

RIIGIKOHUS
EN BANC COURT

JUDGMENT

On behalf of the Republic of Estonia

Court case number	5-25-49
Decision date	8 June 2026
Court composition	Chairman 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
Court case	Constitutional review of the Act amending the Churches and Congregations Act
Basis of the procedure	Request from 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 of the Minister of the Interior
Manner of reviewing the matter	Written procedure

THE RIIGIKOHUS DECIDES

The request of the President of the Republic is dismissed.

CIRCUMSTANCES AND PROCEEDINGS

1. On 9 April 2025, the Riigikogu adopted the Churches and Congregations Act (ChCoA) Amendment Act (570 UA, 15th composition of the Riigikogu). The President of the Republic refused to promulgate it by Decision No. 545 of 24 April 2025.
2. On 18 June 2025, the Riigikogu re-adopted the ChCoA Amendment Act in an amended form. On 3 July 2025, the President of the Republic refused to promulgate the Act and proposed to the Riigikogu to discuss the Act again and bring it into line with the Constitution.
3. On 17 September 2025, the Riigikogu re-adopted the ChCoA Amendment Act in an unamended form.

4. On 3 October 2025, the President of the Republic submitted a Supreme Court application (application) to declare the ChCoA Amendment Act (the contested Act) unconstitutional.

APPLICATION FROM THE PRESIDENT OF THE REPUBLIC

5. The President of the Republic finds that the contested law disproportionately restricts freedom of religion (§ 40 of the Constitution (PS)) and freedom of association (§ 48 of the PS). The application primarily considers problematic sections 3 and 5 of the contested law, which supplement ChCoA with § 3, subsections 2¹ and 2² and § 4, subsections 1¹ and 1², which prohibit religious associations and religious societies (religious association), among other things, from having doctrinal ties with a religious center, governing body, religious association or religious leader (foreign person) located in a foreign country which poses a threat to the security of the Estonian state or to the constitutional or public order. Such a broad and unclear prohibition is not proportionate.

6. Although, according to the explanatory memorandum to the contested law (Riigikogu XV composition, 570 UA), the main purpose of the law is to prevent administrative relations through which hostile influence activities unrelated to the practice of religion are carried out, the statutes of a religious association must, according to Section 12(1) of the ChCoA, include, among others, the doctrinal basis of the religious association. Thus, the contested law also prohibits doctrinal ties with a foreign person who poses a threat to Estonia and thus concerns the profession of religion, its practice and religious services.

7. Freedom of religion and association must be interpreted in conjunction, because religious beliefs are predominantly expressed within the framework of the association's activities. The European Court of Human Rights (ECHR) has also repeatedly emphasized that the autonomy of religious associations is part of the core of freedom of religion and the state cannot decide whether the internal organization of a religious association as a form of expression of religion is legitimate for this purpose. The Council of Europe Commission for Democracy through Law (Venice Commission) has questioned whether state security can be a basis for restricting freedom of religion or belief. The generally defined dangerousness of a foreign person is also sufficient for an Estonian religious community to be obliged to reshape its entire organization and doctrinal basis. The starting point is not the assumption that the danger arises from the activities of the Estonian community itself, but rather any connections with a foreign person can be dangerous. The danger has been interpreted very broadly, so that it can even be expressed in statements by a clergyman from another country that are not reflected in any formal decision or instruction. The intensity of the restriction is increased by the ambiguity of the legal requirements regarding which foreign connections are prohibited. The provision according to which there may be no connections with a foreign person "on the basis of the statute or other document on which the activities are based, or economically" is not clear. It also remains unclear when the positions expressed should be considered a danger. This does not comply with the 2019 OSCE Guidelines on Freedom of Religion or Belief and Security (OSCE 2019 Guidelines), which state that vaguely defined terms should be avoided when imposing restrictions on religious freedom. The ambiguity will not be resolved by the representatives of the executive branch explaining the content of the norm applicable in each individual case to a specific religious community.

8. Protecting the security, constitutional order and public order of the Estonian state are legitimate goals, but only to a certain extent. According to the spirit of the Constitution, freedom of religion has a core that cannot be interfered with.

9. It is doubtful whether imposing a restriction on the doctrinal basis of a religious association promotes the legislator's goals at all, i.e. is an appropriate means. It remains unclear how influence could be exercised through the religious hierarchy. If we consider that the influence of a foreign religious leader may increase if he is listed as an authority in the statutes or other documents of an Estonian religious association, then in reality it is not excluded that the authority of such a person will actually increase if the state demands the severance of doctrinal ties. There is no study on the beneficial consequences of regulating the religious hierarchy. Since restrictions on freedom of religion must be strictly necessary according to the case law of the ECHR and the positions of the Venice Commission, they

cannot be justified by the mere hypothesis that the church may threaten state security. If the law were to restrict only administrative and economic ties, it would be supplemented by the already existing provisions intended to prevent dangerous external influence (sections 91¹, 92, 232 and 233 of the Penal Code (KarS)).

10. The legislator's objectives would be more likely to be achieved if Estonian religious associations were obliged to consider their ties with a foreign person so that positions that pose a threat to the security of the Estonian state or to constitutional or public order would not be binding. Such a ban would be a milder measure. It has not been explained why a restriction imposed only on administrative and economic foreign ties that entail a specific threat would not be sufficient. The assumption of the law that the spiritual subordination relationship is an inseparable whole that cannot be divided into parts leads to the conclusion that it is sufficient for a single statement attributed to a foreign person to be sufficient to break the entire spiritual hierarchy and form a completely new type of religious association in Estonia. The measure could perhaps be proportionate if it were applied only to foreign persons whose main activity is aimed at violently changing the independence, territorial integrity or constitutional order of Estonia or, more generally, at committing offences. However, the law defines the threat so broadly that it is sufficient to take a position that supports military aggression, calls for war, a terrorist offence or in some other way the unlawful use of armed force or violence. The law does not presuppose a major threat, but rather support for conflicting values.

11. Even if the law can be interpreted constitutionally, the restriction is not necessary, since the same objective would be achieved with a clearer prohibition. The restriction is also not moderate. This is not necessary in the narrow sense or in a democratic society within the meaning of the ECtHR's case-law. The broader question is whether a security threat associated with a foreign person can be attributed to an association operating in Estonia if it has some economic or other connection with the foreign person. The Constitution provides stronger protection for religious associations than for many other associations, since both freedom of religion and freedom of association apply to them. If the activities of religious associations could be restricted in this way, as is currently the case by law, it should be concluded that a similar ban could be imposed on other associations, including political parties. Such restrictions would not be in accordance with the Constitution.

OPINIONS OF PARTICIPANTS IN THE PROCEEDINGS

Riigikogu

12. The Riigikogu Legal Affairs Committee finds that the contested law is in accordance with the Constitution.

13. The main objective of the law is to prevent, in order to protect the security, constitutional order and public order of the Republic of Estonia, hostile influence activities and disinformation not related to the practice of religion from reaching members of the congregation or people living in monasteries through a religious community. The importance of the objective increases over time, taking into account the deteriorating security situation in the world. The Republic of Estonia does not accept a situation where a religious community registered in Estonia is essentially led, through its statutory connections and ties, by a person residing in a foreign country who publicly justifies and comprehensively supports an aggressive war of conquest in Europe. The law does not interfere in religious matters or restrict the freedom of action of any religious community unless this poses a security threat.

14. The law provides a sufficiently clear and understandable code of conduct through the prohibition of dangerous connections: a religious association may not be economically connected with a foreign person specified in the statutes or other document on which its activities are based, or with a foreign person specified in the law, who poses a threat to the security of the Estonian state or to constitutional or public order. It is not possible to describe the threat exhaustively or define it as a legal concept, which is why a sample list has been provided. The basis is the OSCE 2019 guideline, according to which restrictions must be clearly formulated and cannot be based on a general security threat.

15. According to the new paragraphs of Sections 3 and 4 of the ChCoA, it is not a religious association registered in Estonia that poses a threat to the security, constitutional or public order of the Estonian state, but its governing body, spiritual centre or spiritual leader located in a foreign country. In this case, Section 14(2)(2) of the Act on the Protection of Religious Freedom shall apply, if necessary in conjunction with Section 16(3)(2).

16. This is an appropriate measure that allows preventing non-religious activities that threaten state security under the guise of freedom of religion.

17. The measure is necessary and there are no milder solutions. The provisions of the Penal Code are not sufficient to curb hostile influence activities carried out under the guise of freedom of religion. The legislator has the right and obligation to foresee various security threats and limit the possibilities of their realization, and not to deal only with the processing of harmful consequences and the punishment of the guilty. Hostile influence activities and disinformation are not limited to administrative decisions, orders or instructions of the governing body or leader of a religious association located in a foreign country, but information may be transmitted in written, audiovisual, oral or other ways, as well as in material form. Since hostile influence activities may not be carried out organizationally or legally through an Estonian religious community, but may directly reach clergy or individual members of a religious community, preventing influence activities through all possible individual connections is not realistic.

18. The restriction is moderate. If a religious community is used for hostile influence activities related to religion, this does not express religious beliefs. Such activities are not protected by Section 40 of the Constitution or Article 9 of the European Convention on Human Rights (ECHR). Article 11 of the ECHR permits restrictions on the freedom of association. The contested law is in line with the case law of the ECHR. The new paragraphs of Section 3 of the Act on the Protection of Religious Freedoms consider a church operating across borders as a whole in the broader sense and deal specifically with the threat emanating from the whole. For both members of a religious community and the wider public, the highest leader of the community, as a spiritual authority, always represents the position of the community as a whole. If the statutory bond is maintained, the direct impact of hostile influence activities on the membership of the association remains.

Chancellor of Justice

19. The Chancellor of Justice finds that if the contested law (based on the words “may, among other things, occur” in Sections 3(2²) and 4(1²) of the ChCoA) results in the Supreme Court’s assessment that the court can make a constitutional decision based on the request of the Minister of the Interior, i.e. to forcibly dissolve a religious association only if an actual threat to the constitutional order of Estonia has been proven, these provisions are constitutional. If the contested provisions oblige a decision to be made that unconstitutionally restricts freedom of religion, the provisions are unconstitutional.

20. The contested provisions restrict collective freedom of religion, i.e. the right of people to practice their religion together with others and the right of religious organisations to act autonomously (Section 40(3) of the Constitution, Article 18 of the UN Universal Declaration of Human Rights, Article 18 of the International Covenant on Civil and Political Rights (the Covenant), Article 9 of the ECHR, Article 10(1) of the Charter of Fundamental Rights of the European Union). In the case of collective religious freedom, § 40(3) of the Constitution must be assessed in conjunction with § 48 of the Constitution, which guarantees freedom of association. The ECtHR also finds that the collective religious freedom guaranteed in Article 9 of the ECHR must be interpreted in the light of the freedom to form associations protected by Article 11 of the Convention, since religious communities usually operate in the form of organised structures. The Constitution also guarantees collective religious freedom to associations that do not have the status of a legal person (§ 2(2) of the Non-Profit Associations Act).

