offending and intended impact, as well as the network as a whole including its leadership, membership, influence and funding. We assess that proscribing [Palestine Action] under [the 2000 Act] legislation would have considerable operational benefits. It would allow CTP to disrupt, deconstruct and prosecute [Palestine Action] holistically as a network".

iv) The Foreign, Commonwealth and Development Office provided an assessment dated 11 March 2025 on the fifth discretionary factor in the Proscription Policy (see [34] above). No significant foreign policy factors in favour of proscription were identified.

v) A Community Impact Assessment dated 6 March 2025 was prepared by the Ministry of Housing, Communities and Local Government and others considering how the British public were likely to view proscription.

49. At a meeting on 13 March 2025, the PRG concluded that Palestine Action committed or participated in acts of terrorism (relying on the three incidents in Glasgow, Kent and Bristol), prepared for terrorism (relying on the Underground Manual), and promoted or encouraged terrorism. The PRG concluded unanimously that JTAC's assessment offered a basis on which the Home Secretary could hold a reasonable belief that, based on its activity in the UK, Palestine Action was currently concerned in terrorism.

50. The PRG considered the exercise of discretion, including additional discretionary factors beyond those identified specifically in the Proscription Policy. Amongst other things, it considered that proscription would provide "significant disruptive benefits beyond the current policing powers", would be proportionate to support police efforts to mitigate the threat posed and would discredit Palestine Action's brand and its aims to radicalise others to engage in serious high-level activity. It considered that the severe penalties under sections 11 to 13 of the 2000 Act would "deter rather than embolden individuals". It concluded unanimously that the discretionary considerations weighed in favour of proscription, alongside the need for a "robust comms strategy" which included sharing more detail on Palestine Action's terrorist activity.

51. The PRG's recommendation was taken up in a written submission to the Home Secretary dated 26 March 2025. After advice on the legal requirements for a decision to proscribe, the Home Secretary was advised on the question of exercise of discretion to have regard to the factors set out in the Proscription Policy (see [34] above) "as well as any other factors (including whether the circumstances justify the interference that proscription would have with the rights of those who are members of, or support the group, specifically ECHR Articles 10 (freedom of expression) and 11 (freedom of association)". The advice was thus modified, but faithful to, the Proscription Policy. The submission recorded that Palestine Action's direct action consisted mainly of damage to property, that Palestine Action had a covert chapter operating through cells, that the volume and seriousness of its activity had increased in 2024 and that it had a large social media following. The submission recorded that there was no known precedent of an organisation being proscribed on the basis of action involving serious damage to property. It concluded unanimously that three of the four criteria under the statutory test for terrorism were satisfied (committing or participating in acts of terrorism, preparing for terrorism and promoting terrorism). It then recorded that the

PRG had agreed unanimously that the discretionary considerations weighed in favour of proscription. Such considerations included the evidence of Palestine Action's intention to escalate the seriousness of its activity, intention to radicalise individuals, the impact of Palestine Action's activity on individuals, organisations and the Government's strategic defence aims, and the risk that proscription would inhibit lawful protest by Palestine Action.

52. A further submission to the Home Secretary dated 2 April 2025 noted that Palestine Action's activity had escalated in seriousness in the previous 18 months. On 14 May 2025 it was recorded that the Home Secretary had accepted the recommendation to proscribe Palestine Action and wanted to proceed as soon as possible. The process was, however, paused for further information, which was provided in a further submission dated 4 June 2025. It reported that, since August 2024, Palestine Action had been responsible for 158 "direct action events", 28 of which had caused significant damage to property. 159 arrests had been made. Reference was made to "co-ordinated direct action". The further submission repeated the PRG's unanimous agreement that Palestine Action was currently concerned in terrorism. It also repeated that, as set out in the advice of 26 March 2025, proscription would provide "significant benefits to operational partners working to disrupt" Palestine Action's activity.

53. On 20 June 2025, shortly after the Brize Norton incident earlier in the day, the Home Secretary confirmed her decision to proscribe Palestine Action. She made a written statement to the House of Commons three days later, on 23 June 2025, which read as follows:

> I have decided to proscribe Palestine Action under section 3 of the Terrorism Act 2000. A draft proscription order will be laid in Parliament on Monday 30 June. If passed, it will make it illegal to be a member of, or invite support for, Palestine Action.
>
> This decision is specific to Palestine Action and does not affect lawful protest groups and other organisations campaigning on issues around Palestine or the Middle East.
>
> The disgraceful attack on Brize Norton in the early hours of the morning on Friday 20 June is the latest in a long history of unacceptable criminal damage committed by Palestine Action. The UK's defence enterprise is vital to the nation's national security and this Government will not tolerate those that put that security at risk. Counter Terrorism Policing are leading the criminal investigation into this attack. It is important that this process is free from interference and the police are allowed to carry out their important work gathering evidence and working to bring perpetrators to justice.
>
> Since its inception in 2020, Palestine Action has orchestrated a nationwide campaign of direct criminal action against businesses and institutions, including key national infrastructure and defence firms that provide services and supplies to support Ukraine, [NATO], 'Five Eyes' allies and the UK defence enterprise. Its activity has increased in frequency and severity

since the start of 2024 and its methods have become more aggressive, with its members demonstrating a willingness to use violence. Palestine Action has also broadened its targets from the defence industry to include financial firms, charities, universities and government buildings. Its activities meet the threshold in the statutory tests established under the Terrorism Act 2000. This has been assessed through a robust evidence-based process, by a wide range of experts from across government, the police and the Security Services.

In several attacks, Palestine Action has committed acts of serious damage to property with the aim of progressing its political cause and influencing the Government. These include attacks at Thales in Glasgow in 2022; and last year at Instro Precision in Kent and Elbit Systems UK in Bristol. The seriousness of these attacks includes the extent and nature of damage caused, including to targets affecting UK national security, and the impact on innocent members of the public fleeing for safety and subjected to violence. The extent of damage across these three attacks alone, spreading the length and breadth of the UK runs into the millions of pounds.

During Palestine Action's attack against the Thales defence factory in Glasgow in 2022, the group caused over a million pounds worth of damage including to parts essential to submarines. The Sheriff, in passing custodial sentences for the attackers' violent crimes, spoke of the panic among staff who feared for their safety as pyrotechnics and smoke bombs were thrown in the area where they were evacuating. He further recorded the extent of damage to legitimate business activities which included 'matters of nationwide security' and disputed the groups' claims its actions were non-violent. The attacks at Elbit Systems in Bristol and Intro Precision in Kent remain sub judice. To avoid prejudicing future criminal trials the Government will not comment on the specifics of these incidents.

Palestine Action has provided practical advice to assist its members with conducting attacks that have resulted in serious damage to property. In late 2023, Palestine Action released 'The Underground Manual'. The document encourages the creation of cells; provides practical guidance on how to carry out activity against private companies and government buildings on behalf of Palestine Action; and provides a link to a website which contains a map of specific targets across the UK. The manual encourages its members to undertake operational security measures to protect the covert nature of their activity.

Through its media output, Palestine Action publicises and promotes its attacks involving serious property damage, as well as celebrating the perpetrators.

> Palestine Action's online presence has enabled the organisation to galvanise support, recruit and train members across the UK to take part in criminal activity and raise considerable funds through online donations. The group has a footprint in all 45 policing regions in the UK and has pledged to escalate its campaign.
>
> It is vitally important that that those seeking to protest peacefully, including pro-Palestinian groups, those opposing the actions of the Israeli government, and those demanding changes in the UK's foreign policy, can continue to do so. The right to peaceful protest is a cornerstone of our democracy. Should Parliament vote to proscribe, that right will be unaffected.
>
> What it will do is to enable law enforcement to effectively disrupt the escalating actions of this serious group. Only last month, Palestine Action claimed responsibility for an attack against a Jewish-owned business in North London where the glass-front of the building was smashed and the building and floor defaced with red paint including the slogan 'drop Elbit'. Such instances do not represent a legitimate or peaceful protest. Regardless of whether this instance itself amounts to terrorism, such activity is clearly intimidatory and unacceptable. It is one that has been repeated many times by this organisation at sites the length and breadth of the UK.
>
> I have considered carefully the nature and scale of Palestine Action's activity. Proscription represents a legitimate response to the threat posed by Palestine Action. The first duty of government is to keep our country safe, which is the foundation of our Plan for Change.
>
> Given significant public concern over recent activities by this group, including the incident in Brize Norton last week, and balancing the relevant considerations, I have decided to confirm this decision to proscribe to the House in advance of laying the relevant order.

54. The Brize Norton incident, whether a terrorist incident or not, clearly played a material part in triggering the Home Secretary's ultimate decision to proceed with proscription at the time when she did, and in the terms that she did.

55. Ms Ammori sought to challenge the Home Secretary's assessment that Palestine action was an organisation "concerned in terrorism" for the purposes of her power to proscribe Palestine Action but was refused permission to do so (see [2025] EWHC 2013 (Admin) at [77] to [80]). The correctness of the assessment was therefore not a live issue before us.

I. The reasoning of the Divisional Court

The Divisional Court's reasoning on the Policy Ground

56. As set out above, the Divisional Court concluded that the Proscription Decision was not reached on a basis consistent with the Home Secretary's own Proscription Policy. Its analysis, in summary, was as follows.

