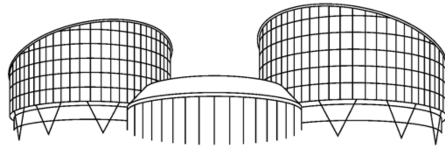

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF INTERNATIONALE HUMANITÄRE HILFSORGANISATION E. V. v. GERMANY

(Application no. 11214/19)

JUDGMENT

Art 11 • Freedom of association • Proscription of applicant association, entailing its dissolution and asset confiscation, due to considerable financial donations to charitable societies linked to the terrorist organisation Hamas • Fight against international terrorism through protection of the concept of international understanding constituted legitimate aim of protecting the rights and freedoms of others • Aims pursued by prohibition of indirect support for terrorism very weighty and States' margin of appreciation wider • Proscription a measure of last resort following an extensive assessment of potentially less restrictive measures • Duly established that applicant association, while presenting its activities under the guise of humanitarian aid, knowingly supported international terrorism, directly or indirectly • Association's conduct incompatible with core Convention values • Comprehensive and transparent balancing exercise conducted by domestic courts • Relevant and sufficient reasons • Margin of appreciation enjoyed in cases concerning incitement to violence not overstepped • Interference proportionate and "necessary in a democratic society"

STRASBOURG

10 October 2023

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Internationale Humanitäre Hilfsorganisation e. V. v. Germany,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Gabriele Kucsko-Stadlmayer*, President*,
Tim Eicke,
Faris Vehabović,
Armen Harutyunyan,
Anja Seibert-Fohr,
Ana Maria Guerra Martins,
Sebastian Răduleţu*, judges*,
and Andrea Tamietti, *Section Registrar,*

Having regard to:

the application (no. 11214/19) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Internationale Humanitäre Hilfsorganisation e.V., formerly an association with its headquarters in Frankfurt am Main (“the applicant association”), on 22 February 2019;

the decision to give notice to the German Government (“the Government”) of the above application;

the Government’s observations;

Having deliberated in private on 19 September 2023,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The application concerns the compatibility with Article 11 of the Convention of the proscription of the applicant association, entailing its dissolution and the seizure of its assets, for pursuing aims incompatible with the concept of international understanding between peoples (*Völkerverständigung*, hereafter “international understanding”). The proscription was based on a finding that a charitable society to which the applicant association had made nearly half of its financial donations was associated with Hamas, a terrorist organisation.

THE FACTS

2. The applicant association was a non-profit association with its headquarters in Frankfurt am Main. Founded in 1997 and now proscribed and dissolved, it was active until June 2010. The applicant association was represented by Mr R. Marx, a lawyer practising in Frankfurt am Main.

3. The Government were represented by one of their Agents, Ms N. Wenzel, of the Federal Ministry of Justice.

4. The facts of the case may be summarised as follows.

I. BACKGROUND TO THE CASE

A. The applicant association's statutory object and leading members

5. The applicant was a non-profit association. Its registered name means "International Association for Humanitarian Aid". According to its statutes, the applicant association's object was to "provide appropriate humanitarian aid worldwide in cases of natural disasters, wars and other catastrophes".

6. All of the members of the applicant association's board of trustees were also members of staff of the largest Islamic organisation in Germany, Millî Görüş e.V.

B. The applicant association's funding activities as established by the national courts and undisputed before the Court

7. Until 2010, the applicant association collected donations in Germany and channelled them to six organisations in predominantly Muslim countries.

8. Among the organisations supported by the applicant association were two charitable organisations known as "social societies", which carried out social projects for the benefit of the Palestinian population, particularly in Gaza and the West Bank.

9. In particular, one out of the two "social societies" financially supported by the applicant association was the "Islamic Society" (Arabic اليميه الاسلامية – Al-Yamiya al-Islamiya), an organisation founded in 1979 in the city of Jabaliya in Gaza which carried out, in particular, projects in Gaza benefiting orphaned children of so-called "martyrs" – people who had died or been wounded in combat against Israel.

10. In spring 2010 I.J., until then the chairman of the Jabaliya office of the Islamic Society, became mayor of Jabaliya, representing Hamas. In the same year, the applicant association terminated its financial support for the Islamic Society and started supporting the Salam Society for Relief and Development (hereafter "Salam"), which was also based in Gaza.

11. Salam had been established by a former board member of the Jabaliya office of the Islamic Society, Y.S., who later became the chairman of Salam's supervisory board. Salam employed several people who had previously worked for the Islamic Society and it supported the same projects.

12. From 2006 to 2010, a substantial proportion of the applicant association's overall financial donations were made to the Islamic Society.

II. THE APPLICANT ASSOCIATION'S PROSCRIPTION BY A DECISION OF THE GERMAN FEDERAL MINISTRY OF THE INTERIOR OF 23 JUNE 2010

13. On 23 June 2010 the German Federal Ministry of the Interior (hereafter "the Ministry") issued a decision by which it declared the applicant association to be acting against the concept of international understanding between peoples (*Völkerverständigung*) and proscribed it, which had the effect of causing its dissolution under section 3(1), first sentence, of the Law on Associations (see paragraph 29 below). It further ordered the confiscation of the applicant association's assets.

14. Basing its decision on the applicant association's long-term and substantial financial support of "social societies" (in particular, the Islamic Society) which were part of the terrorist organisation Hamas, the Ministry considered that the applicant association was indirectly contributing to the violence brought by Hamas into the relationship between the Palestinian and the Israeli people.

15. The Ministry found it established, on the basis of Hamas's original Charter and its actions, that Hamas denied the right of the State of Israel to exist, called for its destruction in a proactively aggressive manner and engaged in terrorist attacks. The political, military and social branches of Hamas were equal, intertwined parts of a single organisation; in particular, the social support for families of so-called "martyrs" served the purpose of encouraging the violent fight against Israel.

16. Furthermore, the Ministry considered that these circumstances were known to the members of the applicant association's board of trustees, who were all leading members of the largest Islamic organisation in Germany (see paragraph 6 above) and were therefore familiar with the structures and personalities of political Islamism, as well as with the Administrative Court's judgment of 3 December 2004 on Social Societies (see paragraphs 35-36 below); they also identified with Hamas.

