Case No. UKSC 2026/0099

IN THE SUPREME COURT OF THE UNITED KINGDOM

B E T W E E N:

THE KING

(on the application of HUDA AMMORI)

Appellant

-and-

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

WRITTEN SUBMISSIONS BY THE UNITED NATIONS SPECIAL RAPPORTEUR

Below [AWC] and [RWC] refer to the Appellant's / Respondent's Written Case. [HB] refers to the Hearing Bundle.

1. These submissions are made on behalf of the United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism ("the UNSR"). The UNSR has been given permission to intervene by written submissions.

2. In summary, the UNSR supports the arguments made in the Appellant's Written Case **[HB/21-71]** and makes the following supplementary points based on the authorities developed in these submissions:

    a. **Deference:** The deference or measure of respect that must be accorded to the Respondent is a nuanced question, which depends on a range of factors. In addition to the points made by the Appellant, three factors which weigh towards a reduced degree of respect in this case, are (i) the aim of proscription was to prevent damage

to private property, rather than terrorist violence against the person, which is on the less severe end of a broad spectrum covered by the definition of terrorism; (ii) the rights interfered with were especially important, since they involved political protest about matters of public interest; and (iii) proscription interfered with the lawful exercise of the article 10/11 ECHR **[HB/2172]** rights of a very large number of people – the great majority of those affected by the decision.

b. **Legitimate aim:** The discretion in s.3(3 and 4) Terrorism Act ("TA") 2000 **[HB/2239]** can only be used for the purpose of the prevention or deterrence of terrorism. The prevention of other misconduct, such as ordinary criminal damage or minor misdemeanour, or even other threats to national security or the public interest that do not qualify as terrorism, is not a legitimate aim for the exercise of the proscription power.

c. **Fair balance:** If the court accepts that less intrusive alternative measures would largely achieve the Secretary of State's legitimate aim, then that reduces the interests of the community in favour of proscription.

d. **Proscription was not proportionate**: The evidence of the UNSR **[HB/2054]** and two other Special Rapporteurs **[HB/2099-2101 and HB/2102-2107]** as to some of the factors relevant to proportionality in assessing lawful restrictions on the human rights recognised in article 10/11 ECHR deserves weight, given their status and special expertise. Their evidence is consistent with authority from Strasbourg.

3. The appeal bundle contains evidence submitted on behalf of the UNSR to the courts below, namely (a) witness statement by the UNSR dated 10 November 2025**[HB/2054];** (b) signed note by Gina Romero, the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association dated 9 November 2025 (exhibit BS3/3) **[HB/2099]**; (c) signed note from Irene Khan, the then United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression dated

7 November 2025 (exhibit BS/4) **[HB/2102]**; and (d) the UNSR's mandate A/HRC/RES/15/15 (exhibit BS1) **[HB/2075]**.

Deference / measure of respect

4. The deference or measure of respect accorded to the government is a nuanced question. *Shvidler v Secretary of State for Foreign, Commonwealth and Development Affairs* [2026] AC 607 **[HB/3856]** held that the degree of respect as to how the balance between the interests or rights of the individual and the general community should be struck depends on the nature of those respective interests, including the importance of the rights, the degree of interference and the extent to which the courts are more or less well placed to adjudicate. This is a point which has been made many times at the highest level: §123 and 124 **[HB/3901and HB/3902]**. Those authorities, and others such as *R (SC) v Secretary of State for Work and Pensions* [2022] AC 223, §99 and 158-161, demonstrate that a wide range of factors will influence that degree of respect; and that it is a nuanced issue, not a simple binary question.

5. As demonstrated by *SC* and *Shvidler,* the courts now have a well-established metric by which they assess how small or large a measure of respect should be applied, by reference to a broad range of factors which include how well placed the Secretary of State is to assess the particular matter at issue. This applies equally in the context of terrorism: *A v Secretary of State for the Home Department* [2005] 2 AC 68, §42-42 and 44 **[HB/2327-2328]** and **[HB/2329-2330]**. As that case demonstrates, even in this context, the courts should assess the reasons given by the Secretary of State for considering a measure was justified by the prevention of terrorism, and should be ready to apply a greater intensity of review where appropriate. Otherwise, the court's democratic function in s.6 Human Rights Act ("HRA") 1998 **[HB/2175]** of protecting rights would be "emasculated" (*A v SSHD* §44 **[HB/2329]**).