57. The reference to proportionality in the Proscription Policy (see [34] above) was not a reference to "*Bank Mellat*-style" proportionality. It involved an evaluation of whether the objective sought justified applying the means that would achieve it (see [J74] and [J75]). The better approach was that the requirement in the Proscription Policy to proscribe an organisation only if it was "proportionate" required the Home Secretary "to approach the exercise of her discretion comprehensively: to appreciate the likely consequences of proscribing Palestine Action on its members/supporters and others; to understand the nature and significance of Palestine Action by reference to the five stated factors and/or other relevant considerations; and then to assess the need for proscription" (see [J80]). The Divisional Court went on to say at [J81] that the outcome of the case would be the same whichever approach was adopted.

58. The "activities" referred to in the first of the five factors set out in the Proscription Policy (the nature and scale of an organisation's activities) did not extend to the totality of an organisation's activities, rather only to such activities as amounted to terrorism within the definition in section 1 of the 2000 Act (see [J83]). The Proscription Policy required the Home Secretary to assess the restrictions consequent on proscription and determine whether they were, "in a general sense, proportionate to the nature and scale of the threat presented by the organisation, to the extent that it was concerned in terrorism (and not by reference to other activities that it might undertake)" (see [J84]).

59. The Home Secretary was entitled to take the approach that she did to the five factors stated on the face of the Proscription Policy (see [34] above and [J88]).

60. The Home Secretary's approach to "other factors" was not consistent with the Proscription Policy. The fact that proscription would be advantageous because the offences in sections 11 to 13 of the 2000 Act could be used against any person supporting Palestine Action, and that the presumptions arising from the definitions of "terrorist property" and "for the purposes of terrorism" could be engaged, were not relevant considerations (see [J90] to [J95]). Any "other factor" considered when applying the Proscription Policy had to be either of the same generic nature as the five factors or to contribute to explain the particular need to prescribe that organisation above and beyond the necessary belief that the organisation is one that is concerned in terrorism" (see [J91]). The operational consequences and advantages of proscription was not a factor consistent with the Proscription Policy for the obvious reason that such consequences and advantages would apply equally to any organisation that could be proscribed (see [J94]).

61. It was not "highly likely" for the purpose of section 31(2A) of the Senior Courts Act 1981 that the Home Secretary's decision would have been the same, had the Proscription Policy been applied properly (see [J149]).

The Divisional Court's reasoning on the Proportionality Ground

62. In relation to the Proportionality Ground concerning the interference with the rights of individuals under Articles 10 and 11, the Divisional Court had no doubt that the four-step approach in *Bank Mellat* applied to its own analysis of that issue (see [J98]). The Divisional Court reasoned, in summary, as follows.

63. The challenge was not to a general measure but to a specific executive decision (see [J102]).

64. What needed to be justified was the restriction on actions comprising peaceful protest, consistent with ECHR rights, under the Palestine Action banner (see [J109]). The Home Secretary's submission that Article 17 operated to prevent such rights being engaged failed (see [J115]).

65. Taken together, the criminal law consequences of proscription meant that proscription amounted to a "very significant" interference with the right to free speech and the right to freedom of peaceful assembly. Nevertheless, there was a "general correlation" [J124] between the proscription of Palestine Action and the interference "in so far as the adverse impacts are generally limited to those who have or would support Palestine Action and do not have any widespread or general impact on expressions of support for the general Palestinian cause" (see [J104] to [J106] and [J116] to [J124]).

66. The interference was not "prescribed by law" (within Article 10.2 or Article 11.2) because the Home Secretary had failed properly to apply the Proscription Policy (see [J125]).

67. The identified legitimate aims of the Proscription Decision, namely the protection of the rights and freedoms of others and the interests of national security, were objectives that, in principle, were capable of warranting an interference with Article 10 and 11 rights. Further, there was a rational connection between proscription and those objectives (see [J128] and [J129]).

68. The notion that proportionality required the Home Secretary to resort only to encouraging those affected to seek civil remedies was rejected (see [J134]).

69. There was a substantial interference with Article 10 and 11 rights that required justification (see [J135]). When striking a fair balance: "the court must permit some latitude to the Home Secretary given that she has both political and practical responsibility to secure public safety" (see [J138]). Nevertheless, the Proscription Decision was disproportionate. A very small number of Palestine Action's actions had amounted to terrorist action within the definition of section 1 of the 2000 Act and, for those actions, the criminal law was available to prosecute those concerned. Considering the evidence available to the Home Secretary at the time of the Proscription Decision in the round, "the nature and scale of Palestine's activities, so far as they comprise[d] acts of terrorism, ha[d] not yet reached the level, scale and persistence that would justify the application of the criminal law measures that are the consequence of proscription, and the very significant interference with Convention rights consequent on those measures" (see [J138] to [J140]).

J. Was the Divisional Court right to uphold the Policy Ground?

70. The Policy Ground goes to the legality of the Home Secretary's exercise of discretion under section 3(3) of the 2000 Act. As explained at [60] above, the Divisional Court concluded that the Home Secretary had impermissibly taken into account the operational benefits of proscription in reaching the Proscription Decision.

71. The submission of 26 March 2025 to the Home Secretary included the following:

> "Operational impact
>
> 30. Proscription would enable operational partners to disrupt [Palestine Action's] activity and organisational infrastructure. Proscription would provide law enforcement with additional levers to disrupt [Palestine Action's] operation and critical infrastructure, operate overtly, and use media platforms to project legitimacy and potentially radicalise people to its cause.
>
> 31. The PRG agreed that targeted financial sanctions against [Palestine Action] or individual members would not provide a sufficient level of disruption. Proscription would send a stronger statement that the Government (and Parliament) consider [Palestine Action] to be terrorist and not a legitimate protest organisation as a result of its actions.
>
> 32. Without proscription, [Palestine Action] could continue to operate despite sanctions, with the ongoing risk that it radicalises more people to join and participate in acts of terrorism.

72. The final submission of 4 June 2025 to the Home Secretary repeated the following:

> 12. As was set out in the proscription advice (26 March), proscription would provide significant benefits to operational partners working to disrupt [Palestine Action's] activity. Proscription would provide law enforcement with additional levers to disrupt [Palestine Action's] operation and critical infrastructure, operate overtly, and use media platforms to project legitimacy and potentially radicalise people to its cause.

73. The Divisional Court held that the purpose of the Proscription Policy was to limit the use of the Home Secretary's discretionary power to proscribe (see [J91] and [3] above). The reference to "activities" in the first of the five factors set out in the Proscription Policy (the nature and scale of an organisation's activities) did not extend to the totality of an organisation's activities (see [58] above).

74. The Home Secretary makes the following points in support of her appeal on the Policy Ground: (i) that the reference to proportionality in the Proscription Policy was indeed to proportionality in the *Bank Mellat* sense, (ii) that the Divisional Court adopted an excessively analytical approach to the meaning of the Proscription Policy, (iii) the purpose of the Proscription Policy was not to limit the exercise of the Home Secretary's discretion to proscribe, (iv) that the five factors in the Proscription Policy were non-exhaustive, so that other relevant factors could include the operational benefits of

proscription, and (v) it was open to the Home Secretary to evaluate both the terrorist and the non-terrorist activities of the organisation being considered for proscription.

75. Before dealing with these points, for ease of reference, we repeat the five discretionary factors included in the Proscription Policy:

> In considering whether to exercise this discretion, the Home Secretary will take into account other factors including:
>
> - The nature and scale of the organisation's activities
> - The specific threat that it poses to the UK
> - The specific threat that it poses to British Nationals overseas
> - The extent of the organisation's presence in the UK
> - The need to support other members of the international community in the global fight against terrorism.

Did proportionality in the Proscription Policy refer to proportionality in the Bank Mellat sense?

76. The Divisional Court considered that the heading to the relevant part of the Proscription Policy: "What determines whether proscription is proportionate", was not a reference to proportionality in the *Bank Mellat* sense (see [57] above). Instead, it was a reference to a proportionality exercise involving the Home Secretary weighing the benefits that proscription would achieve (by reference to the five listed factors or other factors of the same nature) against the cost of proscription (being its undesirable impact on others). This was not a position in fact advanced by either party below, each of whom had proceeded on the basis of a *Bank Mellat*-style approach.

77. The Divisional Court gave two reasons for its analysis (at [J79]). First, it said that if the requirement was to be proportionate in the sense that a court would apply, compliance with the policy would collapse into a requirement to comply with the general law. Secondly, it did not see how the Home Secretary would afford herself the latitude required for the decision-maker in applying steps two to four of the *Bank Mellat* test.

78. Neither reason commends itself to us. First, there is no difficulty with the Proscription Policy itself requiring that the decision be lawful in the sense of being a proportionate interference with ECHR rights (even if, by doing so, the Proscription Policy involves no more than complying with the general law). Further, if the policy assessment on proportionality under the Proscription Policy is not to be ECHR-compliant, its surprising effect would be to demand a proportionate outcome by reference to different metrics, both of which could then be reviewed by a court. Secondly, there is nothing counter-intuitive in the Home Secretary having regard to how a court would review her decision, understanding that she would be given a margin of appreciation on certain issues. Further, as the Home Secretary pointed out, the submissions to the Home Secretary referred expressly to the ECHR-compliant proportionality analysis required in respect of Articles 10 and 11 (see [51] above).

Was the purpose of the Proscription Policy a limiting one so that other relevant factors could not include the operational benefits of proscription?

79. We can take the Home Secretary's second to fourth points (see [74] above) together.

80. Policies in the field of public administration are to be interpreted objectively in accordance with the language used, read as always in their proper context. That context includes that they are not statutory texts. They are not rules, but guides (see, for example, *The First Secretary of State and another v Sainsbury's Supermarkets Ltd* [2005] EWCA Civ 520 at [16]).