21. Although the contested law adds several undefined legal concepts to the ChCoA, such as “economically”, “national security”, “constitutional order”, “other document on which the activity is based”, “danger”, “related”, they are nevertheless not unconstitutionally legally unclear. The addressees of the provisions are not individuals, but

religious associations that have long-term experience of cooperation and consultation with the state. There is case law and legal interpretations on several legal concepts contained in the disputed norms. For example, § 5(2) of the Law Enforcement Act (KorS) may be helpful in defining the concept of danger, and the Penal Code contains elements of offences against the state. Modern influence activities are in many ways of a hybrid nature, and a regulation with a very casuistry wording would probably prove pointless. In the case of different interpretation options, an interpretation that is in accordance with the Constitution must be preferred.

22. The purpose of the contested law is to ensure state security, constitutional and public order, which are values of the constitutional order. The qualified limitation clause in § 40(3) of the Constitution provides for three possible legitimate purposes - public order, health and morality - and does not mention state security. The disputed norms are the basis for the compulsory dissolution of a religious association, which is an ultima ratio measure among other measures restricting the activities of an association. In the event of forced dissolution, the basis should be given to § 48(3) and (4) of the Constitution, if in this situation the special norms providing higher protection are used. The forced dissolution of a religious association should therefore only be considered (outside the special situation specified in § 130 of the Constitution) if the objectives or activities of that association are aimed at violently changing the constitutional order of Estonia or are otherwise in conflict with the law establishing criminal liability (§ 48(3) of the Constitution) and only by court decision (§ 48(4) of the Constitution).

23. The concepts designated in the ChCoA by the terms “connection”, “national security” and “danger” must be interpreted in such a way that forced dissolution is permissible only in the event of a specific danger, i.e. if preparations are being made to violently change the constitutional order of Estonia or otherwise violate such penal norms by which the values to be protected are covered by the values specified in § 40(3) of the Constitution (public order, health or morality). If the Supreme Court agrees that such an interpretation is reasonably recognisable from the ChCoA without jeopardising legal certainty for the addressees and implementers of the law, the objectives of the contested provisions are legitimate and such an outcome is also in line with the principle of proportionality. If the Supreme Court does not agree with such an interpretation, the suitability, necessity and moderation of the contested provisions must be assessed.

24. The restriction may be considered appropriate. Although the message of a clergyman residing abroad may have an impact via the internet and the media even in the absence of any statutory or economic ties, it cannot be argued that severing the connection cannot in any way contribute to preventing cross-border activities that abuse freedom of religion. Since it is not possible to identify any more lenient measure that the legislator would not already implement in addition to the contested measures, the contested provisions may be considered necessary.

25. The contested law gives religious associations time to bring their activities into compliance with the requirements. If the inconsistencies are not resolved, the association faces compulsory dissolution. The loss of the status of a legal entity has negative effects: for example, the association is not the legal successor of the religious association and does not receive property previously belonging to the association; the association cannot apply for inclusion in the list of associations with income tax benefits. On the other hand, the possibility of continuing with the association means that the measure may prove to be ineffective. Greater effectiveness in achieving the goal can be expected from other provisions, also added by the contested law, according to which a person who has been found as a result of the residence permit or visa procedure to pose or may pose a threat to national security cannot be a clergyman or a member of the board of a religious association. In the case of the contested provisions, a specific threat can and must be considered a threat. In assessing the proportionality and constitutionality of the provisions, the central issue is whether they entail an obligation for the Minister of the Interior to apply to the court and an obligation for the court to prohibit the activities of a religious community or association even if there is an abstract, rather than a specific, threat. The possibility of identifying a specific threat presupposes the existence of discretion on the part of the risk assessor. Based on the phrase “may, among other things, occur if” used in paragraphs 2² and 1² of the disputed provisions, the Chancellor of Justice considers a constitutional interpretation possible.

26. Regardless of how the disputed provisions are assessed, the trend of the so-called securitization of fundamental rights is a cause for concern, where the balance of power is tilted towards security in the implementation and implementation of rights, and security and human rights are perceived as opposing phenomena. As a result of the restrictions, the space for freedom inevitably narrows, but it is not possible to state with certainty that the actual security of the state and people is increasing.

Minister of Justice and Digital Affairs

27. The Minister of Justice and Digital Affairs does not provide a direct answer to the constitutionality of the contested law. The purpose of the restrictions provided for in the ChCoA is in itself observable and in accordance with constitutional values, which are national security and ensuring public order. When it comes to a broad and therefore intensive restriction of fundamental rights - in this case, interference with freedom of religion and association - the state's obligation to show that the restriction is thoroughly considered and justified, not just purposeful, increases significantly. In the case of an intensive infringement of a fundamental right, including the restriction of freedom of religion, the norm must be precise so that the legal subject can shape its behavior lawfully. Insufficient regulation in the establishment of restrictions on fundamental rights and freedoms does not protect everyone from the arbitrariness of state power (§ 13(2) of the Constitution). The provisions of the contested law contain several undefined legal concepts that must be fleshed out in practice.

Government of the Republic

28. In the opinion of the Government of the Republic (represented by the Minister of the Interior), the contested law is in accordance with the Constitution.

29. The contested norms are legally clear. The definition of “statutes or other documents on the basis of activities” is used because the documents on the basis of the activities of religious associations have different names. The reference to religious and doctrinal affiliation was omitted from the draft, and the doctrinal affiliation itself or religious overlap is not included in the definition of statutes or other documents on the basis of activities. The provision is clear for the target group. Economic affiliation may manifest itself as a financial affiliation, ownership or lease of real or movable property, purchase or sale of goods or services, or the like. Economic affiliation must be understood as material or financial dependence or a permanent material connection. Thus, the meaning of the prohibition of both statutory and economic affiliation is a prohibition of a relationship of dependence.

30. The threat to the security of the Estonian state or to constitutional or public order is defined in a clear legal sense and is specified in the explanatory memorandum. Social security, public order and national security partially overlap. The lack of a temporal definition does not make the norm legally unclear. It is primary that the activity in question constitutes a real threat at the present time. The threat is characterised by the intensity, regularity, systematicity and sustainability of the activity. In addition, all elements of the disputed norms and their cumulation (connection + foreign element + threat) must be taken into account. The state cooperates closely with religious organisations through the Ministry of the Interior, which is why the association can consult the state. If there are sufficient grounds to initiate administrative proceedings, the circumstances will be examined during the proceedings and it will be considered whether there is a connection and whether the foreign association poses a real threat. During the administrative proceedings, the affected persons are obliged to be heard. If the circumstances have been sufficiently clarified and the prerequisites for compulsory termination are met, the Minister will submit an application to the court and the court will verify whether these prerequisites have been met. The draft law provides for a six-month transitional period during which religious associations can sever their affiliation with a foreign association that poses a threat. In addition, a religious association can sever its affiliation with a foreign person that poses a threat during administrative proceedings.

31. The interference has a legitimate aim. Only external freedom of religion (forum externum), which is related to freedom of association (Constitutional Act §§ 40(3) and 48(1)). The aim of the restriction is to ward off a threat to

the security of the Estonian state or to constitutional or public order. In addition to the grounds for restrictions arising from these provisions, both freedom of religion and freedom of association may be restricted for purposes arising from the Constitution itself. The internal and external peace referred to in the preamble to the Constitution is ensured through national security, constitutional and public order. External freedom of religion and freedom of association may also be restricted for these purposes. The restrictions imposed by the contested law are applied in the event of a real, not an abstract, threat.

32. The interference helps to achieve the goal, i.e. is appropriate. By prohibiting or interrupting the connection specified in the law, the probability of the threat being realized in Estonia is reduced. By reducing the field of disinformation arising through hierarchical and administrative connections, a person is freer to form his or her own beliefs. However, this cannot be considered an interference in the forum internum - a person continues to form his or her own internal beliefs based on the information and positions available to him or her.

33. Interference is necessary to achieve the goal. Today, (hybrid) warfare is also being waged in (social) media and through cyberattacks, acts of sabotage, economic pressure and many other means of influence. Religious associations are also involved in influence activities. For example, the Russian state authorities use the Russian Orthodox Church (ROC) - where faith in the sense of freedom of religion is undoubtedly also practiced - as one of the weapons of Russia's (information) war. A ban on structural or hierarchical relationships alone is not sufficient. An economic connection creates the assumption that the other side wants to act in accordance with expectations. If only those positions that pose a threat to the security of the Estonian state or constitutional or public order were not binding, this would not sufficiently eliminate the likelihood of the threat materializing. Criminal law intervention is not an alternative measure. Law enforcement and preventive prohibitions have a different purpose. The grounds for initiating compulsory termination in the ChCoA do not cover situations where an Estonian religious association is used in influence activities, which the association may not even understand.

34. The interference is moderate, as only external freedom of religion and freedom of association are restricted. In order to apply the restriction, there must be a real threat, which does not have to arise from the activities of the Estonian association. This means that the guilt of the Estonian association does not need to be assessed, but what is important is whether the Estonian association is connected to the person or body posing a threat. Severing the current relationship does not mean reorganizing the entire activity, but only the current spiritual hierarchy, which extends outside Estonia, must be interrupted and the decision-making competence must be given to someone else. Historically, the affiliation of Orthodox congregations and monasteries in Estonia has also changed, and this has not precluded the continuation of the current teaching. The threshold that the law sets for the implementer is high. The termination of a prohibited connection is considered in a situation where there is a proven threat to the security, constitutional or public order of Estonia. The ChCoA does not provide for the preference of any church or congregation in conflict with the guarantees of impartiality and neutrality under Article 9 of the ECHR. In order for the prohibition to apply, it must first be assessed whether the association has a statutory or economic connection, or a relationship of dependence. Secondly, it must be established that the foreign person with whom it is connected is a threat to the security, constitutional and public order of Estonia. In both cases, the actual circumstances must be assessed and taken into account in accordance with the constitution, which ensures the proportionality of the regulation. The prohibition is not automatic and is subject to judicial review.

OTHER OPINIONS TAKEN ON THE MATTER

Estonian Council of Churches

35. The Estonian Council of Churches (ECC) finds that it is not competent to assess the constitutionality of the contested law. While condemning the ECC's support for the Kremlin's aggression and war in Ukraine, it expresses concern that the state has begun to influence the self-determination of a church operating in Estonia through the amendment of the law. This may prove to be a dangerous precedent, justifying possible further similar steps by the state in the future towards any religious community operating in Estonia.

