



S U P R E M E C O U R T

EN BANC

JUDGMENT

in the name of the Republic of Estonia

Case number	5-25-49
Date of judgment	8 June 2026
Judicial panel	Chair Villu Kõve, members Velmar Brett, Oliver Kask, Hannes Kiris, Kai Kullerkupp, Julia Laffranque, Saale Laos, Vahur-Peeter Liin, Heiki Loot, Kaupo Paal, Ivo Pilving, Paavo Randma, Kalev Saare, Juhan Sarv, Heili Sepp, Nele Siitam and Margit Vutt
Case	Review of the constitutionality of the Act Amending the Churches and Congregations Act
Basis for proceedings	Application by the President of the Republic
Participants in the proceedings	Riigikogu President of the Republic Chancellor of Justice Minister of Justice and Digital Affairs Government of the Republic, representative Minister of the Interior
Manner of examination	Written procedure

THE SUPREME COURT DECIDES AS FOLLOWS:

To deny the application by the President of the Republic.

FACTS AND COURSE OF PROCEEDINGS

1. On 9 April 2025, the Riigikogu adopted the Act Amending the Churches and Congregations Act (CCA) (570 UA, XV composition of the Riigikogu). By resolution No 545 of 24 April 2025, the President of the Republic declined to promulgate it.
2. On 18 June 2025, the Riigikogu re-adopted the Act Amending the CCA in an amended form. By resolution No 591 of 3 July 2025, the President of the Republic declined to promulgate the Act and proposed to the Riigikogu to reconsider the Act and bring it into conformity with the Constitution.
3. On 17 September 2025, the Riigikogu re-adopted the Act Amending the CCA without any amendments.

4. On 3 October 2025, the President of the Republic filed an application with the Supreme Court, seeking a declaration of unconstitutionality of the Act Amending the CCA (the contested Act).

APPLICATION BY THE PRESIDENT OF THE REPUBLIC

5. The President of the Republic finds that the contested Act disproportionately restricts freedom of religion (§ 40 Constitution) and freedom of association (§ 48 Constitution). The application primarily identifies clauses 3 and 5 of the contested Act as problematic, as these supplement § 3 of the CCA with subsections 2¹ and 2² and § 4 with subsections 1¹ and 1², prohibiting religious associations and religious societies (religious association), inter alia, from having doctrinal affiliation with a spiritual centre, governing body, religious association or religious leader situated in a foreign state (foreign entity) which constitutes a threat to the security or constitutional or public order of the Estonian state. Such a broad and vague prohibition is not proportionate.

6. Although, according to the explanatory memorandum to the contested Act (XV composition of the Riigikogu, 570 UA), the main purpose of the Act is to prevent administrative relationships through which hostile influence unrelated to the practice of religion is exerted, § 12(1) of the CCA requires the statutes of a religious association to contain, among other things, the doctrinal bases of the religious association. Consequently, the contested Act also prohibits doctrinal affiliation with a foreign entity posing a threat to Estonia and, as such, affects the profession and practice of faith, and religious rites.

7. Freedom of religion and freedom of association must be interpreted in conjunction with one another, because religious beliefs are predominantly expressed within the framework of an association's activities. The European Court of Human Rights (ECtHR) has also repeatedly emphasised that the autonomy of religious associations belongs to the core of freedom of religion, and the state cannot decide whether the internal organisation of a religious association as a form of expression of religion is legitimate for this. The Council of Europe's Commission for "Democracy through Law" (Venice Commission) has questioned whether national security can be a basis for restricting freedom of religion or belief. It is sufficient that a foreign entity poses a generally defined threat in order for an Estonian religious community to be obliged to reshape its entire organisational structure and doctrinal basis. The approach is not based on the assumption that the threat arises from the Estonian association's own activities; rather, any affiliation with a foreign entity may be deemed dangerous. The concept of 'threat' has been interpreted very broadly, so that it may even be expressed in statements by a minister of religion of another country, which are not reflected in any formal decision or instruction. The severity of the restriction is exacerbated by the lack of clarity in the law as to which foreign affiliation is prohibited. The provision according to which there may be no affiliation with a foreign entity "on the basis of the statutes or any other document governing their activities, or economically" is unclear. It also remains unclear when the views expressed are to be regarded as a threat. This fails to comply with the provisions of the 2019 Policy Guidance on Freedom of Religion or Belief and Security issued by the Organisation for Security and Co-operation in Europe (OSCE 2019 Policy Guidance), which state that vaguely-defined terms must be avoided when imposing restrictions on freedom of religion or belief. The lack of clarity is not remedied by representatives of the executive explaining, on a case-by-case basis, the substance of the applicable norm to the particular religious association concerned.

8. The protection of Estonia's national security, constitutional and public order are legitimate objectives, but only up to a certain point. According to the spirit of the Constitution, freedom of religion has a core that may not be interfered with.

9. It is questionable whether imposing a restriction on the doctrinal basis of a religious association advances the legislator's objectives at all, i.e. whether it is an appropriate means. It remains unclear how such influence could be exerted through the ecclesiastical hierarchy. If it is meant that the influence of a foreign religious leader may increase if they are listed as an authority in the statutes or other documents of an Estonian religious association, it cannot in fact be ruled out that the authority of such a person might actually increase if the state demands that doctrinal links be severed. There are no studies on the beneficial consequences of regulating the ecclesiastical hierarchy. Since, according to the ECtHR case-law and the positions of the Venice Commission, restrictions on freedom of religion must be strictly necessary, they cannot be justified by the mere hypothesis that the church may pose a threat to national security. If the law were to restrict only administrative and economic affiliation, this would be supplemented by existing provisions designed to prevent harmful foreign influence (§§ 91¹, 92, 232 and 233 of the Penal Code).

10. The legislator's objectives would be more likely to be achieved if Estonian religious associations were required to review their affiliation with a foreign entity so as to ensure that they would not be bound by views that pose a threat to Estonia's national security or to constitutional or public order. Such a prohibition would be a more lenient measure. It has not been explained why a restriction imposed only on administrative and economic foreign affiliation involving a specific threat would not suffice. The premise of the Act that the ecclesiastical hierarchy is an indivisible whole that cannot be broken down into parts leads to the consequence that a mere statement attributable to a foreign entity would suffice to sever the entire ecclesiastical hierarchy and establish an entirely new type of religious association in Estonia. The measure might perhaps be proportionate if it were applied only in the case of those foreign entities whose main activities are directed at the violent alteration of Estonia's independence, territorial integrity or constitutional order, or, more generally, at violations of the law. However, threat is defined so broadly in the Act that a few statements supporting military aggression, calling for war, terrorist offences or, in some other way, the unlawful use of armed force or violence, are sufficient. The Act does not presuppose a great threat, but merely an endorsement of contradictory values.

