

2. COUNTRY LEVEL INVESTIGATIONS

The following section analyses 10 countries and 2 institutions' designation systems. We examine the system employed, the legal basis, the terrorism definition applicable, the balance between the number of violent Islamist and far-right terrorist entities designated, the review process, and the appeal process. We then examine the challenges identified in the system and recommendations to help solve those.



UNITED NATIONS	
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>Designation of terrorist entities by the United Nations (UN) is composed of official sanctions. The "Consolidated Sanctions List" is comprised of lists from numerous Sanctions Committees that deal with various sanctions, including those against terrorist entities, state actors, as well as those who commit violations of international law and human rights law.¹ Entities can be recommended for inclusion on the Sanctions List by any member state.</p> <p>The sanctions regime that has been used to designate terrorist entities is the 1267 regime relating to Islamic State in Iraq and the Levant (ISIL), Al-Qaeda and the Taliban. The Security Council Committee² was initially established pursuant to resolution 1267 (1999)³, which imposed limited sanctions (air embargo and assets freeze) on the Taliban (but not as a 'terrorist entity'). In 2011, the Security Council adopted resolutions 1988⁴ and 1989⁵, which split the designation list in two, one targeting Al-Qaeda (1989) and one targeting the Taliban (1988). In 2015, the Security Council adopted resolution 2253⁶ which expanding the listing criteria to including individuals and entities supporting ISIL. Therefore, the list concerned with terrorist entities is the ISIL (Da'esh) and Al-Qaida Sanctions List (reaffirmed with resolution 2610 (2021)⁷ which is separate to the 1988 Sanctions List relating to individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan.</p> <p>Additionally, through resolution 1373 (2001), the Security Council introduced a parallel regime by requiring Member States to prevent and suppress the financing of terrorist acts, freeze the funds and resources of individuals who commit, attempt to commit, facilitate or participate in terrorist acts, as well as prohibit the nationals from making funds, financial services or economic resources available to such persons.⁸</p> <p>As a result, many States have in place, at a national level, legal and institutional frameworks for the designation of individuals or groups, that are either on the United Nations list, or are designated for national or multilateral (e.g., European Union) purposes.</p>

¹ [United Nations Security Council Consolidated List](#)

² In full, the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaeda and associated individuals, groups, undertakings and entities.

³ [United Nations Security Council Resolution 1267 \(1999\)](#)

⁴ [United Nations Security Council Resolution 1988 \(2011\)](#)

⁵ [United Nations Security Council Resolution 1989 \(2011\)](#)

⁶ [United Nations Security Council Resolution 2253 \(2015\)](#)

⁷ [United Nations Security Council Resolution 2610 \(2021\)](#)

⁸ [United Nations Security Council Resolution 1373 \(2001\)](#)





<p>What is the definition of “terrorism” the country or institution employs?</p>	<p>While there is no internationally agreed upon definition of terrorism, the 19 international legal instruments to prevent terrorist acts can guide Member States in the criminalization of acts considered terrorist in nature. The Counter-Terrorism Committee, in its “Technical Guide to the Implementation of Security Council Resolution 1373 (2001) and Other Resolutions”,⁹ has recommended that States ensure that terrorist acts are defined in national legislation with precision and in a manner consistent with the international counter-terrorism instruments.</p> <p>The United Nations Human Rights Office of the High Commissioner argues that key elements of the acts of terrorism in Security Council resolution 1566 (2004)¹⁰ should be used, as well as the Special Rapporteur’s model. The Special Rapporteur’s model specifies that– as the minimum “Terrorism involves the intimidation or coercion of populations or governments through the threat or perpetration of violence, causing death, serious injury or the taking of hostages.”¹¹</p>
<p>How does the designation process relate to the relevant authority’s definition of terrorism?</p>	<p>The designation of terrorist entities by the UN sanctions regime is not guided by a particular definition of terrorism. However, under the 1267 sanctions regime,¹² the overarching criterion for designation is activities indicating association with ISIL, Al-Qaida, or their affiliates, which include participating in the financing, planning, facilitating, preparing, or perpetrating of activities by, supplying, selling or transferring arms and related material to, and recruiting for, or providing any other forms of assistance to, Al-Qaida, ISIL or affiliates. The 1267 Committee provides further guidance on these criteria and its decision-making process in its Guidelines¹³ and the work of the Committee is supported by an Analytical Support and Sanctions Monitoring Team..</p> <p>As mentioned above, UN Resolution 1373 encourages states to create their own designation lists to prevent terrorist financing and to further enact other measures criminalising support for terrorism.¹⁴ However, as noted by Office of the High Commissioner for Human Rights (OHCHR), “ambiguous definitions of terrorism in some States have led to policies and practices that violated the fundamental freedoms of individuals and populations, and discriminate against particular groups.”¹⁵ It is therefore important that national definitions of terrorism “always comply with international principles of legality and legal certainty.”¹⁶</p>
<p>Does the country follow UN or EU (if relevant) designation lists and sanctions?</p>	<p>N/A</p>