Estonian Christian Orthodox Church and the Pühtitsa Stavropegial Women's Monastery of the Dormition of the Mother of God

36. The Estonian Christian Orthodox Church (ECOC) and the Pühtitsa Monastery of the Dormition of the Mother of God (Pühtitsa Monastery) support the request of the President of the Republic in their joint position. In essence, this is a law aimed at a specific individual case - the ECOC and the Pühtitsa Monastery due to their connections with the ROC - although both have distanced themselves from the statements made by the patriarch at the meeting of the World Russian People's Council.

37. The law does not comply with the principle of legal clarity (Constitution §§ 11 and § 13 (2)). The new paragraphs of § 3 of the COC are imperative ("the church [...] may not be [...] connected"), but at the same time contain undefined concepts (including "statutory or economic connection", "spiritual leader", "spiritual center", "threat to state security", "supports or has supported"). According to the explanatory memorandum, the purpose of the law is to prevent all kinds of administrative and economic connections, but these have not been explained. The content and scope of the statutory connection have also remained unanalyzed. If the prohibition can cover both domestic and foreign statutory levels, the norm leaves an unreasonably wide room for interpretation and creates the risk of arbitrary application. The prohibition to be connected on the basis of "other documents" can also be interpreted as concerning the Holy Scriptures, the Creed, decisions of church councils or synods, texts of canon law, liturgical manuals and other acts of doctrinal content. In this way, the prohibition can be extended to essentially the entire religious normative framework. The statute of a religious association located in a foreign country can also be placed under other documents. The provision does not specify what kind of behavior is to be considered as support, i.e. whether it requires a specific and direct active act or whether indirect action or even inaction is sufficient. There is also no clear temporal dimension. The concept of danger is defined excessively broadly and allows for arbitrary interpretation. The consequence of implementing the provision is imperative. According to Section 16(3)(1) of the ChCoA, the minister is obliged to request the compulsory dissolution of a religious association if the association's activities or statutes violate the law or the constitution. The practical consequences of the entry into force of the law have not been assessed. The religious association is held liable for the activities of a foreign person, including informal statements that fall outside the sphere of influence of the local association. The addressee of the norm is obliged to constantly assess the admissibility of each individual document, contract or other connection in order to avoid its own compulsory dissolution. This violates the principles of legal clarity and foreseeability, which are not in line with the requirements of a democratic state under the rule of law.

38. Collective freedom of religion has been violated. The state may not assume the role of an interpreter of theological and canonical affiliation or decide which principles are "central" in a particular religion. State interference in the interpretation of the canonical affiliation of religious organisations is contrary to the principle of religious neutrality and impartiality arising from § 40 of the Constitution and Article 9 of the ECHR. Collective manifestation of religion presupposes the right to form religious associations, to act in an organised manner and to be registered as a legal person. The contested law inevitably leads to the compulsory termination of legal persons also in the case of those religious communities that have so far acted lawfully and in accordance with Estonian law. Such a measure infringes the protection of § 40(3) of the Constitution and Article 9 of the ECHR and punishes the community without identifying a specific unlawful act.

39. The restrictions are not imposed for purposes permitted by the Constitution. Security is an extremely broad concept that can be used to abstractly justify the infringement of almost any fundamental right, but freedom of religion may be restricted only for legitimate purposes that are clearly and exhaustively listed. If a measure infringes both Article 9 of the ECHR and Article 11 (Articles 18 and 22 of the Covenant), the State cannot rely on the broader objective of "national security" of Article 11 of the ECHR to avoid the restrictive grounds of Article 9. National security is not a legitimate objective for restricting freedom of religion under either Article 40(3) of the Constitution or Article 9(2) of the ECHR.

40. The measure does not contribute to the achievement of the aim pursued by the legislator and is not appropriate. The measure regulates only the legal form and legal and economic connections, and not the alleged possible influence activities. If the consequence of non-compliance with the law is the compulsory dissolution of a religious association as a legal person, but the association continues to operate without the status of a legal person and the substantive activities remain in the same form, the alleged danger does not diminish, but the compulsory dissolution does entail a widespread and intensive infringement of fundamental rights. The measure not only does not facilitate the achievement of the goal, but it also amplifies the very threats from which the state seeks to protect itself. They create a sense of injustice and discrimination among members of the religious community, undermine trust in state authority, and foster alienation.

41. The remedy is not necessary, as the grounds for the compulsory dissolution of a religious association are already provided for in the current law (ChCoA § 16 (3) (1) and (2)). The Public Order Act, the Security Authorities Act and the Penal Code (including §§ 91¹, 92, 232 and 233 of the Penal Code) provide the state with both preventive and reactive tools to address the risks arising from the activities of religious associations themselves. The legislator rejected amendments that would have reduced the risks in a targeted manner.

42. The remedy is not moderate. The law balances, on the one hand, the protection of national security against, on the other hand, extensive and intensive interference with the fundamental rights of law-abiding religious associations. It is not consistent with the principles of the rule of law to hold a person responsible for the actions of another person. The ECHR has repeatedly emphasised that restrictions on freedom of religion cannot be justified by a mere presumed risk that a church may harm national security. The restriction must be based on specific facts and actual activity of the community. The Venice Commission has also stated that freedom of expression of religion can only be restricted if it involves a specific threat to public order and security, not in a situation where there is an alleged general threat to national security.

REVIEW OF THE CASE IN THE RIIGIKOHUS

43. At the session 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 basic positions and clarified them.

44. Since the Constitutional Review Chamber had disagreements of a fundamental nature during the deliberations of the matter, the Chamber transferred the matter to the En Banc Court of the Supreme Court on 4 February 2026 (RKPJKm 04.02.2026, 5-25-49/24).

45. The participants in the proceedings and other persons involved in giving an opinion then answered in writing the En Banc Court's additional questions on the concepts used in the field of religion, as well as on what steps the executive branch plans to take after the entry into force of the contested law and how to interpret § 40(3) and § 48(3) and (4) of the Constitution in conjunction with each other.

THE DISPUTED LAW

46. Sections 3 and 5 of the contested Act provide that §§ 3 and 4 of the ChCoA shall be supplemented with the following new sections:

" § 3. Main activities and restrictions on activities of religious associations [churches, monasteries, etc]

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(2¹) A church, congregation, union of congregations, and monastery may not be connected on the basis of the statutes or any other document governing its activities or be economically connected with a foreign spiritual centre, governing body, religious community, or spiritual leader, which poses a threat to the security of the Estonian state or to the constitutional or public order.

[(2¹) Kirik, kogudus, koguduste liit ja klooster ei või olla põhikirja või tegevuse aluseks oleva muu dokumendi alusel või majanduslikult seotud välisriigis asuva vaimuliku keskuse, juhtorgani, usulise ühenduse või vaimuliku juhiga, kes kujutab ohtu Eesti riigi julgeolekule või põhiseaduslikule või avalikule korrale.]

(2²) The threat to the security of the Estonian state or to the constitutional or public order referred to in subsection 2¹ of this section may, inter alia, occur when the spiritual centre, governing body, religious association or spiritual leader referred to in the same subsection incites, supports or finances activities aimed at violently changing the independence, territorial integrity or constitutional order of the Republic of Estonia, or supports or has supported military aggression or incites war, a terrorist crime or any other unlawful use of force or violence.

[(2²) Käesoleva paragrahvi lõikes 2¹ nimetatud oht Eesti riigi julgeolekule või põhiseaduslikule või avalikule korrale võib muu hulgas esineda siis, kui samas lõikes nimetatud vaimulik keskus, juhtorgan, usuline ühendus või vaimulik juht õhutab, toetab või rahastab tegevust, mis on suunatud Eesti Vabariigi iseseisvuse, territoriaalse terviklikkuse või põhiseadusliku korra vägivaldsele muutmisele, või toetab või on toetanud sõjalist agressiooni või kutsunud üles sõjale, terrorikuriteole või mõnel muul viisil relvajõu õigusvastasele kasutamisele või vägivallale.]

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§ 4. Religious society [non-profit associations or foundations]

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(1¹) A religious society may not be connected on the basis of its statutes or other document that forms the basis of its activities or be economically connected to a governing body or association located in a foreign country that poses a threat to the security of the state of Estonia or to the constitutional or public order.

(1²) The threat to the security of the Estonian state or to constitutional or public order referred to in subsection 1¹ of this section may, among other things, occur if the governing body or association referred to in the same subsection incites, supports or finances activities aimed at the violent alteration of the independence, territorial integrity or constitutional order of the Republic of Estonia, or supports or has supported military aggression or incites war, a terrorist crime or in some other way the unlawful use of armed force or violence.”

GENERAL POSITION

47. The En Banc Court shall first consider the admissibility of the President of the Republic's request (I) and then assess the legal clarity of the contested law (II). Finally, the En Banc Court shall analyse the purpose and proportionality of the contested law and decide on the request (III).

(I) Admissibility of the President of the Republic's request

48. Pursuant to § 107(2) of the Constitution and § 5 of the Constitutional Review Court Procedure Act (CSPA), the President of the Republic may submit a request to the Supreme Court to declare an act adopted by the Riigikogu but not promulgated by him to be unconstitutional if the Riigikogu has re-adopted it in an unchanged form after sending it for new discussion and decision. The President of the Republic may not promulgate and submit a request to the Supreme Court to declare only the act as a whole to be unconstitutional. These prerequisites are met.

49. Pursuant to § 8(1) of the CSPA, a request to the Supreme Court must be substantiated. Although the text of the decision not to promulgate the act and the request to the Supreme Court do not have to be identical, the arguments presented in the request must not be broader, at least in the main issues, than those presented in the decision (RKPKo 19.12.2019, 5-19-38, paragraphs 61-63). Although the application submitted to the Supreme Court by the President of the Republic is longer than his decision of 3 July 2025 on the failure to promulgate the law, the application does not present new reasons, but only elaborates on the objections stated in the decision. Both the decision and the application refer to sections 3 and 5 of the contested law, which supplement sections 3 and 4 of the

ChCoA with new paragraphs and impose restrictions on the activities of religious associations. Both documents find that the law is in conflict with sections 11, 40 and 48 of the Constitution, since the restrictions on freedom of religion and association imposed by it are not proportionate. The President of the Republic found it problematic that, in the event of a threat arising from a foreign person, religious associations are prohibited from having not only administrative and economic, but also doctrinal ties with such a person. He also considered the provision that such ties may not exist on the basis of the statutes or other document on which the activities are based, or through economic ties, to be unclear. The concept of danger [ohu] is defined very broadly, both in substance and in time. The law provides for a general ban on ties, without taking into account the positions of the Estonian religious community itself on specific issues.