81. Policies are not to be read in a complicated or excessively analytical way (see *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13; [2012] PTSR 983 at [17] and *R v Criminal Injuries Compensation Board ex p K* [1998] 1 WLR 1458 at 1461). Some policies engage relatively specific language and others are expressed in much broader terms which may not require or lend themselves to the same level of legal analysis (see *Secretary of State for Communities and Local Government v. Hopkins Homes Ltd* [2017] UKSC 37; [2017] 1 WLR 1865 at [24] and [25]). A more sophisticated approach risks the court finding itself drawn into the role of policy-maker (see *R (Tesco Stores Ltd) v. Stockport MBC* [2025] EWCA Civ 610; [2025] PTSR 1877 at [36] to [38]).

82. The Proscription Policy is a public information document available on a government website. It is described on its frontispiece as a "Policy paper", but is not in substance what one would expect from a policy as such. With the exception of the passage on factors that the Home Secretary will consider when deciding whether to exercise the discretion to proscribe, its 41 pages are devoted essentially to setting out various legal and procedural aspects of proscription and deproscription, followed by a list and description of proscribed and deproscribed organisations. The passage of direct relevance is brief, unsophisticated and open-textured in its language.

83. The Home Secretary contends that the purpose of the Proscription Policy was to render transparent some of the non-exhaustive factors that will be considered. We agree. There is nothing in the wording of the Proscription Policy, which is broadly framed, to indicate that its purpose is to limit or constrain the factors to be considered. On the contrary, the list of factors is expressly non-exhaustive. And there is no proper basis on which to limit the factors available to the Home Secretary for consideration by reference to "similarity" with the five listed factors, as Mr Husain KC for Ms Ammori fairly conceded in his oral submissions. It is in any event difficult to understand what "similarity" with the five factors might mean (apart perhaps from drawing attention to specific matters), given the wide-ranging nature of the five specific factors identified. Likewise, we see no sound basis for the suggestion of a presumptive constraint by reference to a "particular need" to proscribe an organisation, either as a matter of proportionality or otherwise (see [60] above).

84. It may be permissible to have regard to a factor even if that factor points only towards proscription. In any event, it was not right (see [J94]) to assume that operational impact will always point one way, in favour of proscription. Moreover, the consequences and advantages of proscription necessarily do not apply "equally" (in the sense of having the same practical effect) to any organisation that could be proscribed.

85. On the contrary, as the Home Secretary posits, if almost all of an organisation's members and sympathisers are located abroad, the operational consequences of proscription will be severely limited. Operational impact would be a factor against proscription. One could also posit the example of an organisation in the process of dissolution but with membership intending to continue terrorist acts on behalf of multiple different organisations. The ineffectiveness of proscription of such a soon-to-be-dissolved organisation would again be a factor pointing away from its proscription.

86. Secondly, operational consequences are concerned with the efficacy of proscription. That is a highly material factor to be placed in the scales of the balancing exercise on proportionality. It is also recognised in Lord Reed's formulation of the fourth stage in the four-stage test in *Bank Mellat* at [74] which asks: "whether, balancing the severity of the measure's effects on the rights of the persons to whom it applies against the importance of the objective, **to the extent that the measure will contribute to its achievement**, the former outweighs the latter" (emphasis added).

87. Thus, even if, contrary to our view, the Divisional Court were right to hold that the purpose of the Proscription Policy was to limit the Home Secretary's discretionary power to proscribe, that would not have prevented the Home Secretary from legitimately considering operational consequences as a relevant factor.

88. Accordingly, in our judgment, the purpose of the Proscription Policy was not to limit or constrain the discretion of the Home Secretary. The other factors that the Home Secretary was entitled to take into account included the operational benefits of proscription in the particular case that she was considering. The Divisional Court was wrong to consider otherwise, and adopted an excessively analytical approach to the interpretation of the Proscription Policy.

Was it open to the Home Secretary to consider both the terrorist and the non-terrorist activities of the organisation being considered for proscription?

89. Finally, in this regard, the Divisional Court was wrong to interpret the term "activities" in the first listed factor in the Proscription Policy (the nature and scale of the organisation's activities) as meaning "activities amounting to terrorism within the meaning of section 1 of the 2000 Act". First, section 1 uses the word "action" rather than "activity". Secondly, the Proscription Policy contains no such express limitation and there is, for example, no limitation on the factor relating to presence in the UK. The short point is that, whilst the purpose of proscription is to prevent acts of terrorism, in deciding whether to proscribe the Home Secretary must assess the risk of future acts of terrorism. All of an organisation's activities, such as recruitment, fundraising, radicalisation and all terrorist and non-terrorist activities may be relevant to that assessment.

90. We therefore allow the appeal on the Policy Ground.

K. Does Article 17 prevent Articles 10 and 11 being engaged?

91. We turn next to the Home Secretary's appeal against the Divisional Court's refusal to hold that Article 17 prevented Articles 10 and 11 being engaged at all. In essence, the

Home Secretary argues that any expression of support for Palestine Action amounted to an expression of support for an organisation undertaking terrorist activities, so falling outside the scope of Articles 10 and 11, because it is an "act aimed at the destruction of … the rights and freedoms" within Article 17, for example by stirring up hatred or violence. The Home Secretary relies on statements in *Roj TV A/S v Denmark* (2018) 67 EHRR SE8 at [31] and *Sabuncu v Turkey* (23199/17) 19 April 2021 at [222] (cited at [J114]) and on Lord Burnett's *dicta* in *Attorney General's Reference (No 1 of 2022)* [2022] EWCA Crim 1259; [2023] KB 37 at [102]).

92. Like the Divisional Court (at [J113]-[J115]), we can deal with this argument briefly.

93. The threshold to be met under Article 17 is high. Article 17 has been stated to be only applicable "on an exceptional basis and in extreme cases". In cases concerning Article 10, it should only be resorted to "if it is immediately clear that the impugned statements sought to deflect this Article from its real purpose by employing the right to freedom of expression for ends clearly contrary to the values of the Convention" (see the Grand Chamber decision in *Perincek v Switzerland* (2016) 63 EHRR 6 at [114]).

94. As the Divisional Court rightly identified at [J115], this case is primarily concerned with the rights of individuals who have not themselves acted unlawfully either before or since the Proscription Decision. The rights in focus here are the rights of protesters who wish to express support for Palestine Action and who wish to engage in peaceful protest. Many of those who hold placards saying they oppose genocide and support Palestine do so perfectly lawfully. But their rights may be affected by proscription, because they may be dissuaded by it from exercising their lawful individual rights to free speech and freedom of assembly. This is the so-called "chilling effect" that proscription can have on those seeking to behave entirely lawfully, but prevented from doing so for fear of transgressing terrorism laws.

95. So far as Article 17 is concerned, many aims of Palestine Action (such as opposing genocide, opposing Israel's actions in Gaza, and support for Palestinians and the Palestinian cause) are not properly to be regarded as acts "aimed at the destruction [or limitation] of … the rights and freedoms" provided by the ECHR.

96. The Article 10 and 11 rights of many peaceful and lawful protesters are affected by proscription. The Home Secretary was wrong to argue that Article 17 meant either that no Article 10 and 11 rights of individuals were engaged or that the proportionality balance did not need to be undertaken at all.

97. Finally, as we identified during oral submissions, the ministerial submissions relied upon by the Home Secretary specifically advised that Articles 10 and 11 had to be considered (see [51] above). In the circumstances, it appears difficult for the Home Secretary at the same time to advance the argument that such rights were not engaged at all. Moreover, on the Policy Ground, the Home Secretary accepts that proportionality in the Proscription Policy is to be assessed on an ECHR-compliant basis.

L. The correct approach to the proportionality balance

98. Determining whether a restriction of Article 10 or 11 rights is proportionate requires an exacting analysis of the factual case advanced in defence of the measure (see *Bank Mellat* at [20]). In this case, the measure in question is the Proscription Decision.

99. The four-stage *Bank Mellat* approach requires, in this case, that the exacting analysis is undertaken in order to determine: (i) whether the objectives of the Proscription Decision were sufficiently important to justify the limitation of fundamental Article 10 and 11 rights, (ii) whether the Proscription Decision was rationally connected to those objectives, (iii) whether a less intrusive measure could have been used instead of the Proscription Decision, and (iv) whether, having regard to those matters and to the severity of the consequences of the Proscription Decision, a fair balance has been struck between the rights of the individual and the interests of the community (see [20] in *Bank Mellat*).

100. As we have already mentioned at [86] above, Lord Reed framed the fourth question slightly differently (at [74] in *Bank Mellat*). His fourth test was "whether, balancing the severity of the measure's effects on the rights of the persons to whom it applies against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter". Putting that test in the context of this case, we must ask whether, balancing the severity of the effects of the Proscription Decision on the rights of those affected by it against the importance of the objective of the Proscription Decision, to the extent that the Proscription Decision will contribute to the achievement of those objectives, the former outweighs the latter.

101. The four questions are logically separate, but in practice they inevitably overlap because the same facts are likely to be relevant to more than one of them (see again *Bank Mellat* at [20]). The burden falls on the decision-maker, here the Home Secretary, to show that all four requirements are satisfied (see *Shvidler* at [276]).