17. Lastly, with regard to the proportionality of the proscription, the Ministry considered that no less intrusive measures were available, as the applicant association's very object and purpose was to collect and channel donations for organisations directly and indirectly connected with Hamas.

III. THE PROCEEDINGS BROUGHT BY THE APPLICANT ASSOCIATION

A. Proceedings before the Federal Administrative Court

18. On 27 November 2010 the applicant association, represented by counsel, lodged an application against the proscription order with the Federal Administrative Court (*Bundesverwaltungsgericht*). The applicant association

alleged, in particular, that the proscription violated its right to freedom of association under Article 9 of the Basic Law (see paragraph 32 below). It denied that it had supported or identified with Hamas.

19. On 25 May 2011 the Federal Administrative Court held an oral hearing, following which it made a proposal for a friendly settlement, subject to the approval of both parties (section 106, second sentence of the Administrative Court Rules – see paragraph 38 below). Pointing to the litigation risk on both sides, the Federal Administrative Court considered it reasonable to propose that the applicant association be given the opportunity to continue its activities outside the Palestinian areas for a provisional period of about three years, as long as it could demonstrate that it had stopped its Palestinian support activities. If the applicant association respected the terms of the settlement during this period, the proscription order would expire automatically, and the Ministry would be given the opportunity to reassess the case in the light of the new circumstances. Although the applicant association signed the proposal, the Ministry refused; accordingly, no settlement was reached.

20. On 18 April 2012 the Federal Administrative Court, after holding another hearing and assessing a wide range of evidence, dismissed the applicant association's application. Although this did not apply to the other organisations supported by the applicant association, the court confirmed that the applicant association's support of the Islamic Society meant that its activities were directed against the principle of international understanding. The applicant association was therefore liable to proscription under Article 9 § 2 of the German Basic Law in conjunction with the Law on Associations (see paragraphs 32-33 below).

21. The Federal Administrative Court referred in particular to the fact that the same Islamic Society that was supported by the applicant association had been identified in its judgment of 3 December 2004 (see paragraph 35 below) as part of the essential overall structure of the terrorist organisation Hamas, which compromised the peaceful coexistence of the Israelian and Palestinian peoples through, among other things, violent acts. The Palestinian population attributed the social engagement of the "social societies" to Hamas, thus enhancing its overall acceptance and facilitating the recruitment of activists for violent action; the military branch of Hamas also profited from the applicant association's long-term and substantial financial support of its social branch.

22. The Federal Administrative Court also considered that when the political involvement of the Islamic Society had become evident, with I.J. becoming mayor of Jabaliya (see paragraph 10 above), Salam had taken over from it as the recipient of the donations. The Hamas follower Y.S., a member of the board of Salam and the treasurer of the Jabaliya office of the Islamic Society, was also one of the applicant association's contacts in the Islamic Society and had organised the transfer of the donations and principal contacts

from the Islamic Society to Salam. The main activities, especially care for orphans of "martyrs", had been carried on as before, which showed that the objective of the transfer had been to disguise the fact that the donations were meant to support Hamas.

23. The Federal Administrative Court further concurred with the Federal Ministry of the Interior in finding that the applicant association's leading members had known about the links of the Islamic Society, and later Salam, with Hamas and that they had been informed about the Federal Administrative Court's judgment of 3 December 2004 (see paragraphs 35-36 below). The attempt to disguise support for Hamas to avoid proscription, which had become likely after the court's judgment of 3 December 2004, showed that the applicant association identified with Hamas.

24. With regard to the overall amount of the donations, the Federal Administrative Court calculated that the applicant association had steadily increased its donations to the Islamic Society and Salam until they had reached about 723,000 euros (EUR) in 2010 (prior to its proscription), amounting to almost 50% of its overall donations of about EUR 1,450,000.

25. The Federal Administrative Court noted in that context that there was nothing to suggest that an association should be permitted merely because it also pursued funding activities that were not prohibited in respect of other organisations in other parts of the world, as this would invite associations that supported terrorist activities to circumvent proscription by simply diversifying their activities.

26. The Federal Administrative Court also confirmed that the Federal Ministry of the Interior had not been formally obliged to hear the applicant association before proscribing it, so as not to offer it the opportunity to dispose of assets or remove evidence.

B. Proceedings before the Federal Constitutional Court

27. On 6 July 2012 the applicant association lodged a constitutional complaint, alleging in particular that its proscription had been disproportionate and had violated its right to freedom of association under Article 9 of the Basic Law. Amongst other arguments, the applicant relied on the authorities' obligation to consider less intrusive measures and mentioned the possibility of restricting its activities to support for the other foreign societies outside Gaza.

28. In a judgment of 13 July 2018 (1 BvR 1474/12), the Federal Constitutional Court found that in the present case both the proscription of the applicant association and section 3(1), first sentence, of the Law on Associations were compatible with the applicant association's freedom of association as guaranteed by Article 9 of the Basic Law (see paragraphs 32-33 below).

29. The Federal Constitutional Court found that the interference with the applicant association's freedom of association had been justified under Article 9 § 2 of the Basic Law, the applicant association's funding activities being contrary to the concept of international understanding. It emphasised that although the wording of Article 9 § 2 of the Basic Law only provided for the "proscription" of associations, the constitutional principle of proportionality inherent in the rule of law was to be applied to it by way of interpretation. The proscription of an association as the most serious form of interference could thus only be imposed where less restrictive measures would not be sufficiently effective to achieve the aims pursued by the authorities. Among the less restrictive measures that could be imposed were restrictions on the association conducting certain activities, measures against individual members, the prohibition of specified events, restrictions on statements linked to places and events, restrictions on or prohibition of assemblies or injunctions relating to the use of weapons, regardless of whether they derived from the Law on Associations, regulatory or administrative law or criminal law.