11. Even if the Act can be interpreted in a constitutionally-compliant manner, the restriction is not necessary, as the same objective could be achieved by a clearer prohibition. Nor is the restriction proportional in the narrow sense. It is not necessary in a stricter sense or necessary in a democratic society within the meaning of ECtHR case-law. More broadly, the question is whether a security threat associated with a foreign entity can be attributed to an association operating in Estonia if it has some kind of economic or other affiliation with that foreign entity. The Constitution guarantees stronger protection for religious associations than for many other organisations, because both freedom of religion and freedom of association apply to them. If the activities of religious associations could be restricted in the manner currently provided by the Act, it would follow that a similar prohibition could also be imposed on other associations, including political parties. Such restrictions would not be in conformity with the Constitution.

OPINIONS OF THE PARTICIPANTS IN THE PROCEEDINGS

[...]

OTHER OPINIONS ADMITTED TO THE CASE

[...]

EXAMINATION OF THE CASE IN THE SUPREME COURT

43. At the sitting of the Constitutional Review Chamber of the Supreme Court on 3 February 2026, the participants in the proceedings and other persons involved in giving an opinion maintained their previous main positions and clarified them.

44. As fundamental differences of opinion arose within the Constitutional Review Chamber during the deliberations of the matter, the Chamber referred the case to the Supreme Court *en banc* on 4 February 2026 (Supreme Court Constitutional Review Chamber order of 4 February 2026, 5-25-49/24).

45. The participants in the proceedings and other persons involved in giving an opinion subsequently replied in writing to the additional questions of the Court *en banc* regarding concepts used in the field of religion, as well as on what steps the executive authorities plan to take following the entry into force of the contested Act and how to interpret § 40(3) of the Constitution in conjunction with § 48(3) and (4).

CONTESTED ACT

46. Clauses 3 and 5 of the contested Act provide that §§ 3 and 4 of the CCA are supplemented with the following new subsections:

“§ 3. Main activities and restrictions on activities of religious associations

[...]

(2¹) Churches, congregations, associations of congregations and monasteries may not, on the basis of the statutes or any other document governing their activities, or economically, be linked to a spiritual centre, governing body, religious association or religious leader situated in a foreign state which constitutes a threat to the security or constitutional or public order of the Estonian state.

(2²) The threat to the security or constitutional or public order of the Estonian state specified in subsection 2¹ of this section may, among other things, arise where a spiritual centre, governing body, religious association or religious leader specified in the same subsection incites, supports or finances activities aimed at changing the independence, territorial integrity or constitutional order of the Republic of Estonia by force, or supports or has supported military aggression, or has called for war, a terrorist offence or the unlawful use of armed force or violence in any other manner.

[...]

§ 4. Religious society

[...]

(1¹) A religious society may not, on the basis of the statutes or any other document governing its activities, or economically, be linked to a governing body or association situated in a foreign state which constitutes a threat to the security or constitutional or public order of the Estonian state.

(1²) The threat to the security or constitutional or public order of the Estonian state specified in subsection 1¹ of this section may, among other things, arise where a governing body or association specified in the same subsection incites, supports or finances activities aimed at changing the independence, territorial integrity or constitutional order of the Republic of Estonia by force, or supports or has supported military aggression, or has called for war, a terrorist offence or the unlawful use of armed force or violence in any other manner.”

OPINION OF THE COURT *EN BANC*

47. The Court *en banc* will first consider the admissibility of the application by the President of the Republic (I) and will then assess the legal clarity of the contested Act (II). Finally, the Court *en banc* will analyse the purpose and proportionality of the contested Act and resolve the application (III).

(I) Admissibility of the application by the President of the Republic

48. Under § 107(2) of the Constitution and § 5 of the Constitutional Review Court Procedure Act (CRCPA), the President of the Republic may apply to the Supreme Court to declare unconstitutional an Act passed by the Riigikogu but not promulgated by the President, if the Riigikogu has re-adopted it in unamended form after it was sent for a new deliberation and decision. The President of the Republic may decline to promulgate an Act and submit an application to the Supreme Court to declare it to be in conflict with the Constitution only in its entirety. These prerequisites have been met.

49. Pursuant to § 8(1) of the CRCPA, an application submitted to the Supreme Court must be substantiated. Although the text of the resolution not to promulgate an Act and an application to the Supreme Court do not have to be identical, the arguments set out in the application may not, at least on the fundamental issues, be broader in scope than those set out in the resolution (Supreme Court Constitutional Review Chamber judgment of 19 December 2019, 5-19-38, paras 61–63). Although the application of the President of the Republic submitted to the Supreme Court is longer than his resolution of 3 July 2025 on the refusal to promulgate the Act, the application does not put forward any new justifications; rather, the objections set out in the resolution have been elaborated upon in more detail. Both the resolution and the application refer to clauses 3 and 5 of the contested Act, which amend §§ 3 and 4 of the CCA by adding new subsections and establishing restrictions on the activities of religious associations. Both documents conclude that the Act is in conflict with §§ 11, 40 and 48 of the Constitution because the restrictions on freedom of religion and association imposed by it are disproportionate. The President of the Republic found it problematic that, in the event of a threat posed by a foreign entity, religious associations are prohibited not only from maintaining administrative and economic but also doctrinal affiliation with such an entity. He also considered unclear the provision stipulating that such affiliation may not exist on the basis of the statutes or any other document governing their activities, or through economic affiliation. The concept of ‘threat’ is defined very broadly, both in substance and in temporal terms. The Act lays down a general prohibition on affiliation, without taking into account the positions of the Estonian religious association itself on specific issues.

50. In the opinion of the Court *en banc*, the application by the President of the Republic is admissible.

(II) Legal clarity of the contested Act

51. First of all, it must be ascertained whether the contested Act is formally constitutional (see e.g. Supreme Court *en banc* judgment of 1 July 2015, 3-4-1-20-15, para. 44). As none of the participants in the proceedings has disputed this and the Court *en banc* also has no doubt that the Act has been adopted in compliance with the requirements of competence, procedure and form, only the compatibility of the contested norms with the principle of legal clarity will be assessed separately below.

52. The Court *en banc* will analyse the norms highlighted by the President of the Republic (clauses 3 and 5 of the contested Act, which introduce new subsections 2¹ and 2² into § 3 and new subsections 1¹ and 1² into § 4 of the CCA) in conjunction with other clauses of the Act, in particular clauses 7, 12, 15 and 21 of the Act, as these are directly linked to the restrictions imposed by clauses 3 and 5.