102. We follow the guidance in *Shvidler* at [144] and decide to undertake the proportionality exercise afresh (see [10] above), rather than confine our role to a review of the Divisional Court's decision. The appeal has both major social and political significance and public importance, such that the public will rightly expect us to exercise our own judgment as to whether the Proscription Decision was proportionate and lawful. Amongst other things, the Proscription Decision has led to a widespread polarising public debate on the right to protest, freedom of speech and support for international political causes. Further, the Divisional Court made its assessment on the wrong basis.

103. The task for us is therefore to make our own assessment of whether the Proscription Decision was proportionate to a legitimate aim in the manner described in *Shvidler* (at [120] and following). That is a question of law calling for assessment in the light of the facts of the case (see *Shvidler* at [160]).

M. The correct approach to the margin of appreciation

104. As emphasised in *Bank Mellat* at [21], *Shvidler* at [121] and *R (BYL) v. Chancellor of the Exchequer* [2026] EWCA Civ 170 at [49(2)], the court is not to take over the function of the primary decision-maker, least of all in a case such as this. The Proscription Decision lies in the area of national security which, before the Human Rights Act 1998, would have been regarded as unsuitable for judicial scrutiny at all. Whilst we are not bound by the Home Secretary's decision on proportionality, we must have regard to and may afford an appropriate measure of respect to the balance of rights and interests struck by the Home Secretary.

105. The measure of respect to be accorded by the court to the views of the executive or the legislature depends on the importance of the right, the degree of interference with that right, and the extent to which the courts are more or less well placed to adjudicate the balance of the various rights and interests engaged, on grounds of relative institutional expertise and democratic accountability. The court is required to attach special weight to the judgments and assessments of a primary decision-maker with special institutional competence (see *Shvidler* at [123] and [124]). In *ABJ*, Lord Reed observed specifically as follows at [106]:

> 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 … 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…"

106. It is also important to identify precisely to which aspects of the four-stage test the measure of respect is to be afforded. In *Shvidler*, the majority applied it to all four stages – though on the fourth (fair balance) question, only in so far as the balancing exercise involved bringing the public interest factors relied on by the executive into account (see [130]).

107. Whilst the Home Secretary has no special claim by reference to her institutional expertise and constitutional responsibilities when it comes to an assessment of the impact of the Proscription Decision on individuals and companies affected, she does have special constitutional responsibilities and institutional competence when it comes to questions of national security.

108. For the avoidance of doubt, we reject the submission of Amnesty and Liberty that "in this particular context" considerations of deference have little weight because of the "very limited" scrutiny of the proposed measure in Parliament. The question of institutional competence is unaffected by the level of parliamentary scrutiny. The deference in question is to the executive, particularly in circumstances where the relevant powers have been delegated to the Home Secretary by primary legislation.

109. Similarly, we reject the UNSR's submission in support of a "narrower margin of appreciation" based on an "emerging consensus among Council of Europe States" against proscription in these circumstances, the suggestion being that proscription is disproportionate.

110. We accept that such a consensus, if established, might, in theory, be relevant to a consideration of the appropriate margin of appreciation (see Lord Reed at [80] in *R (SC) v Secretary of State for Work and Pensions* [2021] UKSC 26; [2022] AC 233). There are, however, two reasons why we ought not take the alleged consensus into account in this case.

111. First, on analysis, there is no compelling evidence of the existence of such a consensus. The evidence is, at best, exiguous. The UNSR suggested an emerging consensus that

"it would be disproportionate [to proscribe Palestine Action] in international law for a range of reasons taken cumulatively". Those reasons include: (i) the fact that serious damage to property is not terrorism in other European states; (ii) Article 10 and 11 rights are fundamental to political protest; (iii) less intrusive means are available, where protests are predominantly peaceful; (iv) proscription is not tailored to the harms in question; (v) proscription triggers criminal liability for what would otherwise be lawful protest; (vi) the chilling effect on peaceful protesters; (vii) international instruments protect the form of protest chosen by the many who support Palestine Action; and (viii) direct action protest movements are not typically treated as terrorist by European states.

112. These "reasons" for the alleged "emerging consensus" are, with respect to the UNSR, a collection of separate factors, none of which is really evidence of a consensus, emerging or otherwise. Different states have different rules about terrorism, and, as explained below, a wide margin is applied to those rules by the ECtHR. We have taken all the factors identified by the UNSR into account at the appropriate stage of our proportionality analysis below.

113. Secondly, it is well established that states enjoy a wide margin of appreciation in relation to the prohibition of indirect support for terrorism. In *Internationale Humanitare*, the ECtHR said at [89] (cited by Lord Reed in *ABJ* at [106] – see [105] above):

> 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 wide margin of appreciation in that regard.

114. As emphasised in *Shvidler* at [128], it is well-established that issues of national security are central to the constitutional responsibilities of Government. It is the executive government, represented by the relevant Ministers, which has the democratic authority to take decisions in relation to national security, because it is important that those doing so should be responsible to the public for their effective protection.

115. Equally, the assessment of future risk in the context of national security is pre-eminently a question of specialist evaluation and judgment for the executive. Such assessments involve consideration of a broad range of facts and events, and often take account of expert reports based on a range of information, some of which may be secret (see for example or by analogy the observations in *Shvidler* at [129], *Rehman* at [56], and *U3* at [61]).

116. The Home Secretary is thus better placed than the court to adjudicate the balance of the various rights and interests engaged in the context of national security. Whilst the court remains the ultimate arbiter, the Home Secretary should be accorded a wide margin of appreciation (or respect) in making her judgment about whether the objectives of the Proscription Decision are sufficiently important to justify the limitation of fundamental rights, whether there is a rational connection between the Proscription Decision and those objectives, whether a less intrusive measure could have been used, and whether a fair balance has been struck between the relevant ECHR rights of the individuals and others affected and the interests of the community, in so far as the balancing exercise involves bringing the public interest factors relied on by the Home Secretary into account.

117. In this case, the Divisional Court addressed the question of latitude to the Home Secretary only very briefly at [J138], at the fourth stage, when it stated that, when striking the balance, the court must permit "some latitude" to the Home Secretary "given that she has both political and practical responsibility to secure public safety". This was materially to understate the position, and it is not clear from the judgment of the Divisional Court when and how even that limited degree of latitude was afforded. Further, in the light of our conclusions on the Policy Ground, and unlike the Divisional Court, we are assessing proportionality: (i) on the basis of an otherwise lawful decision by the Home Secretary; (ii) on the basis that the nature and scale of Palestine Action's activities as a whole (not just its acts of terrorism) are relevant; and (iii) on the basis that it is open to us to consider the operational benefits of proscription.

N. Our evaluation of the proportionality of the Proscription Decision

118. Adopting this approach and against this background, we turn to the application of the four-stage *Bank Mellat* approach.

Were the objectives of the Proscription Decision sufficiently important to justify the limitation of fundamental rights?

119. As the Divisional Court pointed out at [J128], the Home Secretary's pleaded case is that the purpose (or objective) of proscription was to "disrupt and degrade [Palestine Action] so as to protect the rights of others and maintain national security". The Home Secretary also identified the legitimate aims of the Proscription Decision as the protection of the rights and freedoms of others and the interests of national security. These are both aims identified in Article 10.2 and in Article 11.2.

120. Both the protection of the rights and freedoms of others and the interests of national security are sufficiently important objectives to justify the limitation of article 10 and article 11 rights in some circumstances. In our judgment, the first *Bank Mellat* test is satisfied on the evidence before the court in this case.

Was the Proscription Decision rationally connected to these objectives?

121. In our judgment, the Proscription Decision was obviously rationally connected to the legitimate objectives of protecting the rights and freedoms of others and protecting national security. The Proscription Decision would, on the basis of the submissions and reports made to the Home Secretary (as to which, see [47]-[52] above), be likely, for example, to allow CTP to "disrupt, deconstruct and prosecute [Palestine Action] holistically as a network" (see [48(iii)] above).

122. Accordingly, the rights and freedoms of those corporations and individuals likely to be the victims of Palestine Action's future attacks would be likely to be protected by the Proscription Decision. National security would also be enhanced if Palestine Action were unable to attack key national infrastructure.

123. Ms Ammori did not seriously submit that this second *Bank Mellat* test was not satisfied. We are satisfied that it is, as both the Home Secretary and the Divisional Court also considered (see [J129]).

Could less intrusive measures have been used?

124. Less intrusive measures in this context mean those that do not "unacceptably compromise the achievement of the objective" (see *Bank Mellat* at [74] and [75]).

125. Ms Ammori submits that three less intrusive measures could have been adopted together in place of the Proscription Decision. First, those affected by Palestine Action's activities could have been encouraged to apply for civil remedies, such as injunctions. It is suggested that individuals could have been designated under a sanctions regime. Secondly, applications could have been made against individuals undertaking actions in the name of Palestine Action for asset-freezing orders and criminal behaviour orders. Thirdly, it is said that there could have been criminal prosecutions for offences outside the 2000 Act, which need not have relied upon proscription.

126. It is important first to understand that the question of whether less intrusive measures could have been adopted was considered in the materials placed before the Home Secretary. CTP's view was that "operationally, existing legislation is seen as insufficient to address high-level offences, which meet the definition of terrorism … concerning serious violence and/or serious damage". CTP's letter of 6 March 2025 (see [48(iii)] above) reiterated that:

> Whilst current legislation has enabled individual activists to be prosecuted, we are concerned that criminal charges fail to capture the organisational capability and high culpability of offending, namely in the complexity of the planning, extent of preparations, severity of offending and intended impact, as well as the network as a whole including its leadership, membership, influence and funding.