50. In the opinion of the En Banc Court, the request of the President of the Republic is admissible.

(II) Legal clarity of the contested law

51. First of all, it must be verified whether the contested law is formally constitutional (see, for example, RKÜKo 01.07.2015, 3-4-1-20-15, p. 44). Since no party to the proceedings has contested it and the En Banc Court does not doubt that it has been adopted in compliance with the requirements of competence, procedure and form, only the compliance of the contested norms with the principle of legal clarity will be assessed separately below.

52. The En Banc Court will analyse the norms highlighted by the President of the Republic (sections 3 and 5 of the contested law, which establish new subsections 2¹ and 2² of Section 3 of the ChCoA and new subsections 1¹ and 1² of Section 4) in conjunction with other sections of this law, in particular sections 7, 12, 15 and 21, as they are directly related to the restrictions established in sections 3 and 5.

53. According to § 13(2) of the Constitution, the law protects everyone from the arbitrariness of state power. The principle of legal clarity arising from this provision requires that legal norms be sufficiently clear and understandable so that everyone can foresee the conduct of a public authority with a certain degree of probability and regulate their own conduct - if necessary, with the help of appropriate advice (RKÜKo 28.10.2002, 3-4-1-5-02, p. 31; 01.02.2016, 3-2-1-146-15, p. 67; see also the requirements for the quality of law arising from Articles 9 and 11 of the ECHR: ECHR (SK) 26.10.2000, Hasan and Chaush v. Bulgaria, 30985/96, p. 84; ECHR 14.06.2007, Svyato-Mykhaylivska Parafiya v. Ukraine, 77703/01, p. 115; ECHR (SK) 26.04.2016, İzzettin Doğan et al. v. Turkey, 62649/10, p. 99). Although constitutional interpretation must be preferred, the clear wording of the norm cannot be ignored in order to achieve this and this must not lead to legal ambiguity (see, for example, RKÜKo 22.02.2005, 3-2-1-73-04, p. 36; RKPJKo 09.12.2019, 5-18-7, p. 171; 06.11.2023, 5-23-35, p. 34).

54. However, not every ambiguity or need for interpretation leads to the unconstitutionality of a law and the use of undefined legal concepts or the provision of discretion for the competent body is not excluded. The situation is legally unclear only if doubts arising from the interpretation of the norms cannot be reasonably eliminated, taking into account the purpose and history of the norms, other legal acts, general principles of law, etc., and such uncertainty prevents the determination and fulfillment of obligations arising from the law (cited 5-19-38, paragraphs 68 and 71; 26.02.2025, 5-24-29, paragraph 63). The constitutionally required precision of the law also depends on the regulated area, the intensity of possible infringements of fundamental rights, the context of application of the law, etc. (RKÜKo 24.04.2026, 2-21-12706, paragraph 41; see also cited Hasan and Chaush v. Bulgaria, paragraph 84; EIKo 13.02.2001, Metropolitan Church of Bessarabia et al. v. Moldova, 45701/99, paragraph 109). It is also necessary to take into account the number of addressees of the norm (Hasan and Chaush v. Bulgaria, paragraph 84) and who the norm is aimed at - whether the addressees and implementers of the norm are primarily ordinary people or experts in their field with appropriate training, who must be able to overcome possible ambiguities or implementation difficulties through interpretation (see also RKPJKo 19.03.2009, 3-4-1-17-08, paragraph 27; 18.01.2019, 5-18-4, paragraph 63).

55. The parties to the proceedings interpret differently, in particular, which “statutory”, “on the basis of another document” or “economic” “connection” with a foreign person posing a threat is prohibited within the meaning of the contested law (ChCoA § 3 new subsection 2¹, § 4 new subsection 1¹); what “threat” [“oht”] must arise from a foreign person for an association with him or her to become prohibited, and what time frame and substantive scope are meant when referring to the fact that a foreign person “has supported” military aggression or called for war (ChCoA § 3 new subsection 2², § 4 new subsection 1²). In the opinion of the President of the Republic, these concepts make the contested law unclear in the collection.

56. The En Banc Court shall explain the content of the relevant provisions below, taking into account the area regulated and who are the addressees of the disputed norms, what is their purpose and how the norms have been formed and what are the consequences of applying the norms for their addressees.

57. Although the discussions and explanatory notes of the contested draft law, as well as the court proceedings, have cited the connection of the ECOC and the Pühtitsa Monastery with the ROC as examples, no specific normative review can be carried out within the framework of this abstract normative review procedure. Based on the request of the President of the Republic, the Supreme Court shall assess the law in general.

(i) Scope of regulation and addressees of the law

58. According to Section 1(1) of the current Act on Religious Freedom, the function of the Act is to establish the procedure for becoming a member of churches, congregations, associations of congregations, monasteries and religious associations in order to exercise the freedom of religion guaranteed to everyone by the Constitution, and to regulate their activities. The contested Act establishes additional restrictions on the activities of religious associations. The area of regulation of the Act is therefore the activities of associations bringing together religious communities as organisations, and the contested norms infringe on the freedom of religion (§ 40 of the Constitution) and freedom of association (§ 48 of the Constitution) protected by the Constitution. The protection of freedom of religion and association is also provided for in Articles 9 and 11 of the ECHR, which provisions and the case law of the ECHR on them can be taken into account when interpreting the provisions of the Constitution (see RKPJKo 25.03.2004, 3-4-1-1-04, p. 18; RKÜKo 21.06.2019, 5-18-5, p. 50). The interference with the freedom of religion and association has not been questioned in the proceedings, but the parties to the proceedings differ as to whether the restriction is in accordance with the Constitution.

59. Religious associations, i.e. legal persons, which are the main addressees of the Act, can be expected to be able to make clear - with appropriate assistance if necessary - what is expected of them. According to the case-law of the ECtHR, however, freedom of religion and association (Articles 9 and 11 of the ECHR) must be interpreted together when the activity of a religious community as an organisation is at stake. The ECtHR has stated that if Article 9 of the ECHR did not protect the organisational structure of religious communities, all other aspects of individual religious freedom would become vulnerable (see, for example, the cited Hasan and Chaush v. Bulgaria, § 62; İzzettin Doğan and Others v. Turkey, § 93; ECtHR 31.07.2008, Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria, 40825/98, § 62). When imposing restrictions on the activities of a religious community, it is therefore important that communities understand their obligations in order to avoid initiating compulsory dissolution against themselves, as compulsory dissolution affects all members of the religious community.

(ii) Purpose and history

60. According to the explanatory memorandum to the contested draft law, the purpose of the law is to prevent hostile influence activities and disinformation not related to the practice of religion from reaching members of the congregation or people living in a monastery through the administrative relations of a religious community, taking into account the security situation in the world (Riigikogu XV composition, 570 UA, 23.01.2025 explanatory memorandum, p. 4). The state has an obligation to ensure its own security, constitutional and public order (ibid., p. 14). By suppressing hostile influence activities, the aim is to ensure the security of the Estonian state, including

internal security, public order and safety (570 UA, 11.06.2025 explanatory memorandum, p. 9). The purpose of the norms as the protection of state security, public and constitutional order is sufficiently clear in the opinion of the En Banc Court.

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

62. Although the new subsection 2¹ of § 3 and the new subsection 1¹ of § 4 of the Act on the Protection of the Rights of the Child only mention “connection” [„seotust“], the way in which its wording has been developed must be taken into account when interpreting the provision. The Government of the Republic explained in the court proceedings that the prohibition contained in the previous draft with a reference to “religious or doctrinal” connection with a foreign person was omitted from the draft so that the provision would be “legally clear for the target group and [...] the restriction would be defined sufficiently narrowly”. The government admitted that a religious or doctrinal connection would have been too broad a criterion, since all churches are doctrinally connected to the same holy scripture (the Bible) and confessions (18.11.2025 opinion, paragraphs 11 and 12). In response to additional questions from the En Banc Court, the government reiterated, with reference to the different versions of the draft law, that “taking into account the historical method of interpretation, a doctrinal connection cannot be considered to be covered by the connection in section 3(2¹) of the Act on the Protection of Religious Freedom. Consequently, the doctrinal connection itself or the religious overlap is not covered by the definition of a connection based on the statutes or other document that forms the basis of the activity” (11.03.2026 opinion, paragraph 21).

63. The explanations of the Government of the Republic are confirmed by the course of the proceedings on the draft law. The Government Office forwarded the draft ChCoA Amendment Act to the Riigikogu on 23 January 2025. The coordination table attached to the explanatory memorandum to the original draft shows the proposals made to the draft and whether they were taken into account or not. The first page of the coordination table reflects EKN's note that the "religious or doctrinal connection" included in the draft ("A church, congregation, union of congregations and monastery may not be guided in its activities by a foreign person, institution or association or be affiliated with it in terms of its statutes, religion or doctrine, if that person, institution or association: [---]") is inherently too broad and remains vague. In EKN's opinion, it remained unclear how a religious association should interrupt or suspend religious or doctrinal connections if such a connection is revealed. Neither the EKN nor its member churches can 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 their country of residence, nor the positions expressed by the representatives of these churches. The coordination table shows that the drafter, the Ministry of the Interior, took into account the EKN's comment, confirming that "confessional and doctrinal affiliation is excluded from the provision in question."

64. The President of the Republic failed to promulgate the ChCoA Amendment Act for the first time on 24 April 2025 because it was not clear what “guidance” meant by a foreign person, and not because it considered the prohibition of doctrinal connections to be an impermissible connection. After the law was not promulgated for the first time, the text part according to which the prohibition would also include “religious or doctrinal connection” was not re-introduced into the draft. Although the wording of the new subsection 2¹ of § 3 and the new subsection 1¹ of § 4 of ChCoA could be more precise, the intention of the legislator is evident from the fact that the draft law was amended and reworded. In the opinion of the En Banc Court, religious and doctrinal connection is not the subject of the disputed norms.

65. Based on the above, it can be concluded from the explanatory notes to the contested draft law (23.01.2025 explanatory note, pages 3 and 13; 11.06.2025 explanatory note, pages 1, 8 and 10) that the purpose of the law is to prevent hostile influence activities not related to the practice of religion from reaching members of the congregation or people living in a monastery through “administrative relations” [“haldussuhete”] between an Estonian religious community and a foreign person. In the explanatory note, this connection is also referred to as “administrative connection” (11.06.2025 explanatory note, pages 10 and 12) and in the positions of the Government of the Republic submitted to the Supreme Court, as “organizational” connection (02.02.2026 opinion, paragraphs 8 and 27, 11.03.2026 opinion, paragraph 24). The words “administrative” [“halduslik”] and “administrative” [“administratiivne”] are synonymous and are related to the management or organization of something. The term “organizational” is also used in the sense of “related to organization”. **The En Banc Court finds that, according to the contested law, an Estonian religious association may not be related to a foreign person in the event of a “dangerous” [“ohtlikkuse”] situation, in which the connection is expressed in the Estonian religious association’s submission to the management order of the foreign person. Such cases include, for example, the pre-selection or determination of personnel by a foreign person, as well as compliance with other organizational decisions of a foreign person.**

66. The President of the Republic also considers it unclear which document can give rise to a prohibited connection and what is meant by a prohibited economic connection. Section 3, new subsection 2¹ and Section 4, new subsection 1¹ of the ChCoA mention the “statute” or “other document governing its activities” and the “economic” connection between an Estonian religious association and a foreign person.

