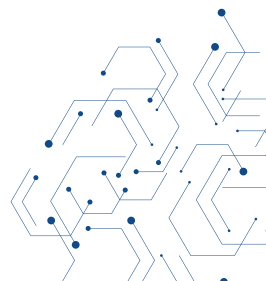




<p>Is online content that incites acts of terrorism illegal?</p>	<p>Yes, see above.</p>
<p>Is there a sufficient balance between far-right and violent Islamist groups and individuals?</p>	<p>Yes, Germany has banned over 60 far-right groups and regularly updates this list. It has also banned Islamist groups included the Islamic State and most recently Hezbollah.</p>
<p>Are there human rights-compliant mechanisms in place for delisting a group?</p>	<p>Section 8 of the Associations Act prohibits the formation of ‘substitute’ organisations. Section 6 outlines that if a prohibition is contested, its lawfulness can be tested in the courts.</p> <p>There does not seem to be a regular review process for banned organisations capable of sufficiently protecting human rights.</p>
<p>What are the weaknesses in the designation process?</p>	<ul style="list-style-type: none"> • While Germany is leading in terms of recognising the far-right threat, Germany’s lists for banned organisations are not easily accessible or centralised. This undermines guidance to tech companies, and further risks undermining Germany’s leadership in this area. • Additionally, Germany has a list of banned far-right organisations but does not have its own list of designated groups or individuals, relying on EU/UN lists for non-far right groups. There is a section of the Associations Act (section 14) which covers the banning procedure for ‘Foreign Associations.’ • There seem to be differing implications for online content depending on whether the group is banned or designated. The NetzDG explicitly refers to prohibiting dissemination of propaganda and symbols from banned organisations. However, there is no such reference to the content of designated groups. • The implication is that the content of designated groups not banned can only be removed if it explicitly encourages or supports a terrorist organisation. This remits the responsibility for adjudicating terrorist content to tech platforms. • The lack of a review process for banned organisations suggests insufficient protection of human rights.





<p>What do we recommend?</p>	<ul style="list-style-type: none"> ● We recommend that Germany makes their list of banned organisations more easily accessible to support tech companies who are mandated to remove this content. Germany should keep records so that the designation of groups, actors, or content happens transparently, and should also implement a system whereby such records can be made available for judicial oversight. ● We believe governments should accurately designate far-right terrorist groups by including civil society representatives, CT specialists, and human rights lawyers in suggesting designating/delisting entities. We welcome Germany's leadership in this area, as the government has to date banned over 60 far-right violent extremist and terrorist organisations. This has as a result provided tech companies in Germany the appropriate legal grounding to moderate their platforms effectively.⁹⁰ ● However, we recommend Germany considers banning non-German far-right groups whose online content remains a threat to German citizens. ● We advise Germany to consider designating lone actors who have committed an attack, with a basis in online regulation, so that associated manifestos become illegal. ● The NetzDG definition of terrorist content focuses on the content rather than the source, but does include the dissemination of propaganda and symbols from banned organisations. We propose the propaganda and symbols of designated groups should also be considered. ● Alongside online regulation, the establishment of a regulatory body should be considered to provide more clarity for tech companies on the practical steps tech companies can take to identify and remove illegal terrorist content. The regulator would also have punitive measures available to enforce compliance. ● In addition to online regulation and a regulator, we propose considering an independent 'classification office' where material from designated groups and content falling under the definition of terrorist content can be considered and classified. Based on the definition of online terrorist content, counterterrorism experts alongside civil society representatives would adjudicate on the legality of specific pieces of content. This would provide additional clarity for tech companies.
<p>Further information and comments</p>	

⁹⁰ Online Regulation Series, Tech Against Terrorism, 2021; 2022.