53. Under § 13(2) of the Constitution, the law protects everyone against the arbitrary exercise of state power. The principle of legal clarity arising from this provision requires that legal norms be sufficiently clear and comprehensible so that everyone would be able, with a certain degree of probability, to foresee the conduct of a public authority and to regulate their own conduct – if necessary, with appropriate advice (Supreme Court *en banc* judgment of 28 October 2002, 3-4-1-5-02, 3-4-1-5-02, para. 31; 1 February 2016, 3-2-1-146-15, para. 67; see also the requirements regarding the quality of legislation arising from Articles 9 and 11 of the ECHR: ECtHR judgment (GC) of 26 October 2000, *Hasan and Chaush v. Bulgaria*, 30985/96, para. 84; ECtHR judgment of 14 June 2007, *Svyato-Mykhaylivska Parafiya v. Ukraine*, 77703/01, para. 115; ECtHR (GC) judgment of 26 April 2016, *İzzettin Doğan and Others v. Turkey*, 62649/10, para. 99). Although constitutionally compliant interpretation must be preferred, in order to achieve this, the clear wording of the norm must not be disregarded and it must not lead to lack of legal clarity (see e.g. Supreme Court *en banc* judgment of 22 February 2005, 3-2-1-73-04, para. 36; Supreme Court Constitutional Review Chamber judgment of 9 December 2019, 5-18-7, para. 171; 6 November 2023, 5-23-35, para. 34).

54. However, not every instance of lack of clarity or need for interpretation renders a law unconstitutional, and the use of undefined legal concepts or the provision of discretionary powers to a competent body is not precluded. A situation is lacking legal clarity only if it is not possible to reasonably eliminate doubts arising during the interpretation of norms by taking into account the purpose and legislative history of the norms, other legal acts, general principles of law, and the like, and such lack of clarity prevents the identification and fulfilment of obligations arising from the law (cited 5-19-38, para 68 and 71; 26 February 2025, 5-24-29, para. 63). The level of precision required of a law under the Constitution also depends on the area being regulated, the intensity of any potential interference with fundamental rights, the context in which the law is to be applied, and the like (Supreme Court *en banc* judgment of 24 April 2026, 2-21-12706, para. 41; see also the cited *Hasan and Chaush v. Bulgaria*, para. 84; ECtHR 13 February 2001, *Metropolitan Church of Bessarabia and Others v. Moldova*, 45701/99, para. 109). At the same time, the number of addressees of the norm must be taken into account (*Hasan and Chaush vs. Bulgaria*, para. 84) and to whom the norm is addressed – whether the norm is addressed to and implemented primarily by ordinary people or appropriately trained experts in their field, who must be able to overcome possible ambiguities or difficulties in implementation through interpretation (see also Supreme Court Constitutional Review Chamber judgment of 19 March 2009, 3-4-1-17-08, para. 27; 18 January 2019, 5-18-4, para. 63).

55. In particular, the parties to the proceedings interpret differently what kind of “affiliation”, “on the basis of the statutes” or “any other document” or “economically” with a foreign entity posing a threat

is prohibited within the meaning of the contested Act (§ 3 new subsection 2¹, § 4 new subsection 1¹ CCA); what kind of “threat” must emanate from the foreign entity in order for the affiliation with them to become prohibited, and what time frame and substantive scope are meant when referring to the fact that the foreign entity “has supported” military aggression or called for war (§ 3 new subsection 2², § 4 new subsection 1² CCA). In the opinion of the President of the Republic, these concepts, viewed in combination, render the contested Act unclear.

56. In the following, the Court *en banc* will clarify the content of the relevant provisions, taking into account the field of regulation and the addressees of the contested norms, their purpose and how the norms have been developed, as well as the consequences of application of the norms for their addressees.

57. Although during the deliberations and in the explanatory memorandums of the contested draft Act, as well as in the court proceedings, the affiliation of the Estonian Christian Orthodox Church and Pühtitsa Convent with the Russian Orthodox Church have been cited as an example, no specific review of the constitutionality of the provisions can be carried out within the frame of the present abstract constitutional review proceedings. Based on the application by the President of the Republic, the Supreme Court assesses the Act in general.

(i) Scope of regulation and addressees of the Act

58. Pursuant to § 1(1) of the current CCA, the purpose of the Act is to lay down the procedure for membership of churches, congregations, associations of congregations, monasteries and religious societies, and to regulate their activities, in order to exercise freedom of religion guaranteed for everyone by the Constitution. The contested Act establishes additional restrictions on the activities of religious associations. Thus, the scope of regulation of the Act covers the activities of associations bringing together religious communities as an organisation, and the contested norms interfere with freedom of religion (§ 40 Constitution) and freedom of association (§ 48 Constitution) protected under the Constitution. The protection of freedom of religion and freedom of association is also provided for in Articles 9 and 11 of the ECHR, the provisions of which, together with ECtHR case-law on these matters, can be taken into account when interpreting the provisions of the Constitution (see Supreme Court Constitutional Review Chamber judgment of 25 March 2004, 3-4-1-1-04, para. 18; Supreme Court *en banc* judgment of 21 June 2019, 5-18-5, para. 50). Interference with freedom of religion and freedom of association has not been called into question in the proceedings, but the positions of the participants in the proceedings differ as to whether the restriction is in conformity with the Constitution.

59. Religious associations, i.e. legal persons, which are the main addressees of the Act, can be presumed to be able to clarify – with appropriate assistance, if necessary – what is expected of them. However, according to ECtHR case-law, freedom of religion and freedom of association (Articles 9 and 11 of the ECHR) must be interpreted in conjunction when the activities of a religious community as an organisation are at issue. The ECtHR has stated that were the organisational life of religious communities not protected by Article 9 of the ECHR, all other aspects of the individual’s freedom of religion would become vulnerable (see, e.g. the cited case of *Hasan and Chaush v. Bulgaria*, para. 62; *İzzettin Doğan and Others v. Turkey*, para. 93; ECtHR 31 July 2008, *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria*, 40825/98, para. 62). Thus, when imposing restrictions on the activities of a religious association, it is important that the associations understand their obligations in order to avoid initiating compulsory dissolution in respect of themselves, because compulsory dissolution affects all people belonging to the religious association.

(ii) *Purpose and legislative history*

60. According to the explanatory memorandum to the contested draft Act, the purpose of the Act is to prevent hostile influence and disinformation – not related to the practice of religion – from reaching members of a congregation or people living in a monastery through the administrative links of a religious association, bearing in mind the global security situation (Riigikogu XV composition, 570 UA, 23 January 2025, page 4 of the explanatory memorandum). The state has the obligation to ensure its own security, constitutional and public order (ibid., page 14). The aim of inhibiting hostile influence is to safeguard the security of the Estonian state, including internal security, public order and safety (570 UA, 11 June 2025, page 9 of the explanatory memorandum). In the opinion of the Court *en banc*, the purpose of the norms – namely, the protection of national security and public and constitutional order – is sufficiently clear.

61. The President of the Republic considers the restrictions imposed on the activities of religious associations to be unclear, firstly, because it is not understandable what kind of substantive affiliation between an Estonian association and a foreign entity is prohibited. According to the application, it is not clear from the wording of the Act whether, in addition to affiliation of an administrative nature, it also covers affiliation through the doctrinal basis of a religious association and doctrinal links with a foreign entity who poses a threat to Estonia's security or public order.