127. The record of the PRG's meeting on 13 March 2025 (see [49] above) noted that:

> Proscribing [Palestine Action] would offer significant disruptive benefits beyond the current policing powers being utilised to deal with its activity. Proscription could impact [Palestine Action's] recruitment, financial flows, and operating model and may also support the disruption of the technical and digital security of [Palestine Action].

128. In relation to the suggestion that civil remedies could have been a satisfactory replacement for proscription, it may first be noted that such remedies would not be sought by the Home Secretary. She would, at best, have been able to encourage potential corporate objects of Palestine Action's activities to litigate themselves. The Divisional Court explained why the encouragement of such civil measures was not an "appropriate lesser alternative approach" at [J132]-[J134]. The evidential issues, the cost issues and the efficacy of such orders as might be made all make the submission

untenable. In any event, the Home Secretary cannot be expected to abrogate her undoubted powers of proscription in the face of terrorist activity on the basis that she could, instead, promote civil self-help remedies for private parties to pursue (at their own risk and cost).

129. The second option (measures such as asset-freezing, serious crime prevention orders and criminal behaviour orders) would not achieve the collective impact of an order for proscription, namely facilitating the disruption and deconstruction of Palestine Action as a network. Put simply, such measures would not meet the objectives of the Proscription Decision, which were to protect the rights and freedoms of others and protect national security.

130. The third option (ordinary prosecutions under the criminal law outside the 2000 Act) were, perhaps, the less intrusive measures upon which Ms Ammori places greater weight.

131. Ms Ammori points to the availability of prosecutions for criminal damage, burglary, aggravated trespass and burglary, violent disorder, causing grievous bodily harm with intent, and participation in the activities of an organised crime group contrary to section 45 of the Serious Crime Act 2015. She also submits that offences of conspiracy to commit crimes, or other inchoate offences, including offences under the Serious Crime Act 2007, could lead to prosecution before any substantive offence had been committed. The Home Secretary submits that the reason why charging individuals with offences arising from criminal conduct is less effective than proscription is that it generally follows commission of the crime.

132. There are a number of answers to Ms Ammori's submission that ordinary criminal prosecutions would have been effective less intrusive measures.

133. First, it is right to regard the prevention of crimes in pursuit of a terrorist objective as a very high priority. Leaving an organisation in a position to commit those crimes, knowing that it may prove possible to detect and prosecute the individuals concerned afterwards, is not likely to be an acceptable approach in a case where the organisation is concerned in terrorism. The investigator's dilemma is always about when to act: too early, and there may be insufficient evidence to prove the extent of the plot and the identities of those involved; too late, and the act of terrorism may be complete. There is an advantage to proscription because it enables the disruption of the organisation and the prosecution of individuals for offences which are likely to be easier to prove.

134. Secondly, in all cases where proscription is under consideration, the Home Secretary will be dealing with an organisation which she believes, on rational grounds and in good faith, is concerned in terrorism. That organisation will be comprised of individuals who may commit crimes for which they may be prosecuted. Those prosecutions will certainly have an impact on those individuals, and this may impact on the effectiveness of the organisation, but they will not directly disrupt the organisation itself. Such an organisation is likely to need both to commit to acts of terrorism and to exploit their effect for the political or ideological cause in question. Such an organisation needs to act both overtly and covertly. It must be overt, so that the organisation can claim responsibility for the acts, explain their motivation, and make demands for whatever change they seek to achieve. Those engaged in the overt activity may not commit any crime, unless they "glorify" the commission of the act of terrorism for the purposes of

section 1(3)(a) of the Terrorism Act 2006 (or commit other similar offences created by the Terrorism Act 2006). It must be covert, so that the organisation can carry out its acts of terrorism without being prevented by law enforcement.

135. Proscription directly attacks both the covert and the overt activity in a way that the ordinary criminal law may not. Proscription inhibits recruitment and fundraising; it undermines the ability of an organisation to function. The definition in section 1(5) of the 2000 Act (including actions taken for the benefit of a proscribed organisation - see [31] above) enhances the efficacy of other provisions, including those relating to funding, terrorist property and training.

136. Thirdly, the availability of conspiracy and other inchoate offences is, of course, an important part of the investigatory and prosecutorial armoury, but is no answer to the Home Secretary's position. Organisations concerned in terrorism operate covertly precisely to prevent their agreements becoming known to the police before implementation. The investigative methods available are certainly intrusive. The exercise of powers under the Police and Criminal Evidence Act 1984, the Investigatory Powers Act 2016, the 2000 Act and the Terrorism Act 2006 require not only legal but also operational justification. Their effectiveness depends on skill, judgment, resources and, sometimes, fortune. Sometimes the plan to commit a crime can be concealed successfully such that there is no basis for conducting any investigation of this sort at all.

137. We are unable to identify any appropriate less intrusive measure to which the Home Secretary should have resorted as an alternative to proscription. There is also the margin of appreciation to consider. It is clear that the Home Secretary did consider the question of less intrusive measures. We refer by way of example to CTP's express consideration of the adequacy of existing legislation, and the consideration in the submission to the Home Secretary of 26 March 2025 of whether it would be possible to target only a specific component of Palestine Action.

138. The clear theme throughout the decision-making process was that proscription would provide powers that would be beneficial in halting or hindering Palestine Action's terrorist activities in a holistic way that could not be achieved otherwise under the existing legislation. It is worth repeating that, according to CTP, "existing offences and orders" did not "address the network as a whole given its high-level organisational capabilities, including planning, training, preparedness, coordination, structure, recruitment, online material, communications and financing".

139. Thus, ordinary criminal prosecutions could never have been a satisfactory less intrusive measure in place of the Proscription Decision.

140. Accordingly, we conclude that none of the measures suggested by Ms Ammori could have constituted satisfactory less intrusive measures for the purposes of the third question in the *Bank Mellat* approach.

141. It follows also from this analysis that there is nothing in Ms Ammori's challenge by way of Respondent's Notice in relation to less intrusive measures. First, the Home Secretary did indeed consider them. Secondly, her approach to them does not in any way reduce the margin of appreciation to be afforded to her decision-making. In any

event, we have considered the issue and are satisfied that there are no less intrusive measures that could have been adopted to achieve the legitimate aims.

Having regard to the matters taken into account under the first three Bank Mellat questions and to the severity of the consequences, was a fair balance struck between the rights of the individual and the interests of the community?

142. The parties and interveners concentrated in argument on the "fair balance" analysis that constitutes the fourth of the *Bank Mellat* questions.

143. We start by setting out some of the basic parameters of the balance we have to strike. We will then set out the factors that weigh in the balance against proscription and the factors that weigh in the balance in favour of proscription before considering how the latitude that should be allowed to the Home Secretary's decision is to be applied. We then summarise our conclusion and make some brief comments on the Divisional Court's approach (as explained by it at [J135]-[J142]).

Basic parameters

144. In *Sunday Times v United Kingdom (No 2)* [1992] 14 EHRR 229 the ECtHR at [50a)] emphasised that "freedom of expression constitutes one of the essential foundations of a democratic society", reminding us that "it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb". Moreover, the exceptions to freedom of expression in Article 10.2: "must be narrowly interpreted and the necessity for any restrictions must be convincingly established" (see also *Steel v United Kingdom* (1999) 28 HRR 603 referring to freedom of expression as "one of the basic conditions … for each individual's self-fulfilment", and *Ziliberberg v Moldova* (App. No. 61821/00) 5 May 2004 at [2]).

145. In *R v Jones (Margaret)* [2007] 1 AC 136 (*Jones*), Lord Hoffmann explained the approach to civil disobedience on conscientious grounds at [89] as follows:

> … civil disobedience on conscientious grounds has a long and honourable history in this country. People who break the law to affirm their belief in the injustice of a law or government action are sometimes vindicated by history. The suffragettes are an example which comes immediately to mind. It is a mark of a civilised community that it can accommodate protests and demonstrations of this kind. But there are conventions which are generally accepted by the law-breakers on one side and the law-enforcers on the other. The protesters behave with a sense of proportion and do not cause excessive damage or inconvenience. And they vouch the sincerity of their beliefs by accepting the penalties imposed by the law. The police and prosecutors, on the other hand, behave with restraint and the magistrates impose sentences which take the conscientious motives of the protesters into account.

146. Leggatt LJ echoed Lord Hoffmann's approach in *Cuadrilla Bowland Ltd v. Persons Unknown* [2020] EWCA Civ 9; [2020] 4 WLR 29 (*Cuadrilla*) at [97] as follows:

> Civil disobedience may be defined as a public, non-violent conscientious act contrary to law, done with the aim of bringing about a change in the law or policies

> of the government (or possibly, though this is controversial, of private organisations): see e.g., John Rawls, A Theory of Justice (1971) p.364. Where these conditions are met, such acts represent a form of political protest, both in the sense that they are addressed to other members of the community or those who hold power within it. The public nature of the act – in contrast to the actions of other-law-breakers who generally seek to avoid detection – is a demonstration of the protester's sincerity and willingness to accept the legal consequences of their actions. It is also essential to characterising the act as a form of political communication or address. Eschewing violence and showing some measure of moderation in the level of harm intended again signal that, although the means of protest adopted transgress the law, the protester is engaged in a form of political action undertaken on moral grounds rather than in mere criminality.