6. Therefore, the fact that the case involves terrorism is not a flag that the courts will automatically salute. The courts take a more analytical and principled approach.

7. In addition to the factors identified in the AWC at §91-93 **[HB/56-59]**, the court ought to take into account the following points.

8. First, one of the metrics the courts apply in deciding the degree of respect due to the government is the seriousness of the risk of harm that the decision involves. Where there is a risk of serious harm to the public through terrorist violence, a greater degree will be appropriate. This rests on the principle that there should be democratic accountability for decisions which may put a section of the public at risk of serious harm by terrorism: *Secretary of State for the Home Department v Rehman* [2003] 1 AC 153, §50-54 **[HB/3807-3808].**

9. As that line of authority shows, the courts are capable of identifying cases where the risk to the public is particularly serious and extensive, and in consequence where the degree of respect is greater. The decision in this appeal was not based on Palestine Action being involved in personal violence (such as killing, serious bodily injury, or hostage taking), but in three incidents of serious damage to the property of private companies [AWC §17 and 19 at **HB/29 and HB/30]**. Therefore, relative to the harm described in *Rehman*, it is *less* important for there to be democratic accountability for harm of the nature concerned here. It is consistent with the analysis in *Rehman* for the degree of respect to be smaller in this context, than that in cases concerning a risk of serious physical harm to a section of the public (as in *Rehman* **[HB/3768]**, *Begum* **[HB/3266]** or *U3* **[HB/3948]***)*.

10. Second, that approach is consistent with the view from Strasbourg. There, the margin of appreciation tends to be wider where the decision was based on the subject being involved in violence against the person than where no violence was involved. *Schwabe v Germany* (2014) 59 EHRR 28 at §113 held the margin of appreciation is wider where there has been incitement to personal violence. Similarly, in *Internationale Humanitare Hilfsorganisation E.V. v Germany* (11214/19) 10 October 2023 the applicant association's:

> "activities were contrary to the [German legal] concept of 'international understanding' because it had indirectly contributed to the violence … by supporting Hamas financially over a long period": §35.

11. That association provided substantial funding to parts of Hamas (§14, 35, 73 and 93). The court held that States enjoy a wider margin of appreciation in regard to the concept of 'international understanding', that is, activities that indirectly contributed to terrorist violence against persons: §89. Thus, a wider margin was appropriate in respect of terrorist violence than where the terrorism was non-violent. That conclusion is supported by the fact that the three authorities the court relied on in that paragraph all held that States had a wider margin of appreciation in respect of the incitement to or use of personal violence than otherwise (*Schwabe v Germany; Affaire les Authentiks et Supras Auteuil 91 v France* (4696/11) 27 Oct 2016, §84; and *Ayoub v France* (77400/14) 8 Oct 2020, §121). §106 of *R v ABJ* [2026] 2 WLR 542 **[HB/3546]** requires qualification to this extent.

12. Third, the factors that are relevant to the degree of respect include "the importance of the right [and] the degree of interference" with that right: *Shvidler* §124; that is, the "nature of the Convention right in issue, its importance for the individual and the nature of the activities restricted… with particular significance attaching to the extent of the intrusion into the personal sphere of the applicant": *Manchester City Council v Pinnock* [2011] 2 AC 104, §33.