30. In order for their application to be proportionate, the relevant legal provisions had to be interpreted restrictively; Article 9 § 2 of the Basic Law, as a manifestation of a pluralistic and at the same time constitutional democracy capable of defending itself, restricted proscription to cases where an association's activities were directed against specific rights of paramount importance, such as the criminal law, the constitutional order, or the concept of international understanding. Proscription would be appropriate when an association actively advocated and promoted violence or similarly serious acts in breach of international law, such as international terrorism, and also when an association supported third parties in a way that was objectively capable of significantly, seriously and deeply compromising international relations, and where the association was aware of that fact and at least condoned it. The Federal Constitutional Court highlighted, however, that proscription of associations could not be used to prevent every form of humanitarian aid in crisis areas merely because such aid might indirectly promote terrorism. Referring explicitly to Article 11 of the Convention, it found no further requirements beyond those established under the Basic Law. Turning to the case at hand, the Federal Constitutional Court found that the outcome of the judgment of the Federal Administrative Court satisfied the above-mentioned requirements, given that the proscription was also proportionate. While the findings of the Federal Administrative Court as outlined in paragraph 25 above were insufficiently specific, and while that court had not expressly elaborated on why less restrictive measures had not been used, its detailed findings made it possible to conclude that no such measures had been available in the specific circumstances of the case: over a long period of time, the applicant association had intentionally channelled substantial funds collected from donations to a terrorist organisation (Hamas)

and tried to disguise its support by putting in place a substitute organisation (Salam), while "fundamentally identifying" (*prägend identifizieren*) itself on the basis of the illegal objectives of Hamas.

31. The Federal Constitutional Court held that, in the present case, restrictions on specific activities "or other less restrictive measures" would not have been sufficiently effective.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW

A. The German Basic Law

32. Article 9 of the German Basic Law, on freedom of association, reads as follows:

Article 9

[Freedom of association]

"(1) All Germans shall have the right to form corporations and other associations.

(2) Associations whose aims or activities contravene the criminal law, or are directed against the constitutional order or the concept of international understanding, are proscribed.

..."

B. The Law on Associations

33. The relevant part of section 3 of the Law on Associations (*Vereinsgesetz*), provides:

Section 3

Proscription

"(1) An association can only be proscribed (Article 9 § 2 of the Basic Law) if the competent authority declares by decree that its aims or its activity contravene the criminal law or are directed against the constitutional order or the concept of international understanding; the declaration shall order the dissolution of the association (proscription). As a general rule, proscription shall entail the confiscation and seizure of

1. the association's assets,

..."

C. The Administrative Court Rules

34. Section 106 of the Administrative Court Rules provides:

> "In order to settle the legal dispute completely or partly, the parties may reach a settlement to be recorded by the court or by the delegated or requested judge in so far as they are able to dispose of the subject matter of the settlement. A judicial settlement may also be concluded by the parties accepting a proposal of the court, the presiding judge or the reporting judge made in the form of an order, in writing or by means of a declaration on the record made to the court during the oral proceedings."

II. DOMESTIC PRACTICE

35. In its judgment of 3 December 2004 (no. 6 A 10.02), generally known under the plaintiff association's name "AL AQSA", the Federal Administrative Court found that the proscription of the plaintiff association by an order of the Federal Ministry had been lawful. It held that the plaintiff association's activities were contrary to the concept of international understanding because it had indirectly contributed to the violence brought into the relationship between the Palestinian and the Israeli people by supporting Hamas financially over a long period of time and to a considerable extent, through so-called "social societies" based in the Palestinian areas.

36. The Federal Administrative Court based its decision, in particular, on the plaintiff association's support for the so-called "Islamic Society". The relevant parts of the judgment in this regard read as follows:

> "...
>
> (2) The plaintiff has financially supported the 'social society' Al-Yamiya al-Islamiya (Islamic Society), which can be identified with Hamas.
>
> It has been established that the plaintiff provided financial means to the association. ...
>
> The Islamic Society belongs to Hamas. A strong indication that it is affiliated to HAMAS is that ... at least until February 2003, the chairman of the association was [A.B.], who simultaneously held a leading position in Hamas. In addition, the society was affected by the 'closure' of Palestinian 'social societies' by the Palestinian Authority in September 1997. In this context, the Islamic Society is described in an AFP report of 25 September as 'one of the major social institutions belonging to Hamas' and an 'essential link in the network of Hamas institutions in Gaza'.
>
> The account freeze imposed by the Palestinian Authority in August 2003 on Hamas-affiliated 'social societies' affected eleven branches of the Islamic Society. ...
>
> In addition, the Islamic Society was affected by measures taken by the Palestinian Authority against 'social societies' in the winter of 2001/02. In the official testimony of the Federal Intelligence Service of 28 November 2002, the accuracy of which has not been questioned by the plaintiff, it was stated that in the winter of 2001/02, Al-Jamiya al-Islamiya was '"banned'". ...
>
> The court is convinced that the measures directed against the Islamic Society in the winter of 2001/02 were based on the fact that the Palestinian Authority had linked the society to Hamas. That conclusion is also supported by the fact that ... the 'social societies' affected by the measures were either associated with Hamas or with the Palestinian Islamic Jihad organisation. If there are reliable indications that a 'social society' had connections to Hamas and if the measure taken in the winter of 2001/02

was also directed against it, it can be assumed that the affiliation to Hamas was the motive of the Palestinian Authority.

From the evidence presented, the Senate is certain that Al-Jamiya al-Islamiya belongs to Hamas. The correctness of this assumption is confirmed by the fact that the Israeli authorities declared the 'social society' an 'unlawful association' in February 2002 because of its connection to Hamas. ..."

III. INTERNATIONAL AND EUROPEAN UNION LAW AND PRACTICE

A. International prohibition of the *indirect* financing of terrorism

37. Within the framework of the United Nations, Security Council Resolutions 1373 (2001) of 28 September 2001 and 2462 (2019) of 28 March 2019, both adopted under Chapter VII of the Charter of the United Nations concerning "Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression" set out wide-ranging strategies to combat terrorism, including, in particular, the funding of terrorism. They employ the term "terrorism" in a way permitting a broad interpretation. For example, in Resolution 2462 (2019) of 28 March 2019 the United Nations Security Council reaffirms that

"all States shall prevent and suppress the financing of terrorist acts and refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts ..."

38. The International Convention for the Suppression of the Financing of Terrorism, adopted by United Nations General Assembly Resolution 54/109 of 9 December 1999, entered into force in respect of Germany on 17 July 2004.