147. One of the fundamental questions for our fresh "fair balance" exercise relates to the nature of the Palestine Action organisation. Ms Ammori's skeleton argument describes Palestine Action as follows:

> [Palestine Action] was a direct action protest group, the founding of which was "inspired by the long tradition of direct action in this country: from suffragettes to anti-apartheid activists to Iraq war activists". It comprised a network of individuals who: (i) through research and public education, exposed the role of corporate actors in the UK, including arms companies, in aiding, abetting, and facilitating Israel's violations of international law against Palestinians; and (ii) in the face of continuing inaction and complicity by the UK Government, used direct action to seek to prevent those serious violations of international law (including by targeting relevant premises in order to disrupt and prevent the continuing supply of weaponry from UK to Israel). PA enjoyed significant public support prior to proscription, with hundreds of thousands of followers on social media.

148. Mr Husain's opening submissions make six introductory points as follows: (i) the Proscription Decision was novel and unprecedented, based as it was on serious damage to property; (ii) the Proscription Decision was based on 385 actions committed over 5 years, only three of which were categorised as terrorist incidents; (iii) the Proscription Decision has alarmed and concerned civil society organisations and UN experts; (iv) the Proscription Decision has given rise to a mass campaign of civil disobedience with over 2,000 people arrested by October 2025; (v) the level of public support for Palestine Action is not surprising; and (vi) the Proscription Decision is unprecedented because "we have a long and honourable history of accommodating protests and demonstrations where people break the law to affirm their belief in the injustice of law or government action". Mr Husain highlights orally that Ms Ammori's evidence was that "Palestine Action [had] never promoted or endorsed violence against people".

149. It can be seen from this summary of Ms Ammori's submissions that Palestine Action characterises itself as a non-violent "direct action protest group" which follows in the footsteps of the suffragettes, and the campaigns against apartheid and the Iraq war.

150. In our judgment, that premise is seriously flawed. First, the Divisional Court analysed the same submission at [J15]-[J30] concluding at [J29]-[J30] that (i) it was not a sustainable proposition to portray Palestine Action as a non-violent organisation, and (ii) it was not accurate for Ms Ammori to paint Palestine Action as an "ordinary protest group engaged in activities that fall within the well-established tradition of peaceful

protest". We agree with this analysis. Secondly, the Home Secretary referred in her House of Commons statement to the sentencing Sheriff's remarks about the Glasgow incident, referring to "the panic among staff who feared for their safety as pyrotechnics and smoke bombs were thrown in the area they were evacuating" (see [53] above). Thirdly, none of the three terrorist incidents at Glasgow, Kent and Bristol has been disowned or condemned by Palestine Action.

151. Against that background we turn to consider the factors that weigh in the proportionality balance.

Factors that weigh in the balance against proscription

152. We emphasise first the importance of the rights of law-abiding individuals to freedom of speech and freedom of assembly under Articles 10 and 11 (see [144]-[146] above). The Divisional Court said that the Proscription Decision "entailed a very significant interference with Convention rights" under both Articles 10 and 11, which should be neither "overlooked nor understated" (see [J135]). We agree, although we would highlight what the Divisional Court said at [J117]-[J118] about Ms Ammori's overstatement of the impact of proscription:

> …various parts of the evidence [Ms Ammori] relies on overstate the impact of proscription. *First*, proscription will not prevent continuing expressions of support through peaceful protest in support of the Palestinian cause or in opposition to actions undertaken in Gaza by the government of Israel and/or the Israeli Defence Forces … *Second*, proscription of Palestine Action will not prevent any or all demonstrations targeted at Elbit …it cannot be said that any support for the Palestinian cause. …
>
> The vast majority of those arrested had chosen to hold signs which read, "I oppose genocide. I support Palestine Action". We attach little weight to this when it comes to assessing the extent of the interference with Convention rights in this case. All those holding such signs either did or ought to have realised that what they were doing was showing support for Palestine Action …

153. It is important to understand the cohort of people whose Article 10 and 11 rights weigh in the balance. It includes those persons who wish to express pro-Palestinian views, but who may be dissuaded from doing so because of the Proscription Decision, either for fear of committing an offence under the 2000 Act or because of a genuine misunderstanding about what is lawful and what is not. This group of people is likely to be significant in number. It is one thing for people voluntarily to hold a placard supporting Palestine Action which they know to be a proscribed organisation. That is a criminal act. It is quite another thing for a law-abiding person to be deterred from assembling lawfully or making their strongly-held anti-Israel and pro-Palestinian views public for fear of their actions being construed as support for Palestine Action. We accept that there are many people who may be subject to this "chilling effect" as a direct result of the Proscription Decision. That said, however, as a matter of law, the Proscription Decision will not prevent public expressions of support for the Palestinian cause or opposition to Israel and to the Israeli Defence Force, or demonstrations targeted at Elbit.

154. In addition, we accept that there is a group of people who might wish to support Palestine Action as an organisation, separately from supporting its aims. Their rights of free speech and freedom of assembly under Articles 10 and 11 are curtailed if Palestine Action is proscribed. We take these rights into account as well.

155. We also take into account as factors weighing in the balance against proscription: (i) the limited number of terrorist incidents perpetrated by Palestine Action as compared to other activities; (ii) the submission that proscription may be regarded by some as too heavy-handed; (iii) the fact that most organisations that are proscribed or considered for proscription do advocate violence against people as their primary motivation, so that it is unusual to proscribe an organisation whose primary objective is damage to property.

156. In this regard, however, we reject the submission that less intrusive measures might have been used to disrupt or deconstruct the activities of Palestine Action for all the reasons given above at [124]-[140]. That supposed factor does not weigh in the balance against proscription – indeed rather the reverse.

157. We also do not take into account, as a factor weighing against proscription, the alleged emerging international consensus against the proscription of Palestine Action for the reasons given at [111]-[113] above.

158. We move now to consider the factors weighing in the balance in favour of the Proscription Decision.

Factors that weigh in the balance in favour of proscription

159. We have summarised the factors on which we place greatest reliance under this heading at [13] above. These factors are all concerned with the rights of the community relating to the interests of national security and the protection of the rights of third parties under Articles 10.2 and 11.2. We deal with them under the following headings: (i) the nature of Palestine Action; (ii) the level of the threat from Palestine Action; (iii) the Underground Manual; (iv) the escalating trajectory of Palestine Action's activities; (v) the damage inflicted on lawful business and key national infrastructure; (vi) the key benefit of degrading the organisation and its finances; and (vii) allowing an appropriate margin of appreciation to the Home Secretary's decision.

The nature of Palestine Action

160. The first factor to be considered in favour of proscription is the nature of Palestine Action. As we have explained above, Palestine Action is not a transparent non-violent direct action protest group as it claims (see [149]-[150] above). It is a covert organisation that has revealed little about itself in these proceedings. The Underground Manual reveals that its activities are carried out by unidentifiable cells, whose objective is to avoid detection.

161. The essential characteristics of Palestine Action are, in fact, the antithesis of the kind of civil disobedience protest group explained in *Jones* and *Cuadrilla* at [145]-[146] above. First, Palestine Action's activities are planned and undertaken secretly with the objective of avoiding detection (see, for example, the Underground Manual at Annex A advocating creating cells to take "actions without detection as part of Palestine Action

Underground", and explaining "how to get to the site and leave undetected"). Secondly, the members of Palestine Action do not vouch their sincerity by accepting the penalties imposed by the law. Thirdly, on a fair analysis, Palestine Action has little or nothing in common with the suffragettes or the anti-apartheid or Iraq War protest groups (see [149]-[150] above).

162. The whole premise of Palestine Action is to cause damage to property belonging to Elbit and other companies trading lawfully in the United Kingdom (see, for example, the CTP report of 27 June 2024 saying that Palestine Action activists have been engaged in the "prolonged and sustained targeting of buildings linked to [Elbit] since July 2020, utilising both violent and non-violent direct action against buildings and staff").

163. As we have already explained, it was permissible for the Home Secretary (and, therefore, is permissible for us), in considering Palestine Action's characteristics and activities, to consider the entirety of Palestine Action's activities, not just its activities classified as terrorist (see [89] above).

The level of the threat from Palestine Action

164. The future threats and risks posed to third party individuals and property by Palestine Action are perhaps the most important factors to weigh in the balance. In that connection, it is important to understand that the Home Secretary is in the best position to assess those future threats and risks. She is advised by experts in anti-terrorism.

165. Palestine Action's campaign was intended to close down Elbit and other lawful businesses. It took direct criminal action against businesses and institutions, including key national infrastructure and defence firms that provide services and supplies to support Ukraine, NATO, the "Five Eyes" allies and the UK defence enterprise. Ms Ammori suggests in her Respondent's Notice that "the nature of the activities of the corporate actors targeted by Palestine Action and the allegations of aiding and abetting serious violations of international law fell to be weighed in the assessment of proportionality". This was not a submission developed orally. Even assuming that those violations were proved, the complicity of Elbit (and other targets) in them must be a matter of great contention.

166. As explained at [49]-[50] above, the PRG unanimously concluded that the discretionary considerations weighed in favour of proscription, and that Palestine Action was "responsible for an escalatory campaign of direct action across the UK that [had] crossed the threshold into terrorism".

167. Moreover, JTAC's assessment was that, over the coming 12 months, Palestine Action would "conduct further activity constituting serious property damage in an act of terrorism" and that it continued to "conduct direct action at a variety of levels". It assessed the Bristol incident as having involved "serious violence". The submission to the Home Secretary of 26 March 2025 recorded that "[e]vidence collected through police investigations indicate [that Palestine Action] members have intended to further escalate the seriousness of their activities".