62. Although the new subsection 2¹ of § 3 and the new subsection 1¹ of § 4 of the CCA only mention “affiliation”, the history of the wording of the norm must be taken into account when interpreting the norm. The Government of the Republic explained in court proceedings that the prohibition contained in an earlier draft, referring to “confessional or doctrinal” affiliation with a foreign entity, was omitted from the draft in order to make the norm “legally clear for the target group and the [...] restriction would be sufficiently narrowly defined”. At the same time, the Government conceded that a confessional or doctrinal affiliation would have been too broad a criterion, since all churches are doctrinally linked to each other through the same Holy Scripture (the Bible) and creeds (paragraphs 11 and 12 of the opinion of 18 November 2025). In response to the additional questions by the Court *en banc*, the Government reiterated, with reference to different versions of the draft Act, that “given the historical method of interpretation, a doctrinal link should not be deemed to be covered by § 3 subsection 2¹ of the CCA. Consequently, neither the doctrinal link itself nor the confessional overlap is covered by the definition based on the statutes or any other document forming the basis of the organisation's activities” (paragraph 21 of the opinion of 11 March 2026).

63. The explanations by the Government of the Republic are confirmed by the course of the legislative proceedings of the draft. The Government Office forwarded the Draft Act Amending the CCA to the Riigikogu on 23 January 2025. The table of approvals annexed to the explanatory memorandum to the original draft Act shows the proposals made regarding the draft and whether they were taken into account or not. The first page of the table of approvals includes a remark from the Estonian Council of Churches stating that the “confessional or doctrinal affiliation” contained in the draft („Churches, congregations, associations of congregations and monasteries may not be guided in their activities by a foreign entity, institution or association, or be linked to it by their statutes, creed or doctrinal basis, if that entity, institution or association: [...]”) is too broad and remains vague. In the opinion of the Estonian Council of Churches, it remained unclear how a religious association should sever or suspend confessional or doctrinal links in the event of such affiliation. Neither the Estonian Council of Churches nor its member churches are in a position to control or influence the affiliation or cooperation of any church, congregation, monastery or association of congregations belonging to the same ecumenical body with the political authorities of the country in which it is located, nor the views expressed by the representatives of these churches. The table of approvals shows that the Ministry of

the Interior, which drafted the bill, took the comment by the Estonian Council of Churches into account, confirming that ‘confessional and doctrinal affiliation have been excluded from the provision in question’.

64. The President of the Republic declined to promulgate the Act Amending the CCA for the first time on 24 April 2025 on the grounds that it was unclear what was meant by “being guided” by a foreign entity, and not because the prohibition on doctrinal affiliation was considered an impermissible affiliation. Following the first refusal to promulgate the Act, the the part of the text stating that the prohibition would also cover “confessional or doctrinal affiliation” was not reintroduced into the draft. Although the wording of the new subsection 2¹ of § 3 and the new subsection 1¹ of § 4 of the CCA could be more precise, the legislator’s intention is evident from the fact that the draft Act was amended and reworded. In the opinion of the Court *en banc*, confessional and doctrinal affiliation are not the subject-matter of the contested norms.

65. In view of the foregoing, it can be inferred from the explanatory memorandums to the contested draft Act (pages 3 and 13 of the explanatory memorandum of 23 January 2025; pages 1, 8 and 10 of the explanatory memorandum of 11 June 2025) that the purpose of the Act is to prevent hostile influence not related to the practice of religion from reaching members of a congregation or people living in a monastery through an “administrative relationship” between an Estonian religious association and a foreign entity. In the explanatory memorandum, this affiliation is also referred to as “administrative affiliation” (explanatory memorandum of 11 June 2025, pages 10 and 12) and in the positions of the Government of the Republic submitted to the Supreme Court as “organisational” affiliation (paragraphs 8 and 27 of the opinion of 2 February 2026, paragraph 24 of the opinion of 11 March 2026). The Estonian words “halduslik” and “administratiivne” [administrative] are synonymous and are related to the management or organisation of something. The term “organisational” is also used in the sense of “related to organisation”. The Court *en banc* finds that, under the contested Act, an Estonian religious association may not, in the event of a foreign entity posing a “threat”, be linked to that entity insofar as such a link manifests itself in the Estonian religious association’s subordination to the foreign entity’s management arrangements. Examples of such cases include the pre-selection or appointment of staff by the foreign entity, as well as compliance with other organisational decisions made by the foreign entity.

66. The President of the Republic also considers it unclear from which document a prohibited affiliation can arise and what is meant by prohibited economic affiliation. The new subsection 2¹ of § 3 and the new subsection 1¹ of § 4 of the CCA mention the affiliation arising from the “statutes” or “any other document governing its activities” or “economic” affiliation between an Estonian religious association and a foreign entity.

67. Pursuant to § 12 of the CCA, every religious association must have statutes. For the purposes of the contested Act, the Court *en banc* considers that only the statutes of an Estonian religious association itself can be relevant, since a legal person can only amend its own statutes. An Estonian legal person cannot be liable for the content of the statutes of a foreign entity, the amendment of which is beyond its sphere of influence. This is also evident from clause 21 of the contested Act, which establishes implementing provisions. Pursuant to the new § 31²(1) of the CCA, a religious association must bring “its” statutes, the composition of the management board and activities into compliance with the new requirements within six months of their entry into force.

68. If the affiliation arises from „other documents on which the activity is based“, a document may be relevant for the purposes of the provisions in question if it is binding on the Estonian religious association under its statutes, or if it otherwise regulates its core activities equally with the statutes,

and the association itself is able to determine its content. According to the new § 31²(1) of the CCA, „its“ own activities must be brought into compliance with the law.

69. The provisions of the contested Act concerning the “statutes” and “other document” cannot be interpreted in any other way that is consistent with the Constitution, because § 48(3) and (4) of the Constitution, read in conjunction with § 40(3) of the Constitution, would not allow applying the most serious consequence – compulsory dissolution – to a legal person for something beyond its own influence.

70. “Economic affiliation” is described in the explanatory memorandum to the contested draft Act as financial affiliation, affiliation arising from ownership or lease of immovable or movable property, the purchase or sale of goods or services, or the like (page 17 of the explanatory memorandum of 23 January 2025). According to the clarification by the Government of the Republic, economic affiliation must be regarded as material or financial dependence or permanent material affiliation, i.e. it constitutes a prohibition of affiliation or a relationship of dependency (paragraphs 21–22 of the opinion of 18 November 2025; paragraphs 9–10 of the opinion of 2 February 2026). In the opinion of the Court *en banc*, economic affiliation must be understood as implying a relationship of dependence.

71. The President of the Republic considers the contested provisions to be unclear also because the threat to Estonia’s national security or to constitutional or public order posed by a foreign entity is open to extremely broad interpretation (CCA § 3, new subsection 2², § 4, new subsection 1²) and, should such a threat arise, the aforementioned affiliation is automatically prohibited. According to the President of the Republic, under the Act, it is sufficient that if a foreign entity is generally regarded as a threat, the Estonian religious association is obliged to restructure its entire organisation. According to the application, the Act requires an Estonian religious association to condemn the dangerous activities of the foreign entity or to distance itself from that entity’s decisions, and does not take into account which views can be attributed to the Estonian religious association itself. According to the application, as regards the definition of a threat, no specific temporal or substantive dimension has been defined.