13. The rights interfered with here are especially important. The rights to freedom of expression, peaceful assembly and association, in order to conduct political protest on matters of public interest, are "truly fundamental", and this calls for a smaller degree of respect: AWC §73-75 **[HB/49-50]**; cf *Schwabe v Germany* §113 and 117; and *Morice v France* (2016) 62 EHRR 1, §125:

> "Moreover, as regards the level of protection, there is little scope under art.10(2) of the Convention for restrictions on political speech or on debate on matters of public interest. Accordingly, a high level of protection of freedom of expression, with the authorities thus having a particularly narrow margin of appreciation, will normally be accorded where the remarks concern a matter of public interest, as is the case, in particular, for remarks on the functioning of the judiciary, even in the context of proceedings that are still pending in respect of the other defendants. A degree of hostility and the potential seriousness of certain remarks do not obviate the right to a high level of protection, given the existence of a matter of public interest." (emphasis added)

14. Similarly, the "degree of interference" (see *Shvidler)* with articles 10 and 11 ECHR here is far-reaching. Palestine Action had hundreds of thousands of followers [AWC §52 and §113.4 at **HB/40 and HB/68]**. Many thousands of people relied on Palestine Action to facilitate or augment their legitimate political protest (whether through the collective power of the Palestine Action banner, their highly effective organisation of lawful, peaceful political protest, or otherwise). The overwhelming majority of people who, prior to proscription, chose to exercise their rights under articles 10 and 11 by means of Palestine Action, were engaged in perfectly lawful protest. The decision therefore interfered with the article 10 and 11 rights to legitimate political protest of a very large number of people. This calls for a smaller measure of respect.

15. The government is not better placed than the court to identify the importance of the article 10 or 11 rights at issue, or the extent of the interference in those rights. The court is required by s.6 of the Human Rights Act 1998 to act compatibly with ECHR rights. This is entirely democratic as this duty has been imposed on the courts by Parliament. But the court's role is broader than a democratic one: it is to protect fundamental constitutional values, for which the court is the ultimate safeguard: *Re G* [2009] 1 AC 173, §48; and *Bayev v Russia* (2018) 66 EHRR 10, §70.

16. The Respondent suggests that, simply because this claim involves a balance between article 10/11 rights and the interests of national security, the decision whether to proscribe should effectively be left to the government, according it a wide degree of latitude [RWC at §69(a) at **HB/103]**]. That is inconsistent with the nuanced approach to the margin of appreciation required by the authorities above.

17. Moreover, the Respondent's approach is likely to be considered by Strasbourg to be incompatible with the "prescribed by law" requirement in articles 10/11 ECHR. It would mean that the decision to proscribe will not be subject to adequate legal safeguards to prevent abuse (as in *Gillan v United Kingdom* (2010) 50 EHRR 45, §79-87; *Beghal v United Kingdom* (2019) 69 EHRR 28, §103-105, 109; and *Koretskyy v Ukraine* (40269/02) 3 April 2008, §48).

18. The power to proscribe is capable of being interpreted as a very broad discretion, given the cumulative effect of the "strikingly" broad definition of terrorism (*R v Gul* [2014] AC 1260 §26 [**HB/3628**]; and the nebulous words "concerned in", in s.3(4 and 5) **[HB/2237]**. The two broad terms compound one another. The UNSR's report to the UN General Assembly, UN Document A/80/284, [1] identifies this problem at §33: "Compounding violations of human rights often arise from the complex structure of terrorist listings, as where a vague and overbroad definition of terrorism triggers a vague and overbroad category of "terrorist organization", which in turn triggers vague and overbroad offences."-In the context of a very broad power like this, the ECHR requires the courts on judicial review to properly scrutinise the exercise of the power.

19. The need for the courts to be willing to scrutinise decisions of this nature, rather than to surrender the decision to the Respondent's discretion, is consistent with international law. The International Covenant on Civil and Political Rights ("ICCPR"), which has been ratified by the UK, contains in article 19(3) an equivalent right to freedom of expression as that in article 10 ECHR. The UN Human Rights Committee's ("HRC") General Comment No. 34 (2011) [2] at §30, states that "Extreme care must be taken by States parties to ensure that… provisions relating to national security… are … applied in a manner that conforms to the strict requirements of" article 19(3). Courts themselves must also respect the principle of proportionality (§34).

20. Strasbourg has relied on HRC General Comments about the ICCPR to interpret the contents of analogous ECHR rights (e.g. *Alekhina v Russia* (2019) 68 E.H.R.R. 14 §224; and *Ahmed v UK* (2013) 56 EHRR 1, §175).