168. Ms Ammori's arguments to the contrary, namely that Palestine Action was a peaceful direct action group that posed no serious risk of violence, do not withstand these assessments. The Underground Manual's encouragement to cell members to "think

big" and to carry and use lethal weapons such as sledgehammers and the Bristol incident, in particular, contradict Ms Ammori's basic submission that Palestine Action is a transparent non-violent civil disobedience protest group.

The escalating trajectory

169. The escalating trajectory of the seriousness of Palestine Action's activities is a theme of the assessments of JTAC, the PRG and CTP (see [47]-[52] above). In our judgment, this is an important feature. It was the Home Secretary's responsibility to protect the public.

170. Both the "nature and scale of the organisation's activities" and the "specific threat that [the organisation] poses to the UK" are mentioned specifically in the Proscription Policy (see [34] above).

The key benefit of degrading the organisation and its finances

171. The final factor to take into account relates to the impact and the operational benefits of proscription. As set out above at [80] to [88], the Divisional Court wrongly concluded that the Proscription Policy prevented the Home Secretary (and, therefore, the court) putting the benefits of proscription into the balance.

172. The PRG considered that proscribing Palestine Action "would offer significant disruptive benefits beyond the current policing powers being utilised to deal with its activity". The PRG also judged that proscription "could impact [its] recruitment, financial flows and operating model and may also support the disruption of [its] technical and digital security" (see [127] above). It is obviously inherently problematic to degrade and disrupt the funding of a secretive cell-based organisation without proscription.

173. In considering the impact of the proscription of Palestine Action, it is important to recall that proscription does not prevent expressions of support for Palestine or expressions of opposition to Israel or Zionism. As emphasised in *ABJ* at [61], there is a distinction between (the expression of) an opinion or belief which is supportive of the objectives of an organisation (such as closing down Elbit, for example) and (the expression of) an opinion or belief which is supportive of the organisation itself. Proscription only prevents the expression of opinion or belief which is supportive of an organisation involved in terrorist activity. Thus, the core or essence of the rights to freedom of (lawful) expression and assembly can be said to be untouched.

Allowing an appropriate margin of appreciation

174. Whether to proscribe Palestine Action was pre-eminently a decision that the Home Secretary had to take on the basis of the evidence and the advice of experts available to her. In matters of national security, she was best placed to do so.

175. We have looked afresh at all the materials available to the Home Secretary (both closed and open), affording a due margin of appreciation to the Home Secretary's own decision. We are satisfied that the Proscription Decision was a justified and proportionate interference with ECHR rights.

176. Whilst acknowledging that we are making our own fresh assessment, it is helpful to identify the core errors of the Divisional Court in its approach to margin of appreciation. It said at [J140] that "the nature and scale of Palestine Action's activities, so far as they comprise acts of terrorism, has not **yet** reached the level, scale and persistence that would justify the application of the criminal law measures that are the consequence of proscription, and the very significant interference with Convention rights consequent on those measures" (emphasis added).

177. The Divisional Court reached that conclusion partly or wholly because it misunderstood the Proscription Policy as meaning that only terrorist activities could be considered. (It said expressly that it was considering Palestine Action's activities only "so far as they comprise acts of terrorism".) We have taken a realistic view of all of Palestine Action's activities. The escalating trajectory of violence and damage to the property of third parties operating lawful businesses in the United Kingdom, exhibited by the full range of Palestine Action's activities, weighed heavily in the balance in favour of immediate proscription.

178. We emphasise that the Proscription Decision was not merely a judgment based on Palestine Action's past activities, as the Divisional Court appears to have considered. It involved an assessment of future risk to national security if Palestine Action was not proscribed. A pattern of escalating behaviour was obviously highly material.

179. In this context, we note that the Home Secretary took the ultimate decision to proscribe on the same day as (and after) the Brize Norton incident. There was much discussion in argument about whether that incident is or is not properly to be regarded as a terrorist one. We do not consider that this matters: it was a serious incident evidencing the escalation of Palestine Action's activities threatening national security and violating the rights of third parties. The focus had expanded to include the United Kingdom's armed forces as a target. The evidence of Mr Sinclair, Director of National Security in the Home Office, was as follows:

> Their targets were two RAF Voyager aircraft positioned on the airfield. The individuals sprayed red paint directly into the turbines with repurposed fire extinguishers and used crowbars to inflict further damage. I am aware that Voyager aircraft provide the UK with the ability to respond swiftly with air mobility missions spanning military operational support, medical evacuation and disaster response…

180. Finally, in relation to the latitude to be afforded to the Home Secretary's decision-making, the decision that she took may have been borderline. That possibility does not reduce the latitude to which the decision-maker is entitled. The Home Secretary is invested with the statutory and constitutional authority to make proscription decisions to protect the public where national security is at stake. She has to balance, in the most difficult of circumstances, the rights of some individuals to freedom of speech and assembly against the rights of other third parties and the national security of the United Kingdom. The fact that she might have reached the opposite conclusion, in making that difficult decision, does not diminish the legitimacy of her decision-making or the respect that it deserves. The democratic and constitutional legitimacy of the Home Secretary's decision-making is even more crucial in difficult national security situations. The court can and does allow latitude in those situations as we have explained. In this case, we do not think that anything went wrong with the process

(contrary to the Divisional Court's conclusions on the Policy Ground) and we have concluded that the Home Secretary struck the fair balance in an appropriate manner.

181. When the severity of the effects of proscription on the Article 10 and 11 rights of individuals are balanced against the importance of the objectives of protecting national security and the rights and freedoms of others, affording an appropriate margin of appreciation to the Home Secretary's decision, we find that the latter in this case outweighed the former.

182. On this basis, having regard to the matters taken into account under the first three *Bank Mellat* questions, the impact of proscription on the important Article 10 and 11 rights of individuals on the one hand, and the consequences of non-proscription on national security and the interests of the community on the other, the Proscription Decision struck a fair balance.

O. Ms Ammori's application for permission to cross-appeal

183. We deal now with Ms Ammori's application for permission to cross-appeal the Divisional Court's decision on the Procedural Fairness Ground and the Discrimination Ground.

The Procedural Fairness Ground

184. The contention here is that the Home Secretary acted unlawfully by failing to give Palestine Action the opportunity to make representations before the Proscription Order was laid before Parliament. The 2000 Act came into force 25 years ago, and some 100 proscription orders have been made since then. So far as we are aware, this is the first time that it has been suggested that the Home Secretary has a duty to consult in advance of proscription as a matter of procedural fairness.

185. The relevant legal principles are well-established. The duty to give advance notice and the opportunity to be heard to a person against whom a draconian statutory power is to be exercised is one of the oldest principles of public law (see *Bank Mellat* at [29]). The duty may, however, be excluded by the relevant statute or may, in the particular circumstances of a case, not arise at all.

186. The Divisional Court correctly stated that, unless the statute expressly or impliedly excluded a duty of prior consultation, the question whether such a duty arose would depend on the "particular circumstances" of the specific order or direction being made (see [J51], adopting the majority reasoning in *Bank Mellat* at [31], in line with *R v Secretary of State for the Home Department ex p Doody* [1994] 1 AC 531 at page 560D-G). If the circumstances in which the power is to be exercised would render it impossible, pointless or impractical to afford an opportunity to make representations, that would negate any duty to consult (see *Bank Mellat* at [179] and the Divisional Court at [J53]). The court should be slow to hold that there is no duty to consult on grounds of impossibility, pointlessness or impracticality, when such an obligation is not dispensed with in the relevant statute.

187. So far as the Divisional Court observed that the context in which the statutory power in question was being exercised was a "critical consideration" (see [J58]), and the context

here was national security context, that is obviously correct. It properly reflects the analysis of the Court of Appeal in *Begum v Secretary of State for the Home Department (No 2)* [2024] EWCA Civ 152; [2024] 1 WLR 4269 at [104] to [107]. In addition, the Divisional Court identified as relevant factors the nature of the organisation in question (an organisation involved in terrorism – [J60]), the extent of possible communication (very likely limited given the national security context – [J61]), the possible reaction of the consultee [J62], and the difficulty in practice in consulting an organisation of this nature [J64]. The Divisional Court concluded at [J66] that, drawing these matters together, "comprehensive consideration of the nature and purpose of the power to prescribe 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".

188. It is not clear whether the Divisional Court's overall conclusion rested on the holding that the 2000 Act impliedly excluded a duty to consult, or whether it considered that the particular circumstances of the case (see [187] above concerning the security context and practical obstacles) amounted to circumstances that meant that the duty to consult as a matter of fairness did not arise, even though the 2000 Act did not expressly or impliedly exclude the duty.

189. This approach may reflect the fact that, whilst two separate questions were identified in *Bank Mellat* ((i) whether the statute impliedly excluded the duty, and (ii) if not, whether the particular circumstances meant that no duty arose), those questions are not necessarily wholly distinct. There is a presumption when interpreting a statute that the court will avoid a construction that produces an impractical result (see *Bennion, Bailey and Norton on Statutory Interpretation* (8th ed) at section 13.3). It is well-established that the court will lean against a construction of legislation which produces absurd or unworkable results, if there is an available alternative construction which does not do so (see for example *Settlers Court RTM Co Ltd v. FirstPort Property Services Ltd* [2022] UKSC 1 at [54]).

