

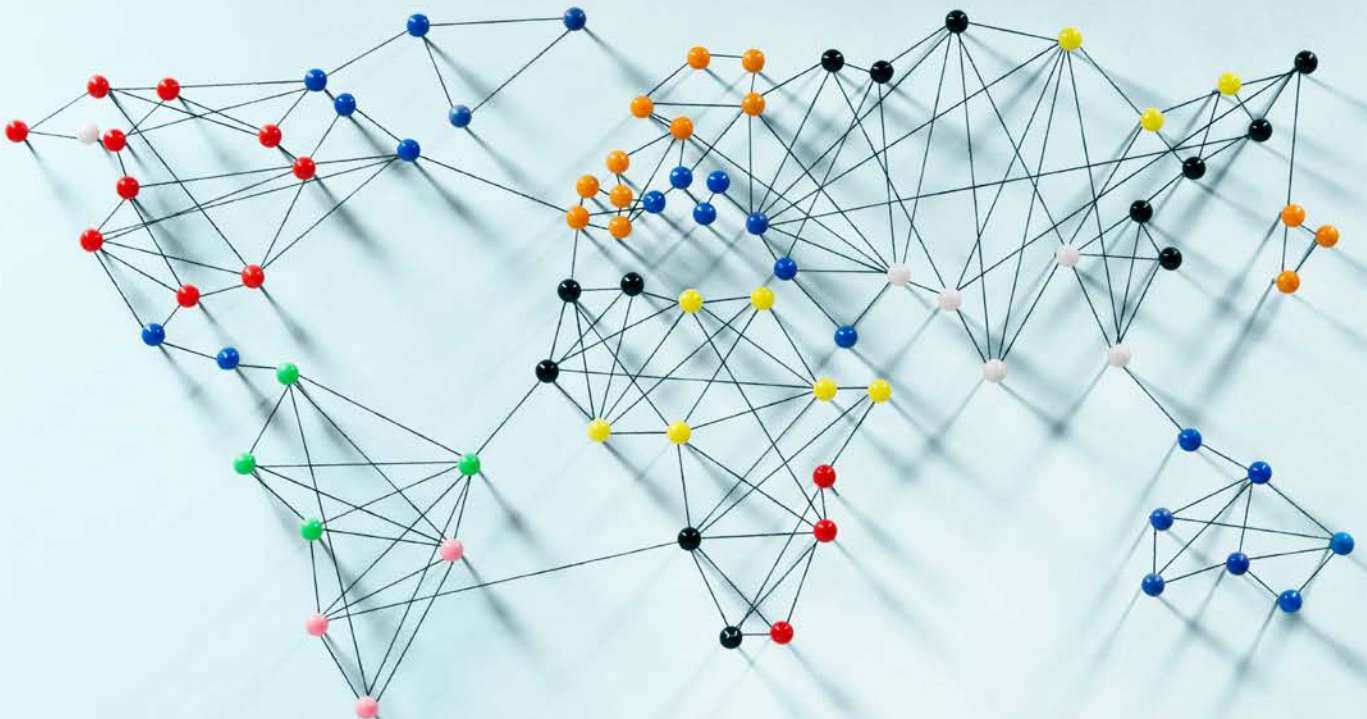


UNODC

United Nations Office on Drugs and Crime

MANUAL ON PREVENTION OF AND RESPONSES TO **TERRORIST ATTACKS**

ON THE BASIS OF **XENOPHOBIA, RACISM**
AND OTHER FORMS OF **INTOLERANCE,**
OR IN THE NAME OF **RELIGION OR BELIEF**



UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna

**Manual on Prevention of
and Responses to Terrorist Attacks
on the Basis of Xenophobia, Racism
and Other Forms of Intolerance,
or in the Name of Religion or Belief**