72. With regard to the “threat” referred to in the new subsection 2² of § 3 and the new subsection 1² of § 4 of the CCA, the Court *en banc* distinguishes between the following aspects.

- (a) A threat may consist of a foreign entity “inciting, supporting or financing activities unequivocally aimed at changing the independence, territorial integrity or constitutional order of the Republic of Estonia by force”.
- (b) A threat may exist in a situation where a foreign entity “supports or has supported military aggression, or has called for war, a terrorist offence or the unlawful use of armed force or violence in any other manner”.
- (c) The wording stating that a threat „may, among other things, arise“ indicates that the list is not exhaustive.

73. Under the contested Act, in none of the cases does the threat have to manifest itself in the activities of an Estonian religious association; rather, the threat must arise from a foreign entity. If the statutes or activities of an Estonian association itself are in conflict with the law, § 16(3) of the CCA applies, which sets out the grounds on which the Minister of the Interior shall apply to the court for compulsory dissolution of the religious association. In that case, the new subsections of §§ 3 and 4 of the CCA are not relevant (page 10 of the explanatory memorandum of 11 June 2025).

74. Account must also be taken of the new subsection 2¹ of § 3 and the new subsection 1¹ of § 4 of the CCA, according to which “affiliation” with a foreign entity is prohibited if that entity poses a

threat to the security or constitutional or public order of the Estonian state. Thus, the illustrative list is relevant only if the above-mentioned threat to the Estonian state arises from a foreign entity. This interpretation of the provisions is evident from the first half of the illustrative list (para. 72 subpara. (a) of the judgment), according to which an Estonian religious association may not have affiliation – in the manner and to the extent described above – with a foreign entity that incites, supports or finances activities against the independence of the Republic of Estonia, etc.

75. The concept of ‘threat’ may have different meanings and scopes when used in private and public law, as well as within a particular branch of law. In many cases, as also in the case of the contested Act, the existence of a threat is a prerequisite for implementing a measure that interferes with fundamental rights and freedoms. Therefore, it is important to understand what kind of threat is meant. The explanatory memorandum to the draft Act refers to an analogy with the threat to public order set out in § 5(2) of the Law Enforcement Act (page 15 of the explanatory memorandum of 23 January 2025). A threat within the meaning of § 5(2) of the Law Enforcement Act refers to a specific, rather than an abstract, threat (see e.g. Supreme Court Administrative Law Chamber judgment of 20 April 2018, 3-15-443/54, para. 14). The Government of the Republic affirmed during the court proceedings that the purpose of the Act is, by its very nature, law enforcement; i.e. it is intended to prevent situations that would lead to the threat materialising (para. 93 of the opinion of 18 November 2025; chapter 1.1 and para. 29 of the opinion of 11 March 2026), and also that no abstract threat was meant (para. 57 of the opinion of 18 November 2025). “Threat” implies an actual assessment of the circumstances, and the decisive factor is that the activities of a foreign entity should constitute a real threat at a specific point in time. A threat is characterised by the intensity, regularity, systematic nature and duration of the activities (para. 35 of the opinion of 18 November 2025). According to the explanatory memorandum to the contested draft Act, where an application for compulsory dissolution is unavoidable, the state has an obligation to prove in what way the governing body or spiritual centre of a religious association located in a foreign country poses a threat to Estonia’s security or the constitutional or public order (page 8 of the explanatory memorandum of 11 June 2025). The Government affirmed that the threshold set by the Act for those implementing it is high, as severance of prohibited links should be considered only in a situation where a proven threat exists to Estonia’s security or constitutional or public order (paragraph 42 of the opinion of 2 February 2026). In view of the foregoing, the Court *en banc* finds that „threat“ within the meaning of the contested Act does not imply an abstract threat, but presupposes an actual threat arising from the circumstances of a specific case.

76. The same considerations apply to the so-called ‘other part’ of the illustrative list of threats (para. 72 subpara. (b) of the judgment). Although „support“ is not defined more precisely in terms of time or scope, only a threat assessment of specific actions or views expressed can be decisive, not the mere one-off or past expression of views in itself.

77. The wording used in the new subsections 2² and 1² of §§ 3 and 4 of the CCA – i.e. that a threat „may, among other things, arise where“ – affords sufficient discretion to those applying the provision. This also means that a “threat” within the meaning of the contested Act need not necessarily arise in all the cases set out in the illustrative list. Not every activity mentioned in these provisions should automatically result in cross-border ties being deemed prohibited; rather, it must always be assessed, based on the specific circumstances, whether the preconditions set out in § 3 subsections 2¹ and 2² or § 4 subsections 1¹ and 1² of the CCA are met (see also page 6 of the explanatory memorandum of 11 June 2025).

(iii) *Consequences for the addressees*

78. Finally, when assessing the legal clarity of the provisions at issue, account must be taken of the consequences of their application to the addressees of the law, including the extent of interference with freedom of religion and association.

79. Clause 21 of the contested Act introduces a new § 31² into the CCA, the first subsection of which stipulates that religious associations have a six-month period from the entry into force of the Act to bring their statutes and activities into line with the new requirements. Clause 15 of the same Act amends § 14(2) clause 2 of the CCA so that, inter alia, a religious association whose activities pose a threat to national security or constitutional or public order, or damage health, morals or the rights and freedoms of others shall not be entered in the register. On the same grounds, the Minister of the Interior must initiate compulsory dissolution of an existing religious association (§ 16(3) clause 2 CCA). As noted above, compulsory dissolution of a religious association due to failure to comply with the restrictions on its activities ultimately entails consequences for every individual belonging to that specific religious community (see para. 59 of the judgment). That circumstance intensifies the severity of the interference at issue.

80. Under international law, depriving a religious association of its legal personality constitutes serious interference with freedom of religion and association. In the view of the ECtHR, allowing a religious association that is not legally recognised by the state to operate is not a substitute for its legal recognition (cited above, *Metropolitan Church of Bessarabia and Others v. Moldova*, para. 129; *İzzettin Doğan and Others v. Turkey*, para. 127). According to the OSCE 2019 Policy Guidance, a religious association may be denied legal personality only in cases of extreme necessity and as a measure of last resort, and this requires particularly strong justification. In any case, lighter sanctions must have been used beforehand, such as a warning, a fine, the suspension of benefits associated with legal personality, and the like (page 32–34).