190. Applying normal principles of statutory construction, it is plain that the 2000 Act impliedly excludes a duty on the part of the Home Secretary to consult the target organisation. The 2000 Act makes no mention of and does not cater for any consultation process, but does cater for a deproscription process (with a right of appeal to the Proscribed Organisations Appeal Commission). This is to be taken as a deliberate decision by Parliament. In the context of dealing with an organisation which the Home Secretary believes to be an active terrorist organisation, it would be surprising if the Home Secretary were obliged first to consult that organisation before taking a decision on proscription. The Divisional Court was right to view the nature of the Home Secretary's power under the 2000 Act as implicitly excluding any obligation to consult. The affirmative resolution procedure in section 123 of the 2000 Act, in both urgent and non-urgent situations, likewise makes no provision for a consultation process.

191. The Divisional Court reasoned that it would not have been possible practically or meaningfully to have given Palestine Action the opportunity to make representations in advance. Whatever the particular circumstances of Palestine Action, for many organisations it would be entirely impractical and unworkable for the Home Secretary to consult in advance of a proscription decision, and the 2000 Act can have only one meaning. This militates further in favour of the conclusion that the 2000 Act impliedly excludes any duty to do so.

192. We do not consider it arguable either: (i) that the Home Secretary was obliged to allow the prospective proscribed organisation an opportunity to make representations before proscribing it. Such an obligation was impliedly excluded by the 2000 Act; or (ii) that, in the circumstances of this case, fairness demanded that such consultation should have taken place. Moreover, there is no other compelling reason why this argument should be heard on appeal. We refuse the application for permission to cross-appeal on the Procedural Fairness Ground.

The Discrimination Ground

193. Ms Ammori's contention under the Discrimination Ground is that the Proscription Decision was contrary to the Human Rights Act 1998 because it amounted to an unjustified interference with the prohibition of discrimination in Article 14, read together with Articles 10 and 11.

194. Ms Ammori's amended statements of facts and grounds alleges that one of the factors not considered by the Home Secretary was the "differential treatment of Palestine Action compared to other protest groups using direct action for different causes, and the detrimental impact proscription will have on those campaigning for the Palestinian cause". This point was not dealt with in Ms Ammori's skeleton for the hearing before the Divisional Court, but it was mentioned in a skeleton produced for a case management hearing. Chamberlain J ordered that Ms Ammori was entitled to argue the point before the Divisional Court, which rejected it briefly at [J143]-[J146].

195. In general terms the approach to the question of whether differential treatment of the type alleged is contrary to Article 14 involves consideration of four broad issues, albeit that different cases express the issues in different language and some focus on particular issues (or focus on the question of justification). The four issues are:

    i) Whether the subject matter of the complaint falls within the ambit of one or more rights under the ECHR.

    ii) Whether the person making the claim has been treated less favourably than other people (or groups) who are in an analogous, or relevantly similar, situation.

    iii) Whether that difference in treatment based on an identifiable characteristic amounting to a status.

    iv) Whether the difference in treatment is objectively justifiable (the burden being on those justifying the difference in treatment).

196. It is common ground that the subject matter of this claim falls within the scope of Articles 10 and 11.

197. Ms Ammori's first contention is that the decision to proscribe Palestine Action involved its differential treatment as compared with other single-issue direct action protest groups such as Just Stop Oil and the Extinction Rebellion. She also points to a campaign by an animal rights group to close down a life sciences building, which involved causing property damage valued at around £1million but which did not lead to proscription. She submits that the Home Secretary's evidence demonstrated that those

advising her saw similarities between the activities of those groups and Palestine Action, yet Palestine Action alone was proscribed.

198. Ms Ammori has misunderstood the evidence. The Home Secretary has assessed that Palestine Action is concerned in terrorism. It also carries out other activities which may be comparable to activities carried out by other direct action groups. But those comparable groups have not been assessed as being concerned in terrorism. They are not, therefore, in a materially similar or analogous position. The Divisional Court was correct to conclude at [J144] that there was nothing in the evidence to show that the other organisations relied upon had committed offences falling within the definition of terrorism. None of the groups relied upon was in a materially analogous position to Palestine Action for the purposes of Article 14. The animal rights group, for example, was not assessed as being concerned in terrorism, and its activities had ceased in 2014. There is, therefore, no evidence of differential treatment between materially similar or analogous groups which falls within Article 14.

199. Ms Ammori's second contention is that the difference in treatment between groups was indirectly discriminatory on the basis of ethnicity, national origin or nationality. It is said that the proscription of Palestine Action had a disproportionately prejudicial effect on a group sharing a particular status, that is persons of Palestinian ethnicity, national origin or nationality. Ms Ammori suggests that that is to be inferred from the fact that those who support Palestine Action are concerned to prevent violations of international law against Palestinian people.

200. The Divisional Court was right to conclude at [J145] that the evidence did not show that Palestine Action drew members or supporters disproportionately from the Palestinian community. Ms Ammori has provided little or no information about Palestine Action's members and supporters. It would not be appropriate to infer from the purpose of Palestine Action or the witness statements relied upon, that the proscription of Palestine Action has a disproportionate effect on persons of Palestinian ethnicity, origin or nationality.

201. That is sufficient to dispose of Ms Ammori's second argument. In any event, any differential treatment is objectively justified. Proscription pursues the legitimate aim of interrupting or disrupting the operation of Palestine Action. That is proportionate for the reasons given in section N above.

202. It is not necessary to consider any of the other arguments relating to Article 14 as, for the reasons given, we consider that there is no realistic prospect of this ground of the cross-appeal succeeding. Nor is there any other compelling reason for the cross-appeal to proceed on these grounds. We therefore refuse permission to cross-appeal on the Discrimination Ground.

P. Conclusions

203. For the reasons that we have given, we allow the Home Secretary's appeal against the decision of the Divisional Court. The Divisional Court proceeded on the basis of a misinterpretation of the Proscription Policy. It was mistaken in its approach to the question of proportionality, in particular as to the relevance of future risk assessment

and margin of appreciation. We have assessed proportionality afresh. We will dismiss Ms Ammori's application for permission to cross-appeal.

204. We recognise that the proscription of an organisation like Palestine Action is highly controversial. We recognise too that Palestine Action is supported by many otherwise law-abiding citizens, and that it is engaged in peaceful as well as non-peaceful protest.

205. It is, nonetheless, a fundamental mistake to overlook the fact that Palestine Action overtly promotes unlawful violence amounting to terrorism. It is not, as it claims, a direct action civil disobedience protest group like the suffragettes operating transparently in the open. It is a covert organisation that operates using secret cells to avoid the detection and prosecution of those using violence to destroy the property of third parties. Palestine Action's activities have caused injury as well as property damage.

206. As the Divisional Court commented at [J137], at no stage has Palestine Action suggested that its terrorist activities were either a mistake or an aberration. Rather, Palestine Action has lauded those who took part. The contents of the Underground Manual provide good evidence of Palestine Action's continuing intention to promote the use of violence regardless of the risk that this will result in serious damage to property or serious violence against members of the public.

207. Ultimately, we have had to balance the free speech and freedom of assembly rights of individuals against the rights of third parties and the national security of the communities of the United Kingdom. We have done so by applying well-established legal principles, allowing the appropriate latitude to the decision that Parliament entrusted the Home Secretary to make. The Home Secretary had both the institutional competence and the democratic accountability to make that decision.

208. The Proscription Decision was not unlawful. We set aside the quashing order of 25 February 2026 made by the Divisional Court.

ANNEX A

Extracts from Underground Manual

STEP 1 CREATE A CELL

A cell is an autonomous group taking actions without detection as part of Palestine Action Underground

...

STEP 2 PICK A TARGET

…

STEP 3 PREPARE FOR ACTION

…WHEN PREPARING FOR ACTION, KNOWING YOUR TARGET AND DOING AN EFFECTIVE RECONNAISSANCE (RECCE) IS VITAL. RECCES PROVIDE KEY INFORMATION TO MAKE YOUR ACTION AS SMOOTH AND DAMAGING AS POSSIBLE …

STEP 4 PLAN YOUR ACTION

… Creativity is vital to keep our resistance effective … Dream up crazy ideas in your cell, remember that your action is to destrupt (sic), damage or destroy your target. Here are some suggestions and different tatics (sic) to get you started…

EXTINGUISH YOUR TARGET…

SPRAY PAINT…

SMASHING WINDOWS AND EXTERIOR EQUIPMENT

…With an efficient sledgehammer in your hand, you can cause quite a bit of damage!...

BLOCK THEIR PIPES…

BREAK IN…

THINK BIG

The tactics mentioned are examples of previous actions so by all means think big! Try not limit your action based on whats been done before. Remind yourself when brainstorming different ideas, what could I do to be creative?"

PLAN YOUR ACTION

HOW TO GET TO THE SITE AND LEAVE UNDETECTED

…

PLAN YOUR ACTION

CRUCIAL ELEMENTS

ROLES

If there is more than one of you in the action, which is ideal, you should split up roles between you. For example, if you want one person to just focus on getting pictures and a video, then they should focus on that and not on swinging hammers! The others could could split up their roles from taking on hitting different parts of the site, or one can focus on paint and the other on smashing …

WHEN TAKING ACTION, NEVER LEAVE ANYTHING BEHIND. ABSOLUTELY NOTHING APART FROM PAINT AND DESTRUCTION. THE POLICE MAY TRY TO FORENSICALLY ANALYSE ANY ITEMS WHICH ARE LEFT, SO DON'T LEAVE ANYTHING.

…