⁹ [Technical guide to the implementation of Security Council resolution 1373 \(2001\) and other relevant resolutions](#), United Nations Security Council (UNSC) Counter-Terrorism Committee Executive Directorate (CTED), 2017.

¹⁰ [United Nations Security Council Resolution 1566 \(2004\)](#)

¹¹ The Office of the High Commissioner for Human Rights (OHCHR) and terrorism and violent extremism

¹² Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da’esh), Al-Qaeda and associated individuals, groups, undertakings and entities

¹³ Guidelines of the Committee for the Conduct of its Work, 2018.

¹⁴ United Nations Security Council Resolution 1373 (2001)

¹⁵ The Office of the High Commissioner for Human Rights (OHCHR) and terrorism and violent extremism

¹⁶ The Office of the High Commissioner for Human Rights (OHCHR) and terrorism and violent extremism





<p>Does designation have an effect on the online realm? Is content created by terrorist groups illegal?</p>	<p>The relationship is complex. The UN does not legislate on what types of online content is permissible. Member States are responsible for implementing online regulation. However, the UN does have the capability to create obligations for Member States to regulate online content through UN Security Council Resolutions.</p> <p>While the legality of online content created by terrorist groups is left to member states, individuals posting online content that incites acts of terrorism for ISIL, Al-Qaeda, or their affiliates or supports those groups (for example, through recruitment, fundraising or through internet hosting) could constitute an act that meets the criteria for designation. The 1267 Sanctions Committee has construed the scope of asset freeze broadly through its resolutions and “Explanation of Terms” on Asset Freeze document, which covers “financial and economic resources”, and includes “internet hosting or related services”. That could mean that if someone provides internet hosting to ISIL, Al-Qaeda or their affiliates for whatever purpose, but particularly where there is a financial dimension or service, subject to the view of the Committee, that individual or entity might have violated asset freeze sanctions measures, even if unwittingly. This provision has not been widely used to date by Member States though.</p>
<p>Is online content that incites acts of terrorism illegal?</p>	<p>Given the broad designation criteria, online content that incites acts of terrorism for ISIL, Al-Qaida or their affiliates could constitute an act that meets the criteria for designation.</p>
<p>Is online content that supports designated terrorist groups illegal?</p>	<p>Given the broad designation criteria, online content that supports the terrorist groups designated by the UN (ISIL, Al-Qaeda or their affiliates), for example, through recruitment or fundraising for the groups, could constitute an act that meets the criteria for designation.</p>
<p>Is there a sufficient balance between far-right and violent Islamist groups and individuals?</p>	<p>No. Individuals and entities can only get designated by association with an entity previously designated (currently ISIL and Al-Qaeda), which means that if there are no far-right terrorist entities listed, individuals tied to such organisations cannot get designated at the time of writing.</p>
<p>Are there human rights-compliant mechanisms in place for delisting a group?</p>	<p>Delisting is possible through the UN 1267 Office of the Ombudsperson, a procedure for redress in which listed individuals, groups, or entities could apply to be delisted by an independent legal expert.¹⁷ Since then, 93 proceedings have been completed with 65 petitions granted resulting in 60 individuals and 28 entities being delisted.¹⁸ However, the Security Council Sanctions Committee retains the power to reject by consensus delisting recommendations.¹⁹ The delisting process contains various stages of review, dialogue, and reporting, the length of the appeal is highly variable.</p>