81. In Estonia, too, a legal person may only be dissolved as a measure of last resort, which is applied only if less restrictive solutions are neither possible nor effective. If the Minister of the Interior applies to the court for compulsory dissolution of a religious association under § 16(3) of the CCA, the court deciding on compulsory dissolution must (§ 629 Code of Civil Procedure) be guided by § 40(2) of the General Part of the Civil Code Act. In accordance with this general rule, where it is manifest that the deficiency or other circumstance that constitutes the ground for compulsory dissolution can be remedied, the court must first set a time limit for the legal person to remedy the deficiency or circumstance. Compulsory dissolution without setting a time limit for remedying deficiencies would be disproportionate (Supreme Court Civil Chamber order of 11 December 2012, 3-2-1-153-12, para. 10). As compulsory dissolution proceedings are proceedings on petition, the principle of investigation also applies to it (§ 477(5) Code of Civil Procedure). Furthermore, where possible, the court must hear the members of the legal person's managing bodies before ordering compulsory dissolution (§ 629(2) Code of Civil Procedure).

(iv) Summary of interpretation and assessment of legal clarity

82. In view of the foregoing, the Court *en banc* finds that the contested Act stipulates as follows.

(a) On this basis, any administrative or organisational affiliation between an Estonian religious association and a foreign entity listed in the contested provisions, arising from the Estonian religious association's statutes or any other document regulating its core activities equally with the statutes, is prohibited. The statutes of any other entity or other documents forming the basis of its activities beyond the influence of the Estonian religious association are not relevant.

(b) Economic dependence of an Estonian religious association on a foreign entity is prohibited.

(c) Confessional and doctrinal affiliation are not the subject-matter of the contested norms.

(d) Affiliation becomes prohibited only if the foreign entity poses a threat to the security or constitutional or public order of the Estonian state.

(e) The threat referred to in the contested provisions must be manifested in the actions of the foreign entity. Such a threat must arise from the circumstances of the specific case and be genuine. These norms cannot be applied in the event of an abstract threat.

(f) Where a foreign entity has supported military aggression, called for war, a terrorist offence or violence in any other form, etc., it is also decisive whether the threat to Estonia's national security or to constitutional or public order arising from such support is genuine in the circumstances of the specific case.

83. In view of the foregoing, the Court *en banc* considers the relevant provisions of the contested Act to be sufficiently defined and legally clear and does not find them to be unconstitutional in the frame of an abstract constitutional review.

(I) The purpose and proportionality of the restriction of freedom of religion and association

84. Next, the Court *en banc* will assess the purpose, legitimacy and proportionality of the restrictions imposed by the contested Act, and will adjudicate the application by the President of the Republic.

(i) Legitimacy of the purpose

85. As noted above, the purpose of the contested Act may be considered to be, first and foremost, national security and the protection of constitutional and public order (para. 60 of the judgment), and the Act restricts freedom of religion (§ 40 Constitution) and freedom of association (§ 48 Constitution) (para. 58 of the judgment). When assessing the legitimate purpose and proportionality of the Act, ECtHR case-law regarding Articles 9 and 11 of the ECHR must be taken into account.

86. No restrictions may be imposed on internal convictions (*forum internum*) falling within the scope of freedom of religion, either under § 40(1) of the Constitution or Article 9(1) of the ECHR. The active expression or proclamation of freedom of religion (*forum externum*) may be restricted on clear and narrow grounds. Section 40(3) of the Constitution allows restricting the performance of religious rites in order to ensure public order, health and morals. Under Article 9(2) of the ECHR, freedom to manifest one's religion or beliefs may be restricted if this is necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. Section 48(3) of the Constitution, which protects freedom of association, prohibits associations, organisations and political parties whose aims or activities are directed at a violent change of the constitutional order of Estonia, or are otherwise in conflict with the law providing for criminal liability. Article 11(2) of the ECHR states that the formation of an association may be restricted 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.

87. Since the present case involves restrictions on both freedom of religion and freedom of association, not all of the grounds for restriction listed in Article 9(2) and Article 11(2) of the ECHR can be invoked. Where the activities of a religious community as an organisation are at issue, these articles must be interpreted in conjunction (e.g. cited above, *Hasan and Chaush v. Bulgaria*, para. 62; *Metropolitan Church of Bessarabia and Others v. Moldova*, para. 118; *İzzettin Doğan and Others v. Turkey*, para. 93). This means that, although freedom of association may in itself be restricted on more grounds than freedom of religion, this cannot be done if freedom of religion is simultaneously interfered with. In cases concerning freedom of religion and freedom of association, the ECtHR has

repeatedly emphasised that “national security” was not omitted from the grounds for restriction under Article 9(2) of the ECHR by accident (ECtHR, 12 February 2009, *Nolan and K. v. Russia*, 2512/04, para. 73). Nevertheless, states are entitled to verify whether a religious association carries on, ostensibly in pursuit of religious aims, activities which are harmful to the population or to public safety (cited above, *Metropolitan Church of Bessarabia and Others v. Moldova*, paras 110 and 113; ECtHR judgment of 10 June 2010, *Jehovah’s Witnesses of Moscow v. Russia*, 302/02, para. 107). The ECtHR also acknowledges that, in certain cases, the state may take preventive measures to protect the fundamental rights of others, and that this is consistent with the positive obligations under Article 1 of the ECHR to secure the rights and freedoms set out in the Convention to everyone within their jurisdiction (ECtHR judgment of 6 November 2008, *Leela Förderkreis E.V. and Others v. Germany*, 58911/00, para. 99).

88. The meaning of the terms “national security”, “constitutional order” and “public order”, and the relationship between them, may vary depending on whether they are used in international law, the Constitution or ordinary laws. These terms may overlap to a greater or lesser extent. The Court *en banc* finds that values falling within the scope of national security – such as Estonia’s independence and sovereignty, territorial integrity, constitutional order and the survival of the nation – are also protected under the Constitution as part of public order. Thus, the purpose of the contested Act is legitimate both under § 40(3) of the Constitution as well as Article 9(2) of the ECHR (cf. cited case of *Metropolitan Church of Bessarabia and Others v. Moldova*, para. 113). Where fundamental rights and freedoms are restricted for the purpose of safeguarding national security, restraint and caution must be exercised in interpreting this provision. National security is a significant constitutional-grade value (Supreme Court *en banc* judgment of 3 July 2012, 3-3-1-44-11, para. 82), which can be used to justify a wide range of restrictions. However, this should not become a pretext for arbitrariness by the state.