Article 2 § 1 provides that a person commits an offence if that person

"by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out [terrorist acts]".

Article 4 provides that

"Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of the offences."

39. Within the framework of the European Union, Article 2 §§ 1 (b) and 3 of Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism specifically provides that

> "Article 2
>
> 1. Except as permitted under Articles 5 and 6:
>
> (a) ...;
>
> (b) no funds, other financial assets and economic resources shall be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3.
>
> ...
>
> 3. The Council, acting by unanimity, shall establish, review and amend the list of persons, groups and entities to which this Regulation applies, in accordance with the provisions laid down in Article 1(4), (5) and (6) of Common Position 2001/931/CFSP; such list shall consist of:
>
> i) natural persons committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;
>
> ii) legal persons, groups or entities committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;
>
> iii) legal persons, groups or entities owned or controlled by one or more natural or legal persons, groups or entities referred to in points(i) and (ii); or
>
> iv) natural legal persons, groups or entities acting on behalf of or at the direction of one or more natural or legal persons, groups or entities referred to in points (i) and (ii)."

As outlined in paragraph 40 below, Hamas is listed among the organisations referred to in Common Position 2001/931/CFSP.

Article 3 § 1 of that Regulation similarly uses the term "directly or indirectly" and provides that

> "1. The participation, knowingly and intentionally, in activities, the object or effect of which is, directly or indirectly, to circumvent Article 2 shall be prohibited".

B. European framework designating Hamas as a terrorist organisation

40. The European Union's Council Common Position 2003/651/CFSP of 12 September 2003 included (the entirety of) "Hamas" in the list of the "persons, groups and entities involved in terrorist acts", that is, among the organisations referred to in Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, which implements Security Council Resolution 1373 (2001) (see paragraph 37 above).

41. Furthermore, in its judgment of 23 November 2021 in *Council of the European Union v. Hamas* (C-833/19 P, EU:C:2021:950) the European Court of Justice (Grand Chamber) dismissed an action brought by Hamas against several Council of the European Union decisions maintaining Hamas's name on the (updated) lists of persons, groups and entities involved in terrorist acts. In the case giving rise to the judgment, the General Court of the European Union, in its judgment of 4 September 2019 in *Hamas v. Council* (T-308/18,

EU:T:2019:557), had rejected a plea that there had been an error of assessment as regards the terrorist nature of Hamas (§§ 201-26).

THE LAW

ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

42. The applicant association complained that its proscription and the seizure of its assets had violated its right to freedom of association as provided in Article 11 of the Convention, the relevant part of which reads as follows:

> "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others ...
>
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. ..."

A. Admissibility

43. Without formally raising a separate plea of inadmissibility in their observations, the Government submitted under the heading "legal assessment" that the application was inadmissible insofar the applicant association had claimed that there had been no opportunity to obtain redress prior to its proscription. In this context they referred to their subsequent submissions under the heading "proportionality of the measure" where they maintained that in the proceedings before the Federal Constitutional Court the applicant association had not raised the issue that it had not been heard by the Ministry or given an opportunity to remedy shortcomings prior to its proscription and that this complaint should therefore be rejected for non-exhaustion of domestic remedies.

44. The applicant association did not reply to the Government's observations but manifested its continued interest in the examination of the application.

45. The general principles on exhaustion of domestic remedies are summarised, *inter alia*, in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014). In particular, Article 35 § 1 of the Convention requires that the complaints intended to be made subsequently to the Court should have been made to the appropriate domestic body, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law and, further, that any procedural means that might prevent a breach of the Convention should have been used (ibid., § 72, with further references).

46. The Court notes at the outset that the applicant association's submission in its application form before the Court that it had not been heard

or given an opportunity to remedy shortcomings prior to its proscription was not made explicitly in its constitutional complaint. The applicant association had, however, alleged a violation of its freedom of association, guaranteed by both Article 9 of the Basic Law and Article 11 of the Convention, in its constitutional complaint and had alleged a breach of the principle of proportionality (see paragraph 27 above). In that connection the applicant association had expressly pointed to the national authorities' obligation to consider less intrusive measures and had referred specifically to the possibility of restricting its future activities to support for societies outside Gaza.

47. The Court further observes that the applicant association's submission before the Court that it had not been heard or given an opportunity to remedy shortcomings prior to its proscription has to be interpreted in the light of its overall submissions in the application form (see paragraphs 52-57 below), in which it solely alleged a substantive violation of Article 11 of the Convention. In the Court's view, the applicant association can only be understood to have been arguing that being heard or given the possibility of remedying shortcomings would have been a less intrusive measure than outright proscription.

48. The Court further bears in mind that the Federal Constitutional Court elaborated in detail on less intrusive measures and gave a non-exhaustive list of examples (see paragraph 29 above). In the Court's understanding, the Federal Constitutional Court's findings indicate that the applicant association's express complaint of disproportionality, accompanied by the argument that it could have restricted its future activities, was a sufficient invitation to that court to consider all possible less intrusive measures – including, for example, that of being heard and given the opportunity to remedy shortcomings before ordering the proscription. The Federal Constitutional Court however concluded that restrictions on specific activities or "other less restrictive measures" would not have been sufficiently effective in the present case (see paragraph 31 above).

49. Reiterating its case-law to the effect that the purpose of Article 35 § 1 is to afford Contracting States the opportunity to prevent or put right the violations alleged against them before those allegations are submitted to it (see, *inter alia*, *Vučković and Others*, cited above, § 70, with further references), the Court is satisfied in the present case that the respondent State has been given ample opportunity to address the applicant association's arguments pertaining to its complaint that the proscription had been a disproportionate measure interfering with its right to freedom of association.

50. The Government's non-exhaustion plea must therefore be dismissed.

51. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

(a) The applicant association

52. The applicant association argued that the interference with its rights under Article 11 of the Convention had not been prescribed by law and had been disproportionate to the aims pursued.

53. It claimed that proscription was not foreseeable from the Law on Associations "in [the] case of support activities in the form provided by the applicant [association]".

54. Pointing to the fact that exceptions under Article 11 § 2 of the Convention were to be interpreted narrowly, the applicant association argued that the national courts had employed the term "support" for a terrorist organisation too broadly, basing their conclusions on a polynomial causal chain by which they attributed the financial aid it provided through the "social societies" to Hamas.