[1] UN Document A/80/284
[2] The UN HRC's General Comment No. 34 (2011)

Legitimate aim

21. The Appellant rightly submits at §100-101 **[HB/60-61]** that the proscription power in s.3(3 and 4) TA 2000 may only be exercised for the purpose for which that power was conferred. That purpose is to prevent or deter terrorism. The TA 2000 creates a series of serious offences with severe sanctions connected with a proscribed organisation. For example, sections 15-17 **[HB/2250-2252]** create offences concerning action taken for the purposes of terrorism, which by s.1(5) **[HB/2238]** includes action for the benefit of a proscribed organisation. Parliament cannot have intended those offences to cover action for the benefit of a proscribed organisation where non-terrorist conduct such as criminal damage or minor misdemeanour was determinative of that proscription. The severity of the consequences of proscription can only have been intended to be justified by the purpose of the prevention or deterrence of terrorism. There are other statutory provisions which support this. For example, the long title of the TA 2000 notes it is "An Act to make provision about terrorism…". And the Explanatory Notes to the Terrorism Act 2006 state, at §5:

> "Previous counter-terrorism legislation provided a range of measures designed to prevent terrorism and support the investigation of terrorist crime. These were placed on a permanent footing in the Terrorism Act 2000. These include a power for the Secretary of state to proscribe terrorist organisations…" (emphasis added)

22. Thus, the discretion in s.3(3 and 4) TA 2000 can only be used for the purpose of the prevention or deterrence of terrorism. The prevention of other misconduct, such as ordinary criminal damage or minor misdemeanour, is not a legitimate aim for the exercise of the proscription power.

23. If (contrary to the above submission) the court considers the TA 200 is ambiguous about this point, then statements made by the responsible Minister in Parliament are admissible[3] and show that s.3(3 and 4) should only be used for the purpose of preventing or deterring the threat of terrorism. During the Second Reading of the TA 2000, the then Home Secretary stated that in preparing the bill he "sought to carefully follow" Lord Lloyd's principle that "[a]dditional statutory offences and powers may be justified, but only if they

[3] The Pepper v Hart [1993] AC 593 criteria are met because, on this alternative submission, the Act is ambiguous. Alternatively, they are admissible on the same basis as AWC footnote 148 [HB/58].

are necessary to meet the anticipated threat. They must then strike the right balance between the needs of security and the rights and liberties of the individual": *Hansard*, vol. 341[4], column 153, 14 December 1999. The Home Secretary emphasised the bill was necessary precisely because terrorism differs from other crime (at column 152) and that, even then, proscription "is of course an extreme power" (at column 158). He stated further (at column 154):

> "The Bill is not intended to threaten in any way the right to demonstrate peacefully—nor will it do so. It is not designed to be used in situations where demonstrations unaccountably turn ugly. Should any unlawful activities occur in such circumstances, the powers available under the ordinary criminal law will, as now, suffice. … the new definition [of terrorism] will not catch the vast majority of so-called domestic activist groups."[5]

24. The above is consistent with the UNSR's UN Document A/80/284 which indicates at §21-24 that an organisation should not be proscribed unless its substantial purpose is engaging in terrorist offences; and any non-statutory criteria for proscription should only "narrow eligibility" to ensure that designation is necessary and proportionate.

Fair balance

Relevance of less intrusive measures to the fair balance question

25. At AWC section D5 **[HB/62-66]** the Appellant submits that a less intrusive alternative measure could have been used to achieve the Respondent's aim of preventing serious damage to property. The UNSR supports that. But if that submission is rejected, a less intrusive alternative may in any event be relevant to the question of whether proscription strikes a fair balance. In particular, if the court accepts that the alternative measures would to a large degree prevent further serious damage to property by members of Palestine Action, then that reduces the interests of the community in favour of proscription.

[4] [HB/2280] and Hansard, vol. 341.
[5] This is admissible for the same reason as in AWC footnote 148 [HB/58], and/or pursuant to the *Pepper v Hart* criteria.

