



AUSTRALIA	
Does the country or institution have their own list of designated, banned, or proscribed groups?	Yes
What type of system does the country or institution use?	<p>Executive Proscription:</p> <ul style="list-style-type: none"> The government can list an entity as a terrorist organisation ⁵¹ if the Minister for Home Affairs is satisfied that the organisation is: “engaged in preparing, planning, assisting or fostering a terrorist act; or advocating the doing of a terrorist act.” ⁵² <p>Financial sanctions:</p> <ul style="list-style-type: none"> This comes in the form of the Department for Foreign Affairs and Trade Consolidated List ⁵³ of persons and entities who are subject to targeted financial sanctions. Designating a group in this way is a milder measure than executive proscription as there is no specific offence committed by being a member or associate of these entities and individuals. However, it does become a criminal offence to “use or deal with the assets of listed persons or entities, or to make assets available to them.” <p>Judicial approach:</p> <ul style="list-style-type: none"> In the Australian judicial process, a court can find an individual or organisation, guilty of “directly or indirectly engaging in preparing, planning, assisting or fostering the doing of a terrorist act.” In this process, the prosecution must first prove that the individual or organisation in question is terrorist in nature. The judicial approach does not allow for the group to be deemed a terrorist organisation solely for advocating terrorism; instead there must be some form of direct or indirect engagement. This approach also does not criminalise association with the group in question.
What is the definition of “terrorism” the country or institution employs?	<p>A Terrorist Act ⁵⁴ is defined as an action that:</p> <ul style="list-style-type: none"> Causes serious physical harm to a person; causes serious damage to property; causes a person’s death; endangers a person’s life, other than the life of the person taking the action; creates a serious risk to the health or safety of the public or a section of the public; seriously interferes with, seriously disrupts, or destroys, an electronic system. The action is committed or the threat is made with the intention of advancing a political, religious, or ideological cause. The action is also committed, or the threat is made with the intention of coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or intimidating the public or a section of the public. This offence applies whether or not the alleged offence occurs in Australia, or whether or not the result of the alleged offence occurs in Australia.

⁵¹ [Listed Terrorist Organisations](#), Government of Australia.

⁵² [Protocol for listing terrorist organisations](#), Government of Australia, 2021.

⁵³ [Department for Foreign Affairs and Trade Consolidated List](#), Government of Australia, 2021.

⁵⁴ [Criminal Code Act](#), Government of Australia, 1995.





<p>How does the designation process relate to the relevant authority's definition of terrorism?</p>	<p>The inclusion of entities on the Executive Proscription list ⁵⁵ is dependent on the established definition of terrorism. The Judicial Approach also relies on the established definition of terrorism. However, Financial Sanctions ⁵⁶ do not require an entity to meet the definition of terrorism as the list is heavily influenced by the UN sanctions list.</p>
<p>Does the country follow UN or EU (if relevant) designation lists and sanctions?</p>	<p>The Executive Proscription and Financial Sanctions lists appears to be heavily influenced by the UN sanctions list.</p>
<p>Does designation have an effect on the online realm? Is content created by terrorist groups illegal?</p>	<p>The relationship is complex: if the content can adequately be described as "abhorrently violent," then it can be removed regardless of whether the entity creating/publishing the content is a proscribed entity. Content that does not meet this threshold, but is created/published by a proscribed entity may remain online.</p>
<p>Is online content that incites acts of terrorism illegal?</p>	<p>The illegality of the content depends on whether it meets the threshold of "abhorrently violent".</p>
<p>Is online content that supports designated terrorist groups illegal?</p>	<p>No, unless it also meets the threshold of "abhorrently violent".</p>
<p>Is there a sufficient balance between far-right and violent Islamist groups and individuals?</p>	<p>No, both the Executive Proscription list and the Financial Sanctions list are dominated by Islamic terrorist entities. At the time of writing there are 29 listed terrorist organisations on the Executives Proscription List, 3 of which are far-right groups.</p>
<p>Are there human rights-compliant mechanisms in place for delisting a group?</p>	<p>There is a 3-year rolling review process which may remove an entity from the executive proscription list.⁵⁷ Any person or entity can make a de-listing application.⁵⁸ This application must be made to the Minister for Home Affairs, who must consider the application if the person or entity claims that there is no lawful basis for proscription. However, there is limited transparency around how a person or entity might make an appeal.</p>
<p>What are the weaknesses in the designation process?</p>	<ul style="list-style-type: none"> • Current legislation appears to allow non-violent content posted by proscribed terrorist groups to remain online, and does not acknowledge the use of non-violent material within terrorist recruitment. • There is no clear review available for a proscribed group which disbands. • The number of far-right groups proscribed is limited relative to the threat. At present, content from far-right violent extremists is in a grey area in which tech companies themselves must decide whether they should remove it. • Current legislation places the responsibility for terrorist content on tech platforms, rather than on the creators of the content.

⁵⁵ [Executive Proscription List](#), Government of Australia.

⁵⁶ [Consolidated List](#), Government of Australia Department of Foreign Affairs and Trade.

⁵⁷ [Protocol for listing terrorist organisations](#), Government of Australia, 2021.

⁵⁸ [Protocol for listing terrorist organisations](#), Government of Australia, 2021.





<p>What do we recommend?</p>	<ul style="list-style-type: none"> • We recommend that Australia make a significant effort to place more far-right violent extremist groups onto the executive proscription list, especially those that pose a direct threat within the country, such as Combat 18. • We advise that this list also consider ideological counterparts to currently proscribed groups such as Atomwaffen Division as an affiliate of Sonnenkrieg Division. • We recommend Australia amend current legislation (chiefly the Criminal Code) to better bridge the gap between counterterrorism legislation and the executive proscription list, as it is currently unclear how the proscription list should be employed. • We advise Australia to refine the current definition of a “document” in regard to terrorist content to make the legislation clearer for third-parties who wish to remove terrorist content from their websites. • The current legislation can require entire websites to be taken down by ISPs, rather than singular posts. This is likely to result in limiting free speech and is highly likely to receive backlash from the public. We recommend that this legislation is rewritten to consider the abilities of tech platforms and ISPs while ensuring that free speech and other human rights are upheld.
<p>Further information and comments</p>	