55. The applicant association disputed that its object and activities could be characterised as proactively aggressive or directed against the concept of international understanding.

56. The applicant association maintained that the settlement proposed by the Federal Administrative Court (see paragraph 19 above) indicated that there were less intrusive measures than outright proscription, the proposal itself figuring amongst such less intrusive measures. Furthermore, the applicant association had never been given a chance to remedy its shortcomings, nor had it been informed in a clear and unequivocal manner about the authorities' views on its allegedly illegal activities, although it had been carrying out its activities in Gaza since as early as the year 2000. It added that the Federal Administrative Court had not engaged in an independent assessment of the proportionality of proscription. The applicant association cited the Court's case-law, in particular *Tebieti Mühafize Cemiyyeti and Israfilov v. Azerbaijan*, no. 37083/03, ECHR 2009, in support of its arguments.

57. For the above reasons, the applicant association concluded that its proscription had been disproportionate and, therefore, not necessary in a democratic society within the meaning of Article 11 of the Convention.

(b) The Government

58. The Government maintained that the interference with the applicant association's freedom of association had been prescribed by domestic law. The proscription of an association following a finding that it had been indirectly financing terrorism was also foreseeable. The Government pointed to the fact that the applicant association's senior members had demonstrably been aware of the connections that its beneficiary societies had with Hamas

by the time of the Federal Administrative Court's judgment of 3 December 2004 (see paragraphs 35-36 above). The applicant association had clearly demonstrated its unconstitutional nature by setting up Salam as a substitute organisation for the Islamic Society (see paragraphs 10-11 above) in order to avoid restrictions.

59. The Government further submitted that the activities of the applicant association which had led the Federal Ministry of the Interior to proscribe it were clearly in breach of the concept of international understanding and that the interference had pursued the legitimate aims of "protection of public safety, public order, and the rights and freedoms of others" by preventing the financing of a terrorist organisation.

60. The Government argued that the proscription had been imposed in the light of a pressing social need and that there had even been an obligation under European Union and international law (see, in particular, paragraphs 37-39 above) to take such action against indirect financial support for terrorism.

61. Lastly, the Government maintained that the interference had been necessary in a democratic society, even though the applicant association had supported several other organisations. By providing substantial support to Hamas' "social societies", rising to about 50% of its funding activities and amounting to about EUR 2,500,000 overall between 2006 and 2010, the applicant association – which fundamentally identified itself on the basis of the inhuman objectives of that terrorist organisation – had significantly, severely and deeply compromised the concept of international understanding.

2. The Court's assessment

62. The right to freedom of association laid down in Article 11 incorporates the right to form an association. 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, without which that right would be deprived of any meaning (see *Gorzelik and Others v. Poland* [GC], no. 44158/98, § 88, ECHR 2004-I; see also *Sidiropoulos and Others v. Greece*, 10 July 1998, § 40, *Reports of Judgments and Decisions* 1998-IV).

63. In its case-law, the Court has established the principle that only convincing and compelling reasons can justify restrictions on that freedom. All such restrictions are subject to rigorous supervision by the Court (see *Gorzelik and Others*, cited above, § 88, and *Sidiropoulos and Others*, cited above, § 40).

(a) Whether there was an interference

64. It was undisputed between the parties that the applicant association's proscription, entailing its dissolution and the confiscation of its assets (see

paragraph 13 above), amounted to an interference with its exercise of its right to freedom of association. The Court shares the same view.

(b) Whether the interference was justified

65. "Restrictions" which do not infringe Article 11 of the Convention must, as provided in the second paragraph of that Article, be "prescribed by law", pursue one or more of the legitimate aims set out therein and be "necessary in a democratic society" for the pursuit of such aims (see *Yordanovi v. Bulgaria*, no. 11157/11, § 64, 3 September 2020).

(i) Whether the interference was prescribed by law

(α) Relevant principles

66. The expression "prescribed by law" requires firstly that the impugned measure should have a basis in domestic law. It also refers to the quality of the law in question, requiring that it be accessible to the persons concerned and foreseeable as to its effects. A law is "foreseeable" if it is formulated with sufficient precision to enable the individual – if need be with appropriate advice – to regulate his conduct (see *N.F. v. Italy*, no. 37119/97, §§ 26 and 29, ECHR 2001-IX). For domestic law to meet these requirements, it must afford a measure of legal protection against arbitrary interferences by public authorities with the rights guaranteed by the Convention. In matters affecting fundamental rights it would be contrary to the rule of law, one of the basic principles of a democratic society enshrined in the Convention, for a legal discretion granted to the executive to be expressed in terms of an unfettered power. Consequently, the law must indicate with sufficient clarity the scope of any such discretion and the manner of its exercise (see *Maestri v. Italy* [GC], no. 39748/98, § 30, ECHR 2004-I, with further references).

67. It is, however, not possible to attain absolute rigidity in the framing of laws, and many of them are inevitably couched in terms which, to a greater or lesser extent, are vague. The level of precision required of domestic legislation depends to a considerable degree on the content of the instrument in question and the field it is designed to cover (*Tebieti Mühafize Cemiyyeti and Israfilov,* cited above, § 58). In this connection, the Court refers, in particular, to its analysis of the lawfulness requirement as exposed, *inter alia*, in *Yefimov and Youth Human Rights Group v. Russia* (nos. 12385/15 and 51619/15, §§ 65-73, 7 December 2021).

(β) Application of these principles to the present case

68. The Court notes that the proscription of the applicant association had a basis in domestic law, namely section 3(1) of the Law on Associations read in conjunction with Article 9 § 2 of the Basic Law (see paragraphs 32–33 above).

69. The Court also notes at the outset that the applicant association's complaint (see paragraphs 53-55 above), in so far as it appears to challenge the foreseeability of those legal provisions, amounts to merely criticising their application in its individual case rather than calling into question the quality of the law as such.