26. In *Bank Mellat v HM Treasury (No 2)* [2014] AC 700 **[HB/2590]**, Lord Reed identified the four-stage test for justification, the fourth question of which 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": §74 **[HB2634-2635].** Similarly, Lord Sumption noted the fourth question was "whether, having regard to these matters" namely, the first to third factors "and to the severity of the consequences, a fair balance had been struck…". The third factor was "whether a less intrusive measure could have been used": §20 [**HB/2661]**. He noted the four factors were logically separate but "inevitably overlap because the same facts are likely to be relevant to more than one of them".

27. Thus, if the court concludes the less intrusive measures available would have contributed to the achievement of the objective to a certain degree, then when it comes to the fair balance, the court should only weigh, in favour of proscription, the degree to which the less intrusive measures would *not* achieve the objective. For example, if the court considers the measures identified by the Appellant at [AWC §106 at **HB/62-64]** would have largely prevented the specified serious property damage, then it is only the small extent to which they would not, that should weigh in favour of proscription. That small extent should be weighed against the adverse impact on ECHR rights of proscription.

The UNSR's evidence about proportionality / fair balance

28. In his witness statement, the UNSR makes the following points, by reference to the experience of his mandate, and to equivalent human rights under international instruments. His evidence is supported by the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association [exhibit BS3/3] **[HB/2099]**; and the then United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression [exhibit BS3/4] **[HB/2102]**.

29. First, the rights of freedom of expression, peaceful assembly and association are fundamental in the context of political protest. The legitimate expressive activities, that is,

the freedoms of association, peaceful assembly and expression, of potentially thousands of people have been affected by the proscription of Palestine Action: §30 **[HB/2065]** and 35B **[HB/2067]**.

30. Proscription of Palestine Action will have a grave and widespread impact on the rights to freedom of expression and freedom of association: §36 **[HB/2069**].

31. Second, proscription is likely to have a widespread chilling effect. A chilling effect is relevant under international law to the lawfulness of a restriction of these rights. Proscription triggers terrorist criminal liability for a very wide range of conduct that would otherwise be perfectly legitimate protest against Israel's action in Palestine (see s.11, 12, 12A and 13 of the TA 2000 **[HB/2242-2249]**). Ordinary members of the public may reasonably think that legitimate protest activity which comes close to those offences may be criminal. The fear of being subjected to a terrorism conviction and the very heavy sentences that are available for these offences is likely to have a widespread chilling effect, which is likely to deter many people from a range of activity that would otherwise be perfectly legitimate protest: §36-38 **[HB/2069-2070]**; to similar effect, *Isikirik v Turkey* (41226/09) 14 Nov 2017, §69 (see below).

32. Third, in international law, not only the rights to freedom of peaceful assembly and association have a collective dimension. The same is true of freedom of expression, which is often exercised in common cause with others. Freedom of expression does not only protect the content of expression but also the form in which it is expressed, including where individuals choose to advocate through a collective entity such as Palestine Action: §38 **[HB/2070]**. In support of that, the UNSR cites the UN HRC's General Comment No. 34.

33. Fourth, it is liable to be disproportionate to proscribe an entire organisation as a result of a terrorist crime committed in isolation by a few individual members of the group, where the organisation is overwhelmingly concerned in legitimate non-terrorist political protest activity: §35 **[HB/2067]**. Special care must be taken where the relevant organisation

predominantly engages in legitimate protest, and the clear majority of members who will be affected are engaged in legitimate expressive activities: §35C and 35E **[HB/2068-2069]**.

34. Fifth, proscription of Palestine Action has a wider chilling effect. It sets a precedent for the proscription of other robust protest and "direct action" movements: §42 **[HB/2072]**. It could be counter-productive by fuelling grievances: §45 **[HB/2073]**, and the United Nations Global Counter-Terrorism Strategy 2006.[6]

35. And finally, proscription was "out of step with comparable liberal democracies, including in Europe and various common law States": §42 [**HB/2072]**. "Direct action" protest movements which do not habitually engage in violence against persons, even where they may allegedly commit ordinary criminal offences related to property, public order or resisting arrest, are not typically treated as terrorist by European States: §43 **[HB/2072-2073**]. That is consistent with the FCDO's assessment that this decision is likely to make the UK an international outlier ([AWC §35 at **HB/34]**, with the exception of the United States under President Trump).