67. According to Section 12 of the Act on Religious Associations, every religious association must have a statute. In the opinion of the En Banc Court, the statute of an Estonian religious association itself can be relevant for the purposes of the contested Act, since a legal person can only amend its own statute. An Estonian legal person cannot be liable for the content of the statute of a foreign person, the amendment of which is not within its sphere of influence. This is also evident from Section 21 of the Act on Religious Associations, which establishes implementing provisions. According to the new Section 31²(1) of the Act on Religious Associations, a religious association must bring “its” statute, the composition of the board and its activities into line with the new requirements within six months of their entry into force.

68. If the connection arises from “other documents on the basis of its activities”, a document that is binding on it under the statute of an Estonian religious association or that otherwise regulates its main activities in the same way as the statute and the content of which it can decide on itself can be relevant for the purposes of the contested provisions. According to the new § 31² (1) of the ChCoA, “one’s” activities must be brought into line with the law.

69. The provisions of the contested Act on “statute” and “other document” cannot be understood constitutionally differently, because § 48 (3) and (4) of the Constitution in conjunction with § 40 (3) of the Constitution would not allow the most severe consequence to be applied to a legal person – compulsory termination – for something over which it has no influence.

70. “Economic connection” is described in the explanatory memorandum to the contested draft law as a financial connection, a connection in the form of ownership or lease of immovable or movable property, the purchase or sale of goods or services, or in a similar manner (23.01.2025 explanatory memorandum, p. 17). According to the clarification of the Government of the Republic, economic connection must be understood as material or financial dependence or a permanent material connection, i.e. it is a prohibition of connection or dependency (18.11.2025 opinion, paragraphs 21-22; 02.02.2026 opinion, paragraphs 9-10). **In the opinion of the En Banc Court, economic connection must be understood as requiring a dependency relationship.**

71. The President of the Republic considers the contested provisions unclear also because the threat posed by a foreign person to the security of the Estonian state or to the constitutional or public order can be interpreted extremely broadly (ChCoA § 3 new subsection 2², § 4 new subsection 1²) and in the event of a threat, the aforementioned connection is automatically prohibited (ChCoA § 3 new subsection 2¹, § 4 new subsection 1¹).

According to the President of the Republic, it is sufficient under the law that if a foreign person is generally considered dangerous, an Estonian religious community is obliged to restructure its entire organization. According to the application, the law requires an Estonian religious community to condemn the dangerous activities of a foreign person or to distance itself from their decisions and does not take into account which positions are attributable to the Estonian religious community itself. According to the application, no temporal or substantive dimension has been specified in the definition of the threat.

72. In the case of the “threat” [“ohu”] referred to in the new subsection 2² of § 3 and the new subsection 1² of § 4 of the Act on the Protection of the Rights of the Child, the En Banc Court distinguishes the following aspects.

- a) The threat may consist in the fact that a foreign person “incites, supports or finances activities that are clearly aimed at violently changing the independence, territorial integrity or constitutional order of the Republic of Estonia”.
- b) The threat may occur in a situation where a foreign person “supports or has supported military aggression or has incited war, a terrorist crime or in some other way the unlawful use of armed force or violence”.
- c) The wording according to which the threat “may, among other things, occur if”, expresses that the list is not exhaustive.

73. In no case does the threat [ohu], according to the contested law, have to be expressed in the activities of an Estonian religious association, but the dangerous [ohtlik] person must be a foreign person. If the statute or activities of an Estonian association are contrary to the law, Section 16(3) of the Act on Religious Associations shall apply, which provides for the grounds upon which the Minister of the Interior shall apply to the court for the compulsory dissolution of a religious association. In such a case, the new paragraphs of Sections 3 and 4 of the Act on Religious Associations shall not be relevant (11.06.2025 explanatory memorandum, p. 10).

74. It is also necessary to proceed from Section 3(2)¹ and Section 4(1)¹ of the Act on Religious Associations, according to which “connection” with a foreign person is prohibited if that person poses a threat to the security, constitutional order or public order of the Estonian state. Thus, the model list is relevant only if the aforementioned threat to the Estonian state arises from the foreign person. This meaning of the provisions is evident from the first half of the sample list (paragraph 72(a) of the decision), according to which an Estonian religious association may not be connected in the manner and to the extent described above with a foreign person who incites, supports or finances activities contrary to the independence of the Republic of Estonia.

75. The use of the concept of threat [Ohu] in private and public law, as well as within a branch of law, may have different meanings and scope. In many cases, as in the case of the contested law, a threat is a prerequisite for the implementation of a measure that infringes fundamental rights and freedoms. Therefore, it is important to understand what kind of threat is meant. The explanatory memorandum to the draft refers to the analogy with the threat to public order provided for in Section 5(2) of the Code of Conduct (23.01.2025 explanatory memorandum, p. 15). A threat within the meaning of Section 5(2) of the Code of Conduct means a specific, not an abstract threat (see, for example, RKHKo 20.04.2018, 3-15-443/54, p. 14). The Government of the Republic confirmed in the court proceedings that the purpose of the law is essentially law enforcement, i.e. it aims to prevent situations that lead to the realization of a threat (18.11.2025 opinion, paragraph 93; 11.03.2026 opinion, chapter 1.1 and paragraph 29), and that no abstract threat is intended (18.11.2025 opinion, paragraph 57). “Threat” [“Oht”] means an actual assessment of the circumstances and what is decisive is that the activities of a foreign person would constitute an actual threat at a specific time. The threat is characterized by the intensity, regularity, systematicity and sustainability of the activity (18.11.2025 opinion, paragraph 35). According to the explanatory memorandum to the contested draft law, if the application for compulsory termination is unavoidable, the state is obliged to prove the threat posed by the governing body or spiritual centre of a religious association located abroad to the security, constitutional or public order of Estonia (11.06.2025 explanatory memorandum, p. 8). The government confirmed that the threshold that the

law sets for its implementer is high, since the severance of a prohibited connection must be considered in a situation where there is a proven threat to the security, constitutional or public order of Estonia (02.02.2026 opinion, p. 42). Based on the above, the En Banc Court finds that “threat” [“oht”] within the meaning of the contested law does not mean an abstract threat, but presupposes an actual threat arising from the circumstances of a specific case.

76. The same considerations extend to the so-called second half of the sample list of threats (para. 72, subparagraph b of the decision). Although “support” is not precisely defined in terms of time and scope, only the assessment of the risk to specific actions or positions can be decisive, and not the existence of a single or long-standing position per se.

77. The wording used in the new paragraphs 2² and 1² of Sections 3 and 4 of the ChCoA, that the risk “may, among other things, occur if”, gives those implementing the norm sufficient discretion (paragraph 72(c) of the decision). This also means that the “risk” within the meaning of the contested law may not necessarily occur in all the cases set out in the examples. Not every activity mentioned in these provisions must automatically lead to the cross-border connection being considered prohibited, but it must always be assessed on the basis of the specific circumstances whether the requirements of § 3 paragraphs 2¹ and 2² or § 4 paragraphs 1¹ and 1² of the ChCoA are met (see also the explanatory memorandum of 11.06.2025, p. 6).

(iii) Consequences for the addressees

78. Finally, when assessing the legal clarity of the contested provisions, the consequences of their application for the addressees of the law, including the intensity of the infringement of freedom of religion and association, must be taken into account.

79. Section 21 of the contested Act establishes a new Section 31² of the ChCoA, Section 1 of which provides for a six-month period from the entry into force of the Act for religious associations to bring their statutes and activities into line with the new requirements. Section 15 of the same Act supplements Section 14(2)(2) of the ChCoA in such a way that, inter alia, a religious association whose activities pose a threat to national security or constitutional or public order or harm health, morality 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 the compulsory dissolution of an existing religious association. (Section 16(3)(2) of the ChCoA). As noted above, the forced dissolution of a religious association due to non-compliance with restrictions on its activities ultimately entails consequences for each individual belonging to a particular religious community (see paragraph 59 of the judgment). This fact intensifies the interference in question.

80. Under international law, the deprivation of the status of a legal person from a religious association constitutes a serious interference with freedom of religion or association. According to the ECtHR, allowing a religious association not legally recognised by the State to operate does not replace its legal recognition (cited in Metropolitan Church of Bessarabia and Others v. Moldova, paragraph 129; İzzettin Doğan and Others v. Turkey, paragraph 127). According to the 2019 OSCE Guidelines, a religious association may be deprived of its status of legal person only in extreme cases and as a last resort, and this must be very well justified. In any case, lighter sanctions, such as a warning, a fine, suspension of benefits associated with the status of a legal person, etc., must have been used first (pp. 32-34).

81. In Estonia, too, a legal entity can only be dissolved as a last resort, which is applied only when less restrictive solutions are not possible or effective. If the Minister of the Interior submits a petition for the compulsory dissolution of a religious association to the court on the basis of Section 16(3) of the Code of Civil Procedure (CCP), the court deciding on the compulsory dissolution (CCP § 629) must proceed from Section 40(2) of the General Part of the Civil Code Act (CCP). According to this general rule, if the deficiency or other circumstance that is the basis for the compulsory dissolution can obviously be eliminated, the court must set a deadline for the legal entity to eliminate the deficiency or circumstance. Compulsory dissolution without granting a deadline for eliminating the deficiencies would be disproportionate (RKTKM 11.12.2012, 3-2-1-153-12, p. 10). Since the compulsory dissolution

procedure is a non-actionable procedure, the principle of investigation also applies (CCP § 477(5)). The court must also, if possible, hear the members of the management bodies of the legal person before compulsory winding-up (Section 629 (2) of the Civil Code).

(iv) Summary interpretation and assessment of legal clarity

82. The En Banc Court finds, based on the above, that the contested law provides the following.

- a) On this basis, the administrative-organizational connection between an Estonian religious association and a foreign person listed in the contested norms is prohibited, which arises from the statutes of the Estonian religious association or another document regulating its main activities on an equal footing with the statutes. The statutes of any other person or other document underlying the activities over which the Estonian religious association has no influence are not relevant.
- b) The economic dependence of an Estonian religious association on a foreign person is prohibited.
- c) Religious and doctrinal connection is not the subject of the contested norms.
- d) The connection becomes prohibited only if and only if the foreign person poses a threat to the security of the Estonian state or to the constitutional or public order.
- e) The threat intended in the contested norms must be expressed in the activities of the foreign person. Such a threat must arise from the circumstances of the specific case and be real. These norms cannot be applied in the case of an abstract threat.
- f) If a foreign person has supported military aggression, called for war, a terrorist crime or violence in any other way, etc., it is also decisive whether the threat to the security of the Estonian state or to the constitutional or public order arising from such support is real in the circumstances of the specific case.