70. In any event, the Federal Administrative Court, in an earlier judgment as far back as December 2004 (see paragraphs 35-36 above), by reference to the same domestic provisions and with similar reasoning confirmed the proscription of another association, Al Aqsa, which had given financial support to the very same Islamic Society in Gaza. Given the clear and precise findings of the respondent State's highest administrative court in its judgment of 3 December 2004, which concerned an obviously comparable situation, the only possible conclusion to be drawn was that an association's financial support for the Islamic Society could constitute activities "directed against the concept of international understanding", rendering it liable to be proscribed under section 3(1) of the Law on Associations read in conjunction with Article 9 § 2 of the Basic Law. The Court is therefore convinced that those provisions enabled the applicant association to foresee its proscription and concludes that the interference complained of was "prescribed by law" within the meaning of Article 11 § 2 of the Convention.

71. It remains to be ascertained whether such interference pursued one or more legitimate aims and was "necessary in a democratic society" for their pursuit (see the case-law quoted in paragraph 65 above).

(ii) Pursuit of a legitimate aim

(α) Relevant principles

72. Any interference with the right to freedom of association must pursue at least one of the legitimate aims set out in paragraph 2 of Article 11: national security or public safety, the prevention of disorder or crime, the protection of health or morals, and the protection of the rights and freedoms of others. Exceptions to freedom of association must be narrowly interpreted, such that their enumeration is strictly exhaustive and their definition is necessarily restrictive (see *Sidiropoulos and Others*, cited above, § 38).

73. The Court observes that the Ministry based the disputed proscription on the finding that the applicant association's activities were directed against the concept of international understanding between peoples, referring to its support for charitable societies linked to the terrorist organisation Hamas, which in turn meant that the applicant association had indirectly contributed to the violence brought by Hamas into the relationship between the Palestinian and the Israeli people (see paragraphs 13-17 above).

74. The Court has already recognised that the fight against terrorism pursues legitimate aims under Article 11 § 2 of the Convention, notably those of public safety, the prevention of disorder, and the protection of the rights of

others (see *Herri Batasuna and Batasuna v. Spain*, nos. 25803/04 and 25817/04, §§ 62-64, ECHR 2009; see also, *mutatis mutandis*, *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], nos. 41340/98 and 3 others, § 98, ECHR 2003-II).

(β) Application of the principles in the present case

75. Whereas the present case differs from previous cases in so far as it concerns the fight against international terrorism in general, independently of a tangible threat to the Contracting State, the fight against international terrorism may nonetheless serve the cause of preventing disorder, and States must be able to take measures so that their territory is not used to facilitate terrorism and the bringing of violence into conflicts abroad.

76. The Court furthermore notes that Article 11 § 2 of the Convention is formulated broadly without limiting States to take measures only for the protection of the rights and freedoms of individuals within their jurisdiction. The protection of the concept of international understanding as interpreted and applied in the present case therefore constitutes the legitimate aim under Article 11 § 2 of the Convention of protecting the rights and freedoms of others, which includes the right to live by individuals living abroad (see, *mutatis mutandis*, *Hizb Ut-Tahrir and Others v. Germany* (dec.), no. 31098/08, §§ 72-75, 12 June 2012; see also, *mutatis mutandis*, *Kasymakhunov and Saybatalov v. Russia*, nos. 26261/05 and 26377/06, § 106, 14 March 2013).

77. In the present case, given the detailed explanation of the proscription order, there is also no indication that the Federal Ministry of the Interior intended to pursue any other aim from that indicated (compare, *mutatis mutandis*, *Zehra Foundation and Others v. Turkey*, no. 51595/07, § 45, 10 July 2018).

(iii)Necessity of the interference

(α) Relevant principles

78. Exceptions to the rule of freedom of association are to be construed strictly, and only convincing and compelling reasons can justify restrictions on that freedom. Any interference must correspond to a "pressing social need"; thus, the notion "necessary" does not have the flexibility of such expressions as "useful" or "desirable" (see *Gorzelik and Others*, cited above, § 95, and *Magyar Keresztény Mennonita Egyház and Others v. Hungary*, nos. 70945/11 and 8 others, § 79, ECHR 2014 (extracts)).

79. When restricting the right to freedom of association, it is in the first place for the national authorities to assess whether there is a "pressing social need" to impose a given restriction in the general interest. While the Convention leaves to those authorities a margin of appreciation in this connection, their assessment is subject to supervision by the Court, going

both to the law and to the decisions applying it, including decisions given by independent courts (see *Gorzelik and Others*, cited above, § 96).

80. When the Court carries out its scrutiny, its task is not to substitute its own view for that of the national authorities, which are better placed than an international court to decide both on legislative policy and on measures of implementation, but to review under Article 11 the decisions they delivered in the exercise of their discretion (*ibid.*, § 96; see also *Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania*, no. 46626/99, § 49, ECHR 2005-I (extracts), and *Magyar Keresztény Mennonita Egyház and Others*, cited above, § 80).

81. This does not mean that it has to confine itself to ascertaining whether the respondent State exercised its discretion reasonably, carefully and in good faith; it must look at the interference complained of in the light of the case as a whole and determine whether it was "proportionate to the legitimate aim pursued" and whether the reasons adduced by the national authorities to justify it are "relevant and sufficient". In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 11 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see *Gorzelik and Others*, cited above, § 96; *Partidul Comunistilor (Nepeceristi) and Ungureanu*, cited above, § 49; and *Magyar Keresztény Mennonita Egyház and Others*, cited above, § 80).

82. The Court reiterates in this respect that no group should be authorised to rely on the Convention's provisions in order to weaken or destroy the ideals and values protected by the Convention. It necessarily follows that a group (such as political party, association, or foundation) whose leaders incite to violence or put forward a policy which is aimed at the flouting of the rights and freedoms of others may face sanctions on these grounds in accordance with the criteria set out in paragraph 2 of Article 11 (see *Zehra Foundation and Others*, cited above, §§ 53-54). Nevertheless, the State's power to protect its institutions and citizens from associations that might jeopardise them must be used sparingly (see *Magyar Keresztény Mennonita Egyház and Others*, cited above, § 79).

83. Where there has been incitement to violence against an individual or a public official or a sector of the population, the State authorities enjoy a wider margin of appreciation when examining the need for an interference with Article 11 (see *Ayoub and Others v. France*, nos. 77400/14 and 2 others, § 121, 8 October 2020).