36. The UNSR's evidence is consistent with ECHR law, much of which has been identified in the Appellant's written case. Four supplementary points are as follows.

37. First, prior to proscription, many thousands of people chose to exercise their right to political protest, entirely lawfully, under the banner of, or by association with, Palestine Action. They exercised their rights to freedom of political expression on a matter of serious public interest, which merits a high level of protection by the ECHR: *Morice v France* (see above). Now they are unable to do so. Proscription entailed the immediate and permanent dissolution of an association: described as a "drastic" measure in the context of article 11 ECHR (in *Tebieti Muhafize Cemiyyeti and Israfilov v Azerbaijan* (37083/03) 8 Oct 2009, §82 among other authorities). Proscription was a much more serious interference with article 10/11 than dissolution, since it means that any of the many thousands of people who

[6] The United Nations Global Counter-Terrorism Strategy 2006

lawfully supported Palestine Action in the past would now be committing a serious terrorist criminal offence: [AWC §113.2 at **HB/68].**

38. Second, proscription has a chilling effect on people who wish to protest in favour of Palestine, but fear now that doing so may be a terrorist offence. In addition to the two authorities at [AWC §78 at **HB/52]**, we draw attention to *Isikirik v Turkey* (above). In holding at §70 that there was a breach of article 11 ECHR, the court said at §69:

> "… The Court notes that when demonstrators, such as the applicant, face the charge of membership of an illegal armed organisation, they risk an additional sentence of between five and ten years in prison, a sanction which is strikingly severe and grossly disproportionate to their conduct. The Court finds therefore that Article 220 § 6 of the Criminal Code, as applied in the instant case, would inevitably have a particularly chilling effect on the exercise of the rights to freedom of expression and assembly. Moreover, the application of the provision at issue was not only likely to deter those who were found criminally liable from re-exercising their rights under Articles 10 and 11 of the Convention, but also had a great deal of potential to deter other members of the public from attending demonstrations and, more generally, from participating in open political debate". (references removed)

39. People convicted of offences under ss.11-12 TA 2000 relating to Palestine Action face sentences that are even more "strikingly severe and grossly disproportionate" to their conduct: up to 14 years in prison. The latter sentence is equally applicable here: a considerable number of people who commit no offence under the TA 2000, and whose behaviour is entirely lawful, will nevertheless be deterred from attending demonstrations and participating in open political debate in the form they choose, namely by association with Palestine Action, including to maximise the reach and impact of their political views. There is also a chilling effect on the exercise of journalistic freedom of expression, which is relevant: *Cumpana and Mazare v Romania* (33348/96) 17 Dec 2004, §114.

40. Third, the collective exercise of freedom of expression is protected by articles 10 and 11 ECHR: *Freedom and Democracy Party (Ozdep) v Turkey* (23885/94) 8 Dec 1999 (Grand Chamber), §37. Article 10 protects not only the substance of information expressed but also the form in which they are conveyed: *Alekhina v Russia* (above), §197. The court has attached importance to the fact that individuals seek to express their opinions together with others: *Primov v Russia* (17391/06) 12 June 2014, §91 **[HB/4742]**; *Schwabe v Germany*,

§101. Similarly, the ability to establish a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of freedom of association: *Gorzelik v Poland* (2005) 40 E.H.R.R. 4 (Grand Chamber), §88 "Indeed, forming an association in order to express and promote its identity may be instrumental in helping a minority to preserve and uphold its rights.": §93.

41. Being able to come together collectively, rallied alongside many thousands of others under the prominent banner of Palestine Action, with their expert organisation and support, was a powerful element of the rights under articles 10 and 11. It has been lost. The fundamental importance for expression of being part of a potent collective entity is well recognised throughout international law and in liberal democracy. Alexis de Tocqueville wrote in *Democracy in America*[7] that:

> "The most natural privilege of man, next to the right of acting for himself, is that of combining his exertions with those of his fellow-creatures, and of acting in common with them. I am therefore led to conclude that the right of association is almost as inalienable as the right of personal liberty. No legislator can attack it without impairing the very foundations of society."