83. Based on the above, the En Banc Court considers the relevant provisions of the contested law to be sufficiently defined and legally clear and does not establish their unconstitutionality in an abstract review of the norms.

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

84. The En Banc Court will next assess the purpose of the restrictions established by the contested law, their legitimacy and proportionality, and resolve the request of the President of the Republic.

(i) Legitimacy of the objective

85. As noted above, the contested law can be considered to have as its primary purpose the protection of national security and constitutional and public order (paragraph 60 of the decision), and the law restricts freedom of religion (§ 40 of the Constitution) and freedom of association (§ 48 of the Constitution) (paragraph 58 of the decision). When assessing the legitimate aim and proportionality of the law, the case-law of the ECtHR on Articles 9 and 11 of the ECHR must be taken into account.

86. No restrictions can be imposed on the internal conviction (*forum internum*), which falls under freedom of religion, on the basis of § 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. § 40(3) of the Constitution permits restrictions on the performance of religious services in order to ensure public order, health and morals. According to Article 9(2) of the ECHR, freedom to manifest one's religion may be restricted if this is necessary in a democratic society in the interests of public security, public order, health or morals, or the protection of the rights and freedoms of others. According to Article 48(3) of the Constitution, which protects freedom of association, associations, unions and political parties whose objectives or activities are aimed at violently changing the constitutional order of Estonia or are otherwise contrary to the law establishing criminal liability are prohibited.

Article 11(2) of the ECHR lists that the formation of an association may be restricted in the interests of national security or public security, for the prevention of disorder or crime, for the protection of health or morals, or for the rights and freedoms of others.

87. Since the present case concerns restrictions on both freedom of religion and freedom of association, not all the grounds for restriction listed in Articles 9(2) and 11(2) of the ECHR can be used. When it comes to the activities of a religious community as an organisation, these articles must be interpreted together (e.g. the cited *Hasan and Chaush v. Bulgaria*, § 62; *Metropolitan Church of Bessarabia and Others v. Moldova*, § 118; *İzzettin Doğan and Others v. Turkey*, § 93). This means that although freedom of association may be restricted on more grounds than freedom of religion, this cannot be done if freedom of religion is also affected at the same time. The ECtHR has repeatedly emphasised in cases concerning freedom of religion and association that the exclusion of “national security” from Article 9(2) of the ECHR as a ground for restriction was not accidental (ECtHR, 12.02.2009, *Nolan and K. v. Russia*, 2512/04, § 73). Nevertheless, States have the right to verify whether a religious association, in order to achieve its ostensibly religious aims, engages in activities that are detrimental to the population or to public order (cited in *Metropolitan Church of Bessarabia and Others v. Moldova*, §§ 110 and 113; ECHR 10.06.2010, *Jehovah’s Witnesses of Moscow and Others v. Russia*, § 302/02, § 107). The ECHR also acknowledges that in some cases the State may take preventive measures to protect the fundamental rights of others, and this is in line with the positive obligation under Article 1 of the ECHR, according to which States must secure to everyone within their jurisdiction the rights and freedoms defined in the Convention (ECHR 06.11.2008, *Leela Förderkreis E.V. and Others v. Germany*, § 58911/00, § 99).

88. The content and relationship between the concepts of “national security”, “constitutional order” and “public order” may vary depending on whether they are used in international law, the constitution or ordinary laws. These concepts may overlap to a greater or lesser extent. The En Banc Court finds that the values included in national security, such as the independence and sovereignty of Estonia, territorial integrity, constitutional order and the preservation of the nation, are also constitutionally protectable as part of public order. Therefore, the aim of the contested law is legitimate both under § 40(3) of the Constitution and under Article 9(2) of the ECHR (cf. the cited *Metropolitan Church of Bessarabia et al. v. Moldova*, p. 113). If fundamental rights and freedoms are restricted for the purpose of protecting national security, restraint and caution must be exercised in its implementation. National security is a weighty constitutional value (RKÜKo 03.07.2012, 3-3-1-44-11, p. 82), which can justify many restrictions. However, it should not become a cover for state arbitrariness (Constitution § 13 (2)).

(ii) Proportionality

89. According to § 11 of the Constitution, restrictions must be necessary in a democratic society and must not distort the nature of the rights and freedoms to be restricted. Restrictions must 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-stage test: first, the suitability of the measure is assessed, then the necessity and, if necessary, its moderation. A measure is suitable if it facilitates the achievement of the aim of the restriction. A measure is necessary if the aim cannot be achieved by another measure that is less burdensome for the person and at least as effective as the first. In order to decide on the moderation of the measure, the scope and intensity of the interference with the fundamental right must be considered on the one hand, and the importance of the aims must be considered on the other hand (consistent case law of the Supreme Court since RKPJko 06.03.2002, 3-4-1-1-02, p. 15; RKÜKo 15.02.2023, 3-18-477, p. 77). According to the interpretation of the ECtHR, the interference must meet a pressing social need and be proportionate to the aim pursued, taking into account a fair balance between competing interests (in the context of freedom of religion and association, e.g. the cited *Metropolitan Church of Bessarabia and others v. Moldova*, § 119).

a) Suitability

90. To meet the requirement of suitability, it is sufficient that the objective of the law can in principle be achieved by the contested measure (RKÜKo 11.06.2019, 5-18-8, p. 62).

91. The President of the Republic questions the suitability of the contested law, since it has not been explained how hostile influence activities are carried out simply through the clerical hierarchy, but does not claim that the measure does not contribute to achieving the objective at all. In the opinion of the Riigikogu and the Government of the Republic, the measure helps to mitigate security threats by preventing hostile foreign influence activities taking place under the cover of religious activities. The Chancellor of Justice doubts the extent to which the desired objective can be achieved by the chosen means, considering that a religious organisation can continue to operate as a partnership after compulsory dissolution and the message of a person located abroad can have a direct impact via the Internet and other media in the absence of any statutory or economic ties. However, in the opinion of the Chancellor of Justice, it cannot be argued that the obligation to terminate the prohibited connection does not help to prevent cross-border activities that abuse religious freedom at all.

92. The En Banc Court finds that the prohibition on being administratively or organizationally connected with a person who poses a threat to the security of the Estonian state or to constitutional or public order reduces the likelihood that the threat will materialize in Estonia. Since the suitability of the measure can be assessed in the abstract on the basis of the request of the President of the Republic, it is premature to say that it does not contribute to the achievement of the objective in any case. Therefore, in the opinion of the En Banc Court, the contested law is suitable for achieving the objective of reducing hostile influence activities.

b) Necessity

93. The President of the Republic finds that the restriction is not necessary in its entirety, as the same objective could be achieved with a narrower prohibition. The provisions of the Penal Code may also help prevent dangerous external influence, according to the request. In the President's opinion, the legislator would be more likely to achieve the desired objective if Estonian religious associations were obliged to treat their ties with a foreign person in such a way that positions that pose a threat to the security of the Estonian state or constitutional or public order would not be binding.

94. In the opinion of the Riigikogu and the Government of the Republic, there are no less restrictive measures, as the provisions of the Penal Code allow for a response to hostile influence activities carried out under the guise of freedom of religion, but not for preventing or curbing them. However, the existing provisions of the ChCoA do not allow for the compulsory closure of a religious association that has nothing to reproach itself for.

95. The En Banc Court finds that various means are appropriate for preventing hostile influence activities and dealing with their consequences. The relevant provisions of the Penal Code (including §§ 14, 91¹, 92, 232, 233, 235 and 235¹) allow for a response to an act attributed to a specific person. Similarly, only a specific natural person can be deprived of the basis for staying in Estonia (residence permit, visa) and, if necessary, expelled from Estonia (e.g. § 78 (2) clause 6 and § 135 (2) clause 3 of the Aliens Act). However, applying measures retrospectively to individual natural persons is, from the state's point of view, more burdensome and less effective than a means that allows for the preventive prevention of hostile influence activities. The expulsion of an Estonian citizen from the country is also not permitted (§ 36 of the Constitution). Under the current regulations, a religious association can be forcibly dissolved (ChCoA § 16 (3) and TsÜS § 40 (2)), but not if the only complaint against an Estonian religious association is its connection with a foreign person who poses a real threat to the security, constitutional order or public order of Estonia. There is no regulation in the current law that would allow for such a response to a threat emanating from a foreign person. The measures established by the contested law therefore differ from the existing ones. Nor can the desired goal be achieved as effectively with another, milder measure.

c) Moderation

96. In the present case, what is at stake in the constitutional sense is public order (which includes national security and constitutional order, paragraph 88 of the decision) and freedom of religion and association.

97. The President of the Republic does not consider the law to be moderate and questions whether the security threat associated with a foreign person can be attributed to an Estonian community solely on the basis of a broadly defined connection. In the opinion of the Riigikogu and the Government of the Republic, the law is moderate because the state does not impose restrictions on the profession or practice of religion in religious communities and by their members as a legitimate and peaceful main activity. In the opinion of the Chancellor of Justice, the central issue in assessing the proportionality of the contested provisions is whether they entail an obligation for the Minister of the Interior to apply to court and an obligation for the court to prohibit the activities of a religious community even if the threat is abstract and not specific. Since the expression “the danger [---] may, among other things, occur” used in the new subsection 2² of Section 3 and the new subsection 1² of Section 4 of the Act on the Protection of Religious Freedom provides the implementer of the norm with sufficient discretion, the Chancellor of Justice considers a constitutional interpretation possible.

98. In analysing the legal clarity of the contested norms, the En Banc Court explained how the new subsections 2¹ and 2² of Section 3 and subsections 1¹ and 1² of Section 4 of the Act on the Protection of Religious Freedom should be understood (see paragraph 82 of the decision). These provisions are compatible with freedom of religion and association only if they are understood in such a way that an Estonian religious association can only be required to carry out acts under its own influence in order to comply with the law, and not to amend the statutes of a foreign person posing a threat or other documents on which the Estonian association has no influence. According to the current Act on the Protection of Religious Freedom, every religious association must have statutes, and Section 12 of the Act on the Protection of Religious Freedom lists the information that the statutes must contain. The list includes the purpose of the activity, the doctrinal basis, obligatory religious services, the structure of the management and supervisory bodies, the procedure for their formation and competence, the status, hierarchy, service relations and clothing of the clergy, etc. Thus, the statute of the association must contain detailed information and the statute must show the administrative-organizational ties of the association with the foreign person. Since, within the meaning of the contested law, only a document that is binding on the religious association according to the statute or otherwise regulates its main activities can be an “other document”, establishing a connection on the basis of the “statute” or “other document on which the activity is based” is not disproportionate.