(ii) *Proportionality*

89. Pursuant to § 11 of the Constitution, restrictions must be necessary in a democratic society and may not distort the essence of the rights and freedoms restricted. Restrictions may not harm an interest or right protected by law to a greater extent than is justified by the legitimate aim of the norm. Proportionality is assessed using a three-step test: first, the appropriateness of the measure is assessed, then its necessity, and, where necessary, its narrow proportionality. A measure is appropriate if it facilitates attaining the aim of the restriction. A measure is necessary if the aim cannot be achieved by another measure which is less burdensome on the person while being at least equally effective. In order to decide on the narrow proportionality of a measure, it is necessary to consider, on the one hand, the extent and intensity of interference with the fundamental right and, on the other hand, the importance of the aims (consistent Supreme Court case-law since the Supreme Court Constitutional Review Chamber judgment of 6 March 2002, 3-4-1-1-02, para. 15; Supreme Court *en banc* judgment of 15 February 2023, 3-18-477, para. 77). According to the interpretation by the ECtHR, interference must correspond to a pressing social need and be proportionate to the legitimate aim pursued, regard being had to the fair balance between the relevant competing interests (in the context of freedom of religion and association, e.g. the cited case of *Metropolitan Church of Bessarabia and Others v. Moldova*, para. 119).

a) *Appropriateness*

90. In order to satisfy the requirement of appropriateness, it is sufficient that the aim of the law can, in principle, be achieved by the measure at issue (Supreme Court *en banc* judgment of 11 June 2019, 5-18-8, para. 62).

91. Although the President of the Republic questions the appropriateness of the contested Act, as it has not been explained how hostile influence is exerted simply through the ecclesiastical hierarchy, yet he does not claim that the measure does not contribute at all to the achievement of the objective. In the opinion of the Riigikogu and the Government of the Republic, the measure helps to mitigate security risks by preventing hostile foreign influence operations carried out under the guise of religious activity. The Chancellor of Justice questions the extent to which the desired objective can be achieved by the chosen means, given that a religious organisation may continue to operate as a partnership after its compulsory dissolution, and that a message from an entity based abroad may exert direct influence via the internet and other media in the absence of any statutes-based or economic affiliation. Nevertheless, in the opinion of the Chancellor of Justice, it cannot be argued that the obligation to sever prohibited affiliation does not at all help to prevent cross-border activities that abuse freedom of religion.

92. The Court *en banc* considers that the prohibition on administrative or organisational affiliation with an entity who poses a threat to Estonia's national security or to constitutional or public order reduces the likelihood of that threat materialising in Estonia. Since the appropriateness of the measure can be assessed in the abstract on the basis of the application by the President of the Republic, it would be premature to state that it does not, under any circumstances, facilitate the achievement of the objective. Thus, in the opinion of the Court *en banc*, the contested Act is appropriate for achieving the objective of reducing hostile influence.

b) Necessity

93. The President of the Republic considers that the restriction is not necessary as a whole, since the same objective could be achieved through a more limited prohibition. According to the application, the provisions of the Penal Code could also help to prevent harmful foreign influence. In the President's view, the legislator would be more likely to achieve the desired objective if Estonian religious associations were required to manage their links with foreign entities so that they would not be bound by views that pose a threat to Estonia's national security or to constitutional or public order.

94. In the opinion of the Riigikogu and the Government of the Republic, there are no less restrictive measures available, as the provisions of the Penal Code allow for a response to hostile influence exerted under the guise of freedom of religion, but do not prevent or curtail it. However, the existing provisions of the CCA do not allow for the compulsory dissolution of a religious association which has itself committed no wrongdoing.

95. The Supreme Court *en banc* finds that various measures are appropriate for preventing hostile influence operations and dealing with their consequences. The relevant provisions of the Penal Code (including §§ 14, 91¹, 92, 232, 233, 235 and 235¹) make it possible to respond to an action attributable to a specific person. Similarly, the legal basis for staying in Estonia (a residence permit or visa) may be revoked, and, where necessary, only a specific natural person may be expelled from Estonia (see, e.g. § 78(2) clause 6 and § 135(2) clause 3 of the Aliens Act). However, retrospective application of measures to natural persons on an individual basis is more burdensome for the state and less effective than a measure that enables hostile influence operations to be prevented in advance. Moreover, the expulsion of an Estonian citizen from the country is not permitted (§ 36 Constitution). Under the provisions currently in force, a religious association may indeed be compulsorily dissolved (§ 16(3) CCA and § 40(2) General Part of the Civil Code Act), but not where the sole allegation against an Estonian religious association is its affiliation with a foreign entity who poses a genuine threat to the security or constitutional or public order of the Estonian state. The current law contains no provisions

that would enable to respond in this manner to a threat emanating from a foreign entity. The measures introduced by the contested Act therefore differ from those currently in place. Nor can the desired objective be achieved equally effectively by any other, less restrictive measure.

c) Narrow proportionality

96. In the present case, what is at stake within the meaning of the Constitution is public order (which encompasses national security and the constitutional order; para. 88 of the judgment) and freedom of religion and freedom of association.

97. The President of the Republic does not consider the Act proportionate in the strict sense and questions whether a threat to national security associated with a foreign entity can be attributed to an Estonian association merely on the basis of a broadly defined affiliation. In the view of the Riigikogu and the Government of the Republic, the Act is proportionate in the strict sense, since the state does not impose restrictions on the profession or practice of faith by religious associations and their members as part of their lawful and peaceful principal activity. According to the Chancellor of Justice, the central question in assessing the proportionality of the contested provisions is whether they oblige the Minister of the Interior to apply to a court, and the court to prohibit the activities of a religious association, even where the threat is abstract rather than specific. Since the phrase “a threat [...] may, among other things, arise”, used in the new subsection 2² of § 3 and the new subsection 1² of § 4 of the CCA, affords the authority applying the provision sufficient discretion, the Chancellor of Justice considers a constitutionally-compliant interpretation to be possible.

98. In its analysis of the legal certainty of the contested norms, the Court *en banc* explained how the new subsections 2¹ and 2² of § 3 and subsections 1¹ and 1² of § 4 of the CCA are to be understood (see para. 82 of the judgment). These provisions are compatible with freedom of religion and freedom of association only if they are construed as meaning that, in order to comply with the law, an Estonian religious association may be required to take only measures that are within its own control, and not to amend the statutes or other documents governing the activities of a foreign entity posing a threat, which are beyond the influence of the Estonian association. Under the CCA currently in force, every religious association must have statutes, and § 12 of the Act lists the information that the statutes must contain. This includes the purpose of its activities, the doctrinal basis, mandatory religious rites, the structure of its management and supervisory bodies and the procedure for their formation and their competence, the status and hierarchy of ministers of religion, their service relationships and vestments, among other matters. The statutes must therefore contain detailed information and disclose the administrative and organisational affiliation between the association and a foreign entity. Since, for the purposes of the contested Act, an “other document” can only be a document which, under the statutes, is binding on the religious association or otherwise governs its principal activities, identifying affiliation on the basis of the “statutes” or “other document governing its activities” is not disproportionate.