42. Thus, although people can still lawfully stand up to express support for the Palestinian cause or opposition to Israel, the Israel Defense Forces, or Elbit, that misses a critical point: people can no longer do so through the potent prism of Palestine Action.

43. Fourth, a striking feature of this case is that the vast majority of people whose article 10/11 rights have been interfered with by proscription had been engaged in entirely lawful political protest. They did not endorse and had no involvement in or foreknowledge of any offending by the few members of Palestine Action who committed crimes that met the definition of "terrorism." Even if the Respondent is right that, for those involved in terrorism or other serious illegality, the article 10/11 rights are attenuated or eliminated, that does not apply to the overwhelming majority who were not involved in any illegality. For that group, the interference in these "truly fundamental" rights is serious and weighty: [AWC §73-75 at **HB/49-50]**; and see *Primov v Russia*, §155 **[HB/4756]**. The fact that most

[7] 2015 Xist Classics Publishing edition. Part One, Chapter 12, page 155.

people affected by a measure did not themselves do anything which (but-for proscription) would justify a sanction weighs towards proscription being disproportionate.

Relevance of the evidence of the Special Rapporteurs

44. It is submitted that the evidence of the three Special Rapporteurs as set out above deserves respect by the court, for the reasons in *R (AAA (Syria)) v SSHD* [2023] UKSC 42, [2023] 1 WLR 4433, §65-68 **[HB/3054-3056]**.

45. That is firstly because of their special status and role (as in *AAA* at §65). The UNSR's mandate is defined by the UN Human Rights Council, A/HRC/RES/15/15, §2(a) and 3, and was most recently renewed in 2025 by resolution 58/14. He is entrusted by the United Nations General Assembly and the Human Rights Council to promote human rights and fundamental freedoms while countering terrorism; and to gather and share information from country visits and government communications, and to make recommendations about this. The UN Human Rights Council and General Assembly request UN Member States (who include the UK) to cooperate fully with this.

46. Secondly, the Special Rapporteurs have special expertise and experience in the matters at issue (as in *AAA* at §66-68). The UNSR's expertise is described in more detail in his statement at §1-11 **[HB/2055-2057]**. He has a particular expertise in terrorism proscription decisions in many other jurisdictions; through communication with many United Nations member States; in cases involving individual victims; through fact-finding country visits; through thematic reports for the Human Rights Council and General Assembly, and as a third-party intervener in national, regional and international courts. His mandate has therefore acquired a unique comparative knowledge and expertise on issues central to this appeal, in diverse contexts. This means he can speak with authority about the effects of proscription, and the extent to which proscription will interfere with the rights protected by articles 10 and 11.

47. Of course, this court has the benefit of a detailed understanding of the underlying evidence that has been produced for the purpose of these proceedings. It is also charged by s.6 HRA 1998 to uphold Convention rights, and has a special expertise in examining evidence. In those respects, it is better placed than the Special Rapporteurs - and the Respondent - to judge whether the measure was proportionate. But the Special Rapporteurs' status and expertise in a number of other contexts of proscription and its adverse effects on fundamental freedoms, gives them an institutional advantage in that respect.

48. That submission is further supported by the recent Grand Chamber decision in *Yasak v Turkey* (17389/20) 5 May 2026 (about conviction for membership of a terrorist organisation). Having set out the UNSR's observations at §185-187, the Grand Chamber relied on those observations in support of its conclusions that proof of a genuine adhesion to a terrorist organisation and its violent objectives is an essential requirement of legal certainty and the protection of fundamental rights (§203); and that particular care must be taken when the facts relied on have no direct link to acts of violence (§207). The opinion of the UNSR on freedom of expression has likewise been relied on by the ECtHR: e.g. *Alekhina v Russia* (above), §222.

Conclusion

49. The UNSR respectfully invites the court to uphold the Appellant's appeal, for the reasons in the AWC and the short supplementary points set out here.

Adam Straw KC
Rabah Kherbane
Doughty Street Chambers
14 October 2026