84. The outright dissolution of an association is a harsh measure entailing significant consequences for its members. Such a measure may be taken only in the most serious cases (see *Association Rhino and Others v. Switzerland*, no. 48848/07, § 62, 11 October 2011; *Vona v. Hungary*, no. 35943/10, § 58; and *Les Authentiks and Supras Auteuil 91 v. France*, nos. 4696/11 and 4703/11, § 84, 27 October 2016).

(iv) Application of these principles in the present case

(α) As to the width of the State's margin of appreciation

85. Turning to the determination of the State's margin of appreciation in the present case, the Court notes that the proscription of the applicant association necessarily entailed its dissolution and was thus the most intrusive measure possible (see, *mutatis mutandis*, *Tebieti Mühafize Cemiyyeti and Israfilov*, cited above, § 82).

86. The Court notes, on the other hand, that the present case concerns the proscription of an association with the aim of fighting international terrorism. In this connection the Court observes that the fight against the direct and indirect financing of international terrorism is the declared objective of a number of international and supranational legal instruments; in particular, the United Nations International Convention for the Suppression of the Financing of Terrorism (see paragraph 38 above) targets the collection of funds for terrorism "by any means, directly or indirectly". Restrictive measures by the European Union implementing Security Council Resolution 1373 (2001) (see paragraph 37 above) are aimed at preventing direct and indirect financing of terrorism (see paragraphs 40 and 41 above).

87. The Court observes, furthermore, that the concept of international understanding is not only a prerequisite of the international legal order but also figures among the core values of the Convention, including in particular the principles of peaceful settlement of international conflicts and the sanctity of human life (see *Hizb Ut-Tahrir and Others*, cited above, § 74; see also *Kasymakhunov and Saybatalov*, cited above, § 106).

88. The Court reiterates that associations which engage in activities contrary to the values of the Convention cannot benefit from the protection of Article 11 interpreted in the light of Article 17, which prohibits the use of the Convention in order to destroy or excessively limit the rights guaranteed by it (see, for an analysis of the case-law, *Roj TV A/S v. Denmark* (dec.), no. 24683/14, §§ 30-38, 17 April 2018). As with Article 10 (see the principles outlined in *Pastörs v. Germany*, no. 55225/14, §§ 36-38, 3 October 2019 and the case-law cited therein), the former Commission and the Court have dealt with a number of cases under Articles 11 and/or 17 of the Convention concerning associations whose statutes and/or activities are contrary to core Convention values, for example where they promote and justify terrorism and war crimes. The Court has either declared those cases incompatible *ratione materiae* with the provisions of the Convention in view of Article 17 of the Convention (see *Hizb Ut-Tahrir and Others*, cited above, §§ 72-75), or else it has relied on Article 17 as an aid in the interpretation of Article 11 § 2 of the Convention so as to reinforce its conclusion on the necessity of the interference (see *Karatas and Sari v. France*, no. 38396/97, Commission decision of 21 October 1998, and *Ayoub and Others*, cited above, §§ 92-122).

89. The Court reiterates in particular the application of that case-law in *Hizb Ut-Tahrir and Others* (cited above, §§ 73-74), which concerned an association that not only denied the State of Israel's right to exist but also called for its violent destruction and for the banishment and killing of its inhabitants. While the applicant association in the present case did not engage in violent conduct itself, the aims pursued by the prohibition of indirect support for terrorism as being contrary to the concept of international understanding are necessarily very weighty and States enjoy a wider margin of appreciation in that regard (see, *mutatis mutandis*, *Schwabe and M.G. v. Germany*, nos. 8080/08 and 8577/08, § 113, ECHR 2011 (extracts); see also *Les Authentiks and Supras Auteuil 91*, cited above, § 84, and *Ayoub and Others*, cited above, § 121).

(β) The proportionality of the proscription of the applicant association

90. The Court observes that the Ministry and the national courts proscribed the applicant association on the grounds that it had engaged in the indirect financing of terrorism under the guise of providing humanitarian aid and that its activities were directed against the concept of international understanding. The applicant association denied that its object and activities could be considered to be proactively aggressive or directed against the concept of international understanding; it argued that the term "support" for a terrorist organisation was employed too broadly (see paragraphs 54-55 above).

91. While it is true that according to its statute the applicant association's declared objective was to "provide appropriate humanitarian aid worldwide in cases of natural disasters, wars and other catastrophes" (see paragraph 5 above), the Court reiterates that it will not restrict its examination to the written word of the applicant association's statutes but will look into their application in practice and the activities the applicant association actually engaged in (see, *mutatis mutandis*, *Vona*, cited above, § 59, and *Tourkiki Enosi Xanthis and Others v. Greece*, no. 26698/05, § 48, 27 March 2008; see also *Herri Batasuna and Batasuna*, cited above, § 80).

92. In this connection the Court firstly takes note of the applicant association's undisputed funding of, in particular, the Islamic Society, and later Salam (see paragraphs 7–12 above). In the ensuing proceedings, the Ministry and the national courts assessed the links between those two self-proclaimed "social societies" and found convincing evidence that they did not constitute separate entities but were truly part of Hamas (compare *Vona*, cited above, § 60). They also duly assessed that the overall organisation of Hamas, including its so-called "social societies", was to be considered a terrorist organisation. Noting that the entirety of Hamas has been expressly included by the European Union in the sanctions lists of "persons, groups and entities involved in terrorist acts" since 2003, as confirmed by a judgment of

its Court of Justice (see paragraphs 40-41 above), the Court sees no reason to depart from the national courts' assessment.

93. The national courts made convincing findings that, even though the applicant association had not engaged in acts of actual violence, its leading members knew about and approved the "social societies'" link to Hamas. The national courts also referred to the considerable extent of the applicant association's funding of those societies, lastly about 50% of its overall donations (see paragraph 24 above), and the close links between the organisations in question.

94. The national courts also paid due regard to the fact that in the past the applicant association, being apprehensive of potential restrictions on its activities, had tried to obscure its relationship with Hamas by replacing the Islamic Society as beneficiary of its financial support with Salam. They drew from this fact the conclusions that the applicant association would try to circumvent restrictions again in future, and that it fundamentally identified itself with Hamas (see paragraphs 23 and 25 above).