¹⁷ Procedure, Ombudsperson, United Nations Security Council

¹⁸ Status of Cases, Ombudsperson, United Nations Security Council

¹⁹ Procedure, Ombudsperson, United Nations Security Council



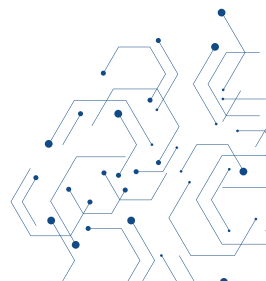


What are the weaknesses in the designation process?

- As far as the 1267 sanctions regime is concerned, there is a clear procedure to delist a defunct entity, either through the Ombudsperson's Office or proposed by the Designating State. However, the current delisting process is long and complex which risks listing groups, entities, and individuals unfairly without evidentiary justification or for longer than necessary.
- Online activities that propagate, recruit, fundraise, and purchase weapons for ISIL, Al-Qaeda and their affiliates meet the criteria for designation. However, given the broad designation criteria for individuals and entities set out in Resolution 1267, it is unclear what specific activities in relation to online propaganda content meet the threshold for designation.
- The designation list does not currently include any far-right terrorist entities given individuals and entities can only get designated by association with an entity previously designated (currently ISIL and Al-Qaeda, and their affiliates). This undermines the UN's wider strategy and advocacy to counter ideological, white supremacist or far-right extremism and terrorism.

What do we recommend?

- The UN Security Council should consider encouraging Member States to review counterterrorism tools and legislations to make sure they adequately reflect the nature of the far-right terrorist threat. The UN would set a good standard in highlighting the threat of these groups and encourage Member States to effectively designate far-right terrorist groups and individuals where appropriate.
- Provide clarity on what online content and activity constitutes an act that meets the criteria for designation. Specify whether this goes beyond incitement of a terrorist act or support through recruitment or fundraising for the designated groups. Additionally, clarify whether individuals providing internet hosting services for terrorist operated websites (for ISIL, Al-Qaeda or their affiliates) meet the criteria for designation.
- The UN could provide strategic leadership and act as a normative voice on counterterrorism and human rights when it comes to the regulation of terrorist content by promoting the use of designation to ground the moderation of terrorist content online in the rule of law.
- The UN could consider doing this through drafting a Security Council resolution calling on member states to utilise the UN list and/or their own domestic designation lists to guide the online regulation of terrorist content. This could be done in a several ways, including banning official content produced by terrorist groups that makes one guilty of a terrorist offence in member states' jurisdictions, or removing material produced by terrorist entities that incites violence.
- The UN should focus on raising awareness of the UN Sanctions List among various stakeholders, including social media platforms, and the designation process among Member States. It could also encourage more listing proposals and improve the quality of designations.





Further information and comments

Additional information provided by UN Security Council Counter-Terrorism Committee Executive Directorate (CTED) with regards to the designation of the terrorist groups and the freezing of terrorist funds and assets:

1. “Technical guide to the implementation of Security Council resolution 1373 (2001) and other relevant resolutions (2019)” notes that
 - “States should have in place a legal provision that provides for the freezing of terrorist funds and assets pursuant to resolution 1373 (2001) and establish a designating mechanism with adequate due process consideration, as well as a dedicated mechanism to address foreign asset-freezing requests.” (para. 51)
 - States remain sovereign in their determination as to whether to incorporate regional or other national asset-freezing lists domestically, should they meet their own designation criteria, and pursuant to their own legal and regulatory frameworks., (para. 56)
2. There is the International Best Practices: Targeted Financial Sanctions Related to Terrorism and Terrorist Financing Recommendation 6, published by The Financial Action Task Force (FATF) available here.

²⁰ [Technical guide to the implementation of Security Council resolution 1373 \(2001\) and other relevant resolutions](#), United Nations Security Council (UNSC) Counter-Terrorism Committee Executive Directorate (CTED), 2017.

²¹ [International Best Practices: Targeted Financial Sanctions Related to Terrorism and Terrorist Financing Recommendation 6](#), The Financial Action Task Force (FATF).