99. The En Banc Court found above that the disputed provisions do not include the reference to “religious and doctrinal connection” in the wording of the original draft of the law, and that the prohibited connection is understood to mean administrative-organizational connections (see paragraphs 62-65 of the decision) and economic dependence on a dangerous [ohulikust] foreign person (paragraph 70 of the decision). However, if the activities of an Estonian religious community, including the practice of religion, are contrary to the Constitution or harm public order, health, morality or the rights and freedoms of other people, the Minister of the Interior can already apply for the compulsory dissolution of the community under the current regulation (ChCoA § 16 (3) and § 14 (2)). A legal entity can be punished for a crime under criminal law (KarS § 14). Also, every person - both a clergyman and an ordinary member of a religious community - is responsible for his or her own behavior, and if his or her act corresponds to the elements of a crime, criminal proceedings must be initiated. **A foreigner may be deprived of the right to reside in Estonia if there are legal grounds.** In extreme cases, when a religious association or individual abuses its rights under the guise of freedom of religion and association, it also lacks the protection of the ECHR (Article 17 of the ECHR). When applying Article 17 of the ECHR, the ECHR assesses the content and nature of a specific activity as a whole, as well as its immediate and broader context in a particular country and the impact of the activity (e.g. ECHR (declaration of inadmissibility) 24.05.2018, Roj TV A/S v. Denmark, 24683/14, paragraphs 30-38; ECHR (declaration of inadmissibility) 27.06.2023, Lenis v. Greece, 47833/20).

100. In general, following religious teachings and practicing religion are, according to established international practice, part of the core of freedom of religion. According to the ECtHR, freedom of religion does not leave the State a margin of appreciation in deciding whether the means used to express religious beliefs are lawful. The rules followed by religious communities are often of divine origin for those who belong to them. Religious ceremonies

also have a sacred meaning and value for believers when they are performed by clergy authorised by the rules (see, for example, the cited *Hasan and Chaush v. Bulgaria*, §§ 62 and 78; *İzzettin Doğan and Others v. Turkey*, §§ 107, 111 and 133; ECtHR 05.03.2024, *Föderation der Aleviten Gemeinden in Österreich v. Austria*, 64220/19, § 49). The ECtHR has repeatedly stated that if a state refuses to re-register a religious community that has been operating for years, there must be particularly weighty and compelling reasons for this (EIKo 05.10.2006, *Moscow Branch of The Salvation Army v. Russia*, 72881/01, p. 96; EIKo 05.04.2007, *Church of Scientology Moscow v. Russia*, 18147/02, p. 96; EIKo 24.06.2025, *Sagir et al. v. Greece*, 34724/18, p. 47). The fact that individual members of a religious community or even leaders are involved in violent extremism, i.e. activities involving violence or incitement to violence, is not sufficient to deny the status of a legal person to an entire religious community or to deregister the community (OSCE 2019 Guidelines, p. 33).

101. The contested law repeals Section 5(2) of the ChCoA, according to which the statutes of a religious association may provide for exceptions to the provisions of the Non-Profit Associations Act on membership and management, if they arise from the historically established doctrine and structure of the religious association. There must be weighty reasons for demanding the severance of previously accepted ties. The ECtHR has emphasised that in a democratic state the state cannot set the goal of different religious communities moving under common management. The state has an obligation to be neutral and impartial, not to create measures that favour one leader over another or that aim to force one religious community against its will to come under common management with another association (cited in *Hasan and Chaush v. Bulgaria*, § 78; *İzzettin Doğan and Others v. Turkey*, §§ 108-109; ECtHR 23.03.2017, *Genov v. Bulgaria*, 40524/08, § 45). The contested law allows the implementer of the norm to take into account the principles of the case law of the ECHR in order to ensure the moderation of the measure.

102. The prohibition of administrative-organisational and economic connections is moderate, however, only on the condition that the danger of the foreign person to the Estonian state has been properly established (paragraphs 72-77 of the decision). The law does not provide that the activities specified in the new paragraphs 2² and 1² of Sections 3 and 4 of the ChCoA would automatically lead to the cross-border connection being considered prohibited. The implementer of the law must in any case identify the danger arising from the prohibited connection and then assess whether the danger is such that it would justify the measures used to enforce the prohibition.

103. In addition, there is effective judicial control with the right of appeal for the protection of a religious association. The compulsory dissolution is decided by a county court at the request of the Minister of the Interior, which must first grant the association to be compulsorily dissolved a term to eliminate the deficiencies and then resolve the matter in a non-litigious procedure, following the principle of inquiry (CPC §§ 629 and § 477 (5)); see paragraph 81 of the decision). If the county court decides to compulsorily dissolve a religious association, the latter has the right to file an appeal against the county court's ruling with the district court (CPC §§ 629 (5) and § 660 (3), second sentence). Similarly, a religious association is guaranteed the right of appeal to the Supreme Court if the district court leaves the county court's ruling unchanged (CPC §§ 696 (3) and § 698). If circumstances arise in the proceedings for the compulsory dissolution of a specific religious association that may lead to an unconstitutional situation when the contested law is implemented, it is still possible to initiate a specific review of the norms of the same law and reach a different result than the general body (RKÜKo 20.10.2020, 5-20-3, p. 143; RKÜKo 01.07.2010, 3-4-1-33-09, p. 71). The person subject to the proceedings can request that the relevant law be declared unconstitutional, but in any case the court is obliged to assess the constitutionality of the relevant legal provisions (§ 15 (1) and (2) of the Constitution, see also RKPJKo 02.12.2004, 3-4-1-20-04, p. 40; cited 5-19-38, p. 75), including that courts reviewing a case of compulsory dissolution must verify the content of undefined legal concepts (RKHKo 01.10.2018, 3-17-1026, p. 34).

104. In the case of the contested law, on the one hand, there is an intensive infringement of freedom of religion and association, since the provisions contained therein may lead to the compulsory dissolution of a religious community, which would affect all people belonging to the religious community. On the other hand, what is at stake in the constitutional sense is public order, which is generally a more important good, as it includes the security of the state

and the constitutional order. The preamble to the Constitution sets out the fundamental permanent tasks that the Estonian state, founded on freedom, justice and law, is obliged to fulfil. According to the fourth paragraph of the preamble, the primary task of the state is to protect internal and external peace. Thus, the state is also obliged to take measures to prevent hostile influence activities if this may threaten the internal and external peace of the Estonian state. In the present case, the contested law, when assessed in the abstract, does not provide grounds to find that it is disproportionate. The law does not permit the arbitrary forcible dissolution of religious associations and it can be interpreted and implemented in accordance with the constitution.

105. In view of the above, the En Banc Court rejects the application of the President of the Republic on the basis of § 15(1)(6) of the Constitutional Court Act.

(digitally signed)

Dissenting Opinion 5-25-49/37

Dissenting opinion of Supreme Court Justices Villu Kõve, Oliver Kase, Kai Kullerkupu, Saale Laos, Vahur-Peeter Liin and Juhan Sarv on the decision of the Supreme Court En Banc Court of 8 June 2026 in case 5-25-49

1. We do not agree with the conclusion of the En Banc Court that the Act amending the Churches and Congregations Act (ChCoA) complies with the principle of legal clarity protected by § 13(2) of the Constitution (PS) (paragraph 83 of the decision). We therefore find that the request of the President of the Republic should have been granted.

2. The En Banc Court correctly states in paragraph 54 of the decision that when deciding whether doubts arising from the interpretation of a norm can be reasonably eliminated, it is necessary to take into account the area regulated, who the addressees of the norm are, what is the purpose of the norm, how it has been developed and what is the consequence of applying the norm. The En Banc Court then narrowly defines the contested law so that it can be considered to be in accordance with the Constitution. In assessing these aspects, in our opinion, it must be taken into account in the current abstract and prior to the entry into force of the norm review that the contested norms do not have the minimum required precision. Although any ambiguity does not lead to the unconstitutionality of the law, the interpretation offered cannot be such that the addressees of the law cannot sufficiently recognize it from the text of the law itself (e.g. RKÜKo 16.05.2008, 3-1-1-88-07, p 31; RKPJKo 09.12.2019, 5-18-7, p 171). The more intense the infringement of fundamental rights, the clearer the norm must be.

3. Abstract preventive review makes it possible to determine the constitutionality of norms even before they enter into force. In the case of abstract review, the Supreme Court must particularly bear in mind that the contested law would not allow for abuses or unconstitutional interpretations in its specific application in the future. In the present case, the Supreme Court would have been able to prevent the entry into force of an unclear law that infringes on the freedom of religion (Constitution § 40, ECHR Art. 9) and freedom of association (Constitution § 48, ECHR Art. 11) protected by the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

4. The European Court of Human Rights (ECtHR) has repeatedly emphasised that the restrictions permitted by Article 9(2) and Article 11(2) of the ECHR on the activities of a religious community as an organisation must be provided for by a law of the requisite quality. This means, inter alia, that the effects of the law must be foreseeable for individuals and that the law must also provide legal protection against arbitrary interference by the state with the rights guaranteed by the ECHR (e.g. ECHR (SK) 26.10.2000, Hasan and Chaush v. Bulgaria, 30985/96, § 84; ECHR 17.07.2012, Fusu Arcadie et al. v. the Republic of Moldova, 22218/06, §§ 33 and 34). The OSCE/ODIHR Guidelines on Freedom of Religion or Belief and Security 2019 (OCSE Guidelines) state that vague terms that can

be interpreted differently and applied arbitrarily should be avoided (p. 25, paragraph 7(c)). The Venice Commission's 2021 Collection of Opinions and Reports on Freedom of Religion states that laws restricting freedom of religion should not be so vague as to fail to provide sufficient information about what is required or to allow for arbitrary application (08.01.2021, CDL-PI(2021)001, e.g. pp. 12, 22, 53, 54 and 58).

5. The ambiguity of the new paragraphs 2¹ and 2² of § 3 of the Act on the Protection of the Rights of Persons with Disabilities and the Act on the Protection of the Rights of Persons with Disabilities and the Act on the Protection of the Rights of Persons with Disabilities, as highlighted by the President of the Republic, is too great, in conjunction with other provisions of the Act on the Protection of the Rights of Persons with Disabilities and the Act on the Protection of the Rights of Persons with Disabilities, to be overcome by a constitutional interpretation. The narrower interpretation given to the disputed provisions in the opinions submitted by the Riigikogu and the Government of the Republic in the court proceedings is not sufficient to disregard the wording of the law and the contradictory positions expressed during the proceedings on the draft. The interpretation of the En Banc Court may not be in accordance with the actual original purpose of the norms and the extremely broad interpretation option consciously intended by the legislator (see, for example, RKÜKo 03.01.2008, 3-3-1-101-06, p. 32). **The En Banc Court notes in p. 103 of the decision that the unconstitutionality of the same provisions can be established later in a specific review of the norms.** In our opinion, in the case of provisions that grant such broad decision-making power to the executive branch, the En Banc Court would have been right to explicitly acknowledge the shortcomings of the law. In that case, the adoption of a new law in accordance with the Constitution, if the ChCoA is to be amended, would remain with the Riigikogu. We justify our position as follows.