95. The Court further observes that the Federal Constitutional Court engaged in an extensive assessment of potentially available measures that would have been less restrictive than outright proscription. It referred to several examples of less intrusive measures and, stressing that the applicant association fundamentally identified itself with Hamas, decided that none of these less intrusive measures was appropriate in the present case (see paragraphs 29-31 above; compare, *mutatis mutandis*, *Association Rhino and Others*, cited above, § 65, and *Adana TAYAD v. Turkey*, no. 59835/10, § 36, 21 July 2020). Bearing in mind that it is not the Court's task to substitute its own view for that of the national authorities, but to review under Article 11 the decisions they delivered in the exercise of their discretion (see the case-law quoted in paragraphs 80-81 above), the Court notes that the Federal Constitutional Court's balancing exercise was comprehensive and transparent.

96. The Court notes, furthermore, that the applicant association argued that the interference with its rights under Article 11 of the Convention had been disproportionate and cited case-law, in particular *Tebieti Mühafize Cemiyyeti and Israfilov*, cited above (see paragraphs 52-57 above).

97. While it is true that neither the wording of section 3 of the Law on Associations nor Article 9 of the Basic Law (see paragraphs 32-33 above) expressly include any alternative sanction to proscription, unlike in *Tebieti Mühafize Cemiyyeti and Israfilov,* cited above, § 82, taking into account the overall context of German domestic law, the constitutional principle of proportionality inherent in the rule of law applies to those provisions by way of interpretation. In this connection, the Federal Constitutional Court unequivocally pointed to proscription of an association as the most serious interference, which could only be imposed where less restrictive means would not be effective to achieve the aims pursued by the authorities, and

even gave examples of less restrictive measures (see paragraph 29 above). The Court therefore concludes that domestic law provided for the proscription of an association only as a last resort.

98. Having regard to the circumstances of the case at hand, the Court will assess whether the conclusion of the national courts that no less intrusive measure than proscription could be imposed was within their margin of appreciation.

99. The Court notes firstly that while it is true that the national courts found that the Islamic Society (and later Salam) was only one out of six associations to which the applicant association had given financial support, nevertheless the amount concerned, which rose to about 50% of the applicant association's overall funding activities (see paragraphs 24 and 93 above) and represented an overall sum of about EUR 2,500,000 from 2006 to 2010 (see the Government's observations, unchallenged by the applicant, summarised in paragraph 61 above), was considerable. These considerable contributions underline the fact that financing Hamas was the applicant association's major interest which is also emphasised by the finding that the applicant association had tried in the past to circumvent potential restrictions in order to continue supporting Hamas by using a substitute organisation (Salam – see paragraph 94 above). The Court therefore sees no reason to depart from the Federal Constitutional Court's conclusion that, although the applicant association also financed other projects, a restriction of its activities would not have been effective. In the circumstances of the present case, where according to the national courts' findings an association fundamentally identified itself with the aims of a terrorist organisation which it supported indirectly (compare, *mutatis mutandis*, *Les Authentiks and Supras Auteuil 91*, cited above, § 84) and where a real risk of future circumvention had been established on the basis of similar conduct in the past, the outright proscription of the applicant association does not appear disproportionate.

100. In so far as the applicant association submitted that a prior hearing and the opportunity to remedy shortcomings would have been similarly effective measures (see paragraph 56 above), the Court finds that proscribing or dissolving an association may require giving it a prior hearing or warning notice or some other opportunity to be heard and to remedy shortcomings (compare for the immediate dissolution due to formal shortcomings of an association, *Tebieti Mühafize Cemiyyeti and Israfilov*, cited above, § 82, and, for the requirement of a warning notice under national law, *Yefimov and Youth Human Rights Group*, cited above, § 70). This does not apply when a hearing would render any subsequent measure to protect the rights and freedoms of others void, ineffective or unenforceable. In the present case, bearing in mind the domestic courts' finding of the applicant association's past attempt at circumvention of potential restrictions, a prior hearing would have made it possible and likely that evidence would be destroyed and assets

would have been transferred by the applicant association to a substitute organisation, thereby rendering any proscription ineffective.

101. Moreover, the Court notes that in the present case the Federal Administrative Court invited the parties to consider a friendly settlement under which the applicant association would be given the opportunity to continue its activities outside the Palestinian areas for a provisional period of about three years, as long as it could demonstrate that it had stopped its Palestinian support activities (see paragraph 19 above). However, that suggestion was made at an early stage of the proceedings with express reference to the litigation risk for both parties. The court's proposal for settlement served the purpose of procedural economy, with a view to making a complex examination of the case superfluous had the proposal been accepted by both parties. In this context the proposal cannot be understood to indicate that the Federal Administrative Court considered that a reduction of the applicant association's activities would be sufficiently effective. The terms of the settlement suggested by the Federal Administrative Court can therefore not, as argued by the applicant association (see paragraph 56 above), be considered an indication of the disproportionality of its proscription.

102. In assessing the necessity and proportionality of the measure complained about, the Court notes the specific circumstances of the present case, where it has been duly established that the applicant association, while continuing to present its activities under the guise of humanitarian aid, knowingly supported international terrorism, directly or indirectly. The Court can also not overlook the fact that the conduct of such an association is incompatible with core Convention values (see, in particular, paragraph 87 above). It may be added that in the case at hand, neither in the national proceedings nor in its application to the Court did the applicant association dissociate itself from Hamas's violent aims and actions.

(γ) Conclusion

103. Given the wider margin of appreciation in the specific circumstances of the present case (see paragraphs 85-89 above), and taking note of the comprehensive balancing exercise conducted by the national courts and the weighty interests at stake, the Court is therefore satisfied that the authorities adduced relevant and sufficient reasons and did not overstep their margin of appreciation. The interference with the applicant association's freedom of association was therefore proportionate to the legitimate aims pursued and was thus "necessary in a democratic society".

104. There has accordingly been no violation of Article 11 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been no violation of Article 11 of the Convention.

Done in English, and notified in writing on 10 October 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti Registrar	Gabriele Kucsko-Stadlmayer President