99. The Court *en banc* found above that the contested provisions do not encompass the reference to a “confessional and doctrinal affiliation” contained in the original wording of the draft Act and that prohibited affiliation is understood to refer to administrative and organisational affiliation (see paras 62–65 of the judgment) and economic dependence on a foreign entity posing a threat (para. 70 of the judgment). If, nevertheless, the activities of an Estonian religious association, including in the course of practice of religion, are contrary to the Constitution or prejudice public order, health or morals, or the rights and freedoms of others, the Minister of the Interior may, under the legislation already in force, apply for the compulsory dissolution of the association (§ 16(3) and § 14(2) CCA). A legal person may be held criminally liable for a criminal offence (§ 14 Penal Code). Likewise, every

individual – whether a minister of religion or an ordinary member of a religious community – is responsible for their own conduct, and where that conduct constitutes a criminal offence, criminal proceedings must be initiated. Where the statutory grounds are met, a foreign national may be deprived of the right to stay in Estonia. In extreme cases, where a religious association or an individual abuses their rights under the guise of freedom of religion and freedom of association, protection of the ECHR is likewise unavailable to them (Article 17 ECHR). In applying Article 17 of the ECHR, the European Court of Human Rights assesses the content and nature of the activity in question as a whole, as well as its immediate and broader context in the particular state and its impact (see, e.g. ECtHR decision on admissibility of 24 May 2018, *Roj TV A/S v. Denmark*, No 24683/14, paras 30–38; ECtHR decision on admissibility of 27 June 2023, *Lenis v. Greece*, No 47833/20).

100. As a general rule, adherence to religious doctrine and the practice of faith form part of the core of freedom of religion under established international practice. According to the ECtHR, freedom of religion does not leave the state any discretion to determine whether the means used to express religious beliefs are legitimate. The rules observed by religious communities are often perceived by their members as being of divine origin. Similarly, religious ceremonies have a sacred significance and value for believers when performed by ministers of religion authorised in accordance with the rules (see, e.g. the cited cases of *Hasan and Chaush v. Bulgaria*, paras 62 and 78; *İzzettin Doğan and Others v. Turkey*, paras 107, 111 and 133; ECtHR judgment of 5 March 2024, *Föderation der Aleviten Gemeinden in Österreich v. Austria*, No 64220/19, para. 49). The ECtHR has repeatedly noted that where a state refuses to re-register a religious community that has been operating for years, particularly weighty and compelling reasons are required to justify such a refusal (ECtHR judgment of 5 October 2006, *Moscow Branch of The Salvation Army v. Russia*, No 72881/01, para. 96; ECtHR, judgment of 5 April 2007, *Church of Scientology Moscow v. Russia*, No 18147/02, para. 96; ECtHR judgment of 24 June 2025, *Sagir and Others v. Greece*, No 34724/18, § 47). The fact that individual members, or even leaders, of a religious community are associated with violent extremism – i.e. activities involving violence or incitement to violence – is not sufficient to justify denying legal personality to the religious community as a whole or de-register the association (OSCE 2019 Policy Guidance, page 33).

101. The contested Act repeals § 5(2) of the CCA, under which the statutes of a religious association may provide for derogations from the provisions of the Non-profit Associations Act concerning membership and management where such derogations arise from the historically established doctrine and structure of a religious association. Compelling reasons are required to justify requiring the severance of links that have hitherto been accepted. The ECtHR has emphasised that, in a democratic state, the state may not pursue the objective of bringing different religious communities under a unified leadership. The state is under a duty to remain neutral and impartial and must not introduce measures that favour one religious leader over another or are aimed at forcing a religious community to come together under a single leadership with another association against its own will (the cited cases of *Hasan and Chaush v. Bulgaria*, para. 78; *İzzettin Doğan and Others v. Turkey*, paras 108–109; ECtHR judgment of 23 March 2017, *Genov v. Bulgaria*, No 40524/08, para. 45). The contested Act allows the authority applying the norm to take into account the principles established in ECtHR case-law in order to ensure that the measure is proportionate in the strict sense.

102. The prohibition on administrative, organisational and economic affiliation is, however, proportionate in the strict sense only on condition that the threat posed by the foreign entity to the Estonian state has been duly established (paras 72–77 of the judgment). The Act does not stipulate that the activities referred to in the new subsections 2² and 1² of §§ 3 and 4 of the CCA automatically result in cross-border ties being regarded as prohibited. In each case, the authority applying the Act

must establish the threat arising from the prohibited affiliation and then assess whether that threat is of such a nature as to justify the measures used to enforce the prohibition.

103. In addition, a religious association is protected by effective judicial review, together with a right of appeal. Compulsory dissolution is decided by the district court upon an application by the Minister of the Interior, and the court must first grant the association subject to compulsory dissolution a time limit within which to remedy the deficiencies and must thereafter adjudicate the matter in proceedings on petition, applying the investigative principle (§ 629 and § 477(5) Code of Civil Procedure; see para. 81 of the judgment). If the district court orders the compulsory dissolution of a religious association, the latter has the right of interim appeal against the district court's order to the circuit court of appeal (§ 629(5) and § 660(3) (second sentence) Code of Civil Procedure). Similarly, a religious association has a right of appeal to the Supreme Court if the circuit court upholds the district court's order (§ 696(3) and § 698 Code of Civil Procedure). If, in proceedings concerning the compulsory dissolution of a particular religious association, circumstances emerge which, if the contested Act were applied, may give rise to an unconstitutional situation, it is nevertheless possible to initiate specific constitutional review of the same Act and reach a different outcome from that reached by the Court *en banc* (Supreme Court *en banc* judgment of 20 October 2020, 5-20-3, para. 143; Supreme Court *en banc* judgment of 1 July 2010, 3-4-1-33-09, para. 71). A person subject to the proceedings may themselves apply for the relevant law to be declared unconstitutional; but in any event the court is under an obligation to assess the constitutionality of the relevant legal norms (§ 15(1) and (2) Constitution, see also Supreme Court Constitutional Review Chamber judgment of 2 December 2004, 3-4-1-20-04, para. 40; cited 5-19-38, para. 75), including the requirement that the courts hearing a compulsory dissolution case must review how undefined legal concepts have been interpreted (Supreme Court Administrative Law Chamber judgment of 1 October 2018, 3-17-1026, para. 34).

104. In the case of the contested Act, what is at stake, on the one hand, is serious interference with freedom of religion and association, since the norms contained in the Act may lead to the compulsory dissolution of a religious association, which would affect all persons belonging to that religious association. On the other hand, what is at stake is public order within the meaning of the Constitution, which, as a general rule, is a more compelling value, since it encompasses national security and the constitutional order. The Preamble to the Constitution sets out the fundamental and enduring tasks that the Estonian state, founded on liberty, justice and law, is required to fulfil. According to the fourth paragraph of the Preamble, the primary task of the state is to protect internal and external peace. Accordingly, the state is also under an obligation to take measures to prevent hostile influence operations where these may endanger the internal or external peace of the Estonian state. In the present case, an abstract assessment of the contested Act provides no basis for finding it disproportionate. The Act does not permit the arbitrary compulsory dissolution of religious associations, and it can be interpreted and applied in conformity with the Constitution.

105. In view of the foregoing, the Court *en banc* denies the application by the President of the Republic pursuant to § 15(1) clause 6 of the Constitutional Review Court Procedure Act.

(signed digitally)