6. The prohibition contained in the new provisions established by the Act amending the ChCoA referred to in the previous point applies - and in the event of a violation of the prohibition, the Minister of the Interior must apply to the court for the compulsory termination of the association - in the event that:

1) an Estonian religious association or religious society (religious association) is *connected [seotud]* to a person located in a foreign country (who is a "religious centre, governing body, religious association or spiritual leader") and

2) this foreign person poses a *threat [ohu]* to the security of the Estonian state or to constitutional or public order.

The connection [Seotus] (between an Estonian religious association and a person located in a foreign country) may arise from (a) the statutes [põhikirjast] or (b) another document on which the activity is based [tegevuse aluseks olevast muust dokumendist], or (c) consist of an economic connection [majanduslikus seotuses].

A *threat [Oht]* (to Estonia) may arise when the relevant person located in a foreign country "incites, supports or finances activities aimed at violently changing the independence, territorial integrity or constitutional order of the Republic of Estonia, or supports or has supported military aggression or incites war, a terrorist crime or any other unlawful use of force or violence."

7. All of the above concepts, both individually and together, require interpretation, which the En Banc Court does in paragraphs 62-77 of its decision. If the established restrictive norm is formulated vaguely, this creates a risk that the fundamental right will be restricted in an arbitrary and discriminatory manner. Freedom of religion is an important fundamental right, which is also protected by all fundamental international conventions protecting human rights. The termination of the activities of a religious community, which is a consequence provided for by the disputed norms, is an intensive restriction of this fundamental right, as it affects all people belonging to that religious community. Therefore, the grounds for the termination of a religious community must be provided for in more detail by law (e.g. RKÜKo 21.02.2017, 3-3-1-48-16, paragraph 38).

8. In assessing what kind of *connection* is intended in the contested law, the En Banc Court relies on the fact that the prohibition of being "confessionally or doctrinally" connected to a foreign person, which was initially included in

the draft law, was removed from the law. Therefore, in the opinion of the En Banc Court, only administrative-organizational affiliation can be prohibited (paragraphs 62-65 of the decision). We agree that an interpretation that would allow for the prohibition of religious or doctrinal affiliation could not be constitutional. In such a case, the issues at the core of freedom of religion would be interfered with (see also paragraphs 99 and 100 of the decision). We note, however, that although the disputed provisions do not mention “religious or doctrinal” affiliation, they do not contain a reference to “administrative-organizational” affiliation either. According to the new subsection 2¹ of Section 3 and the new subsection 1¹ of Section 4 of the ChCoA, an Estonian religious association may not be “[...] *connected* with a foreign person listed in the provision on the basis of its statutes or other document on which its activities are based.” The provisions in question do not specify what kind of “connection” is meant. The fact that the explanatory memorandum of 23 January 2025 to the contested law explicitly mentions “professing religion, practicing it, through religious ceremonies and services” as “statutory connection” (see page 3, the same reference is on page 1 of the explanatory memorandum of 11 June 2025). The Government of the Republic also noted in paragraph 87 of the opinion submitted to the Supreme Court on 18 November 2025 that a mere prohibition of hierarchical ties or management or administrative structure is not sufficient. We believe that such a broad interpretation, which the text of the law allows, would not be constitutionally permissible. In order to ensure legal clarity, it must be clear from the norm what kind of “connection” can be prohibited if other prerequisites are present. In the present case, this is not obvious.

9. The En Banc Court finds in paragraphs 68 and 69 of the decision that the provisions of the contested law, which speak of the *statute and other documents on which the activities are based*, must be interpreted in accordance with the constitution in such a way that they only refer to documents that are binding on the Estonian religious association according to its statute or that otherwise regulate its main activities on an equal footing with the statute and the content of which it is able to decide. In the opinion of the En Banc Court, § 48(3) and (4) of the Constitution in conjunction with § 40(3) of the Constitution do not allow the most severe consequence - compulsory termination - to be applied to a legal person for something over which it has no influence. Although such an interpretation is the only possible one from the point of view of the constitution, in our opinion it does not follow from the wording of the law or the will of the legislator (the history of the formation of the law). On the contrary, the Government of the Republic provided specific examples in paragraphs 77 and 78 of the opinion submitted to the Supreme Court on 18 November 2025, confirming that the documents of the Russian Orthodox Church are also “other documents that form the basis of the activities of the Estonian Christian Orthodox Church within the meaning of the new subsection 2¹ of Section 3 of the Act on the Constitution of the Church of Estonia”. Although the En Banc Court gives undefined legal concepts a content that is in accordance with the Constitution, it is questionable whether this was the intention of the legislator. Moreover, the application of such a vaguely formulated norm in situations that have not yet been foreseen and for which an answer cannot therefore be found in the materials for the development of the draft does not sufficiently protect religious associations from the arbitrariness of public authorities and possible discrimination.

10. In the case of *economic connection*, it is also not apparent from the wording of the law that there must be a relationship of dependence (as the majority of the En Banc Court found), although the Government of the Republic argued this in the opinions submitted to the Supreme Court (paragraph 70 of the decision). We acknowledge that the legal provision must be abstract, but a specific reference to “economic dependence” would not have made the provision too narrow, but would have significantly contributed to ensuring that restrictions on religious freedom were foreseeable and justified.

11. The En Banc Court also interpreted the meaning of the *threat* and *prohibited support* mentioned in the contested law (ChCoA § 3 (2)² and § 4 (1)²), in which case the connection of an Estonian religious association with a foreign person becomes prohibited. We agree that “threat” must not mean an abstract threat, but must presuppose an actual threat arising from the circumstances of a specific case (paragraph 75 of the decision). Regarding “support”, the En Banc Court finds in paragraph 76 of the decision that, although it is unspecified in time and scope, even in this case

only the threat assessment of specific acts or positions can be decisive, and not the existence of a single or long-standing position per se. Such an interpretation does not follow from the wording of the provision. The specific provision (a foreign person “supports or has supported military aggression or has called for war, a terrorist crime or in some other way the unlawful use of armed force or violence”) does not even presuppose that the aggression that is supported, etc., should be related to the Republic of Estonia or could be transferred to Estonia. Such a broad wording of the norm cannot be justified by the fact that a specific foreign person was apparently in mind when the contested law was drafted. The law is universally applicable and its effect extends beyond an individual case. Unfortunately, the spread of armed conflicts and violence in the world is so great that such a vague wording provides the opportunity to interpret the provision disproportionately broadly.

12. We find that the wording used in the new paragraphs 2² and 1² of sections 3 and 4 of the ChCoA, that the danger “may, among other things, occur when [---]” does give those implementing the norm room for judgment, as noted in paragraph 77 of the En Banc Court’s decision, but it does not necessarily mean only a restrictive interpretation, but also allows the law to be applied more broadly and in a way that is difficult to foresee for religious associations.

13. In our opinion, when assessing the legal clarity of the contested norms, it should have been taken into account that the new paragraph 31² paragraph 1 of the ChCoA gives religious associations a six-month period from the entry into force of the law to bring their statutes and activities into line with the new requirements. If the religious association fails to do so, the Minister of the Interior *must* apply to the court for the compulsory dissolution of the existing religious association (section 16 paragraph 3 of the current ChCoA, which refers to paragraph 2 paragraph 2 of section 14, which is also supplemented by the contested law). Therefore, understanding the law is of existential significance for a religious association. The Riigikogu and the Government of the Republic explained in the court proceedings that the purpose of the contested law is not to create an opportunity to immediately apply for the compulsory dissolution of a religious association, but that the Ministry of the Interior will first organize an administrative procedure after the law enters into force. The law does not impose such an obligation on the Ministry of the Interior. The contested law does not provide for an administrative procedure prior to applying to court or for a religious association to be notified that a person with whom it has an administrative-organizational connection has become dangerous within the meaning of the same law. The situation is even more problematic if the law is applied in cases that are not yet foreseeable in the future, when religious associations are not given a deadline to change their activities. In such a case, the compulsory dissolution procedure is initiated as soon as a prohibited connection is identified.

14. Most religious associations are hierarchical in the canonical sense, i.e. they are historically connected to the mother church through doctrine or structure. The current ChCoA § 5 (2), which is also amended by the contested law, stipulates that the statutes of a religious association may provide for exceptions to the provisions of the Non-Profit Associations Act on membership and management, if they arise from the historically established doctrine and structure of the religious association. In the case of hierarchical religious associations, it cannot be assumed that any ties can be severed overnight. Even if a religious association could theoretically sever hierarchical relations, it must be taken into account that this may not be a mere formality - a change of jurisdiction requires the adoption of a different canonical order and hierarchy, which a religious association cannot be forced to do without very compelling reasons (see also paragraphs 100 and 101 of the En Banc Court decision).

15. In view of the above, we find that although the interpretation given by the En Banc Court limits the possibilities of application of the contested law, the Act on Amendments to the ChCoA itself does not comply with the principle of legal clarity. Since the Act on Amendments to the ChCoA is formulated extremely broadly, as a result, the application for the compulsory dissolution of a religious community remains largely an arbitrary decision of the executive branch. Considering the scope of the contested law, the addressees and the impact of compulsory dissolution as a consequence on all people belonging to the religious community, we find that the legislator has not complied with the obligation to adopt sufficiently clear and understandable norms that are in accordance with the

Constitution (Articles 3 and 13(2) of the Constitution). Since the law is formally unconstitutional, the application of the President of the Republic should have been granted.

16. Finally, we doubt whether the Act on Amendments to the ChCoA is suitable for achieving this objective within the meaning of Article 11 of the Constitution. If a religious association breaks all statutory and other ties with a foreign person posing a threat, this does not, however, stop hostile influence activities through any other channels. Anyone can follow the messages of a clergyman living abroad via the Internet and other media. Influence activities are presumed not to cease even if an Estonian religious association is forcibly dissolved, as it may continue its activities, for example, as a partnership. The OSCE Guidelines (p. 34) acknowledge the risks associated with the refusal to grant legal personality status and its withdrawal: the religious community may feel discriminated against; they may become more susceptible to views related to violent extremism, and this may contribute to their radicalization. Also, when implementing the contested law, care must be taken to ensure that it does not lead to consequences that are contrary to the purpose of the law.

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