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Vienna, 2022

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Abbreviations and acronyms

ASIO	Australian Security Intelligence Organisation
AFP	Australian Federal Police
BKA	Federal Criminal Police Office (Bundeskriminalamt) of Germany
BNP	British National Party
COVID-19	coronavirus disease
CSIS	Canadian Security Intelligence Service
DHS	United States Department of Homeland Security
DOJ	United States Department of Justice
EDL	English Defence League
Europol	European Union Agency for Law Enforcement Cooperation (Europol)
FBI	United States Federal Bureau of Investigation
FinCEN	Financial Crimes Enforcement Network of the United States Department of the Treasury
GETZ	Joint Centre for Countering Extremism and Terrorism (Gemeinsames Extremismus- und Terrorismusabwehrzentrum) of Germany
GIFCT	Global Internet Forum to Counter Terrorism
incel	“involuntary celibate”
INSET	Integrated National Security Enforcement Team
JITFs	Joint Terrorism Task Forces of the United States Federal Bureau of Investigation
LGBTQI	Lesbian, gay, bisexual, transgender, questioning and/or queer, and intersex
MI5	Security Service of the United Kingdom (Military Intelligence, Section 5)
PPSC	Public Prosecution Service of Canada
PST	Norwegian Police Security Service
RCMP	Royal Canadian Mounted Police
RTV dataset	Right-Wing Terrorism and Violence in Western Europe dataset of the University of Oslo
UNODC	United Nations Office on Drugs and Crime

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Executive summary

An increasing number of Member States are experiencing a rise in terrorist attacks motivated by xenophobia, racism and other forms of intolerance, or committed in the name of religion or belief. Indeed, in some Member States, this phenomenon now represents the most serious threat to national security, necessitating increasing attention from law enforcement, intelligence and counter-terrorism policing agencies. Acknowledging the importance and significance of this issue, the General Assembly adopted resolution 75/291 of 30 June 2021, in which the Assembly called upon Member States to take appropriate measures to address the new and emerging threats posed by the rise in terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, to develop a greater understanding of the phenomenon and to develop effective measures to counter it.

The present manual is aimed at assisting Member States in such endeavours. Drafted as part of a project funded by the Government of Germany, the manual has two central aims: first, to raise awareness of the threats posed by such terrorist attacks, and second, to increase awareness of the existence and impact of legal, operational and administrative measures to counter them.

To achieve these aims, the manual examines the evolution of the threat of terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, in six Member States (Australia, Canada, Germany, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America) and the diverse movements and groups associated with such terrorist attacks in those countries. In addition, the manual analyses domestic measures in those Member States that enable national authorities to respond to and disrupt violent activity and threats to national security posed by individuals and organizations associated with such terrorist attacks.

To assess the threat landscape of terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and the nature and extent of domestic countermeasures in the six selected Member States, this manual adopts the terminology employed by the General Assembly to refer to the phenomenon. This terminology has been, as yet, neither universally applied nor adopted in all Member States. In order to acknowledge the diversity of terms used among the Member States analysed to describe the phenomenon, this manual applies, in each dedicated national section, the accepted national terminology used by the relevant State.

Drawing from this analysis, the manual concludes by outlining a number of policy recommendations, set out below, which are designed to inform policymakers and criminal justice practitioners from a variety of legal, operational and administrative backgrounds on how to address terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. The policy recommendations are intended to provide guidance to Member States to facilitate their development of national responses to the dynamic threat posed by such terrorist attacks. **In adopting the recommendations, States should take into consideration that the promotion and protection of human rights for all and the rule of law are essential to all counter-terrorism measures, and must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law.**

This manual only represents a preliminary attempt to understand the different challenges and responses of a limited number of Member States with regard to the phenomenon. Despite its limited scope, it is hoped that the manual will lead to more comprehensive attempts, in future, to review a larger number of Member States. Comparing the experiences and efforts of several Member States will contribute to a better and more comprehensive understanding of how the international community continues to tackle the phenomenon.

Policy recommendations^a

1. Develop, on the basis of lessons learned from existing counter-terrorism practices, robust programmatic responses to terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, informed by periodic reviews of different national threat landscapes.
2. Develop national multi-agency approaches to monitoring and responding to security threats posed by terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.
3. Endeavour to provide sufficient resources for law enforcement agencies tasked with investigating and disrupting the threats associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.
4. Monitor the effectiveness of surveillance and intelligence-gathering in countering the threat of terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.
5. Establish national legislative frameworks that provide options for the prosecution of individuals and organizations associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, for criminal offences involving the commission, planning and preparation of acts of violence.
6. Explore national legislative frameworks that appropriately criminalize violent activity and incitement to violence, including acts motivated by hatred and hate speech, and ensure that systems are in place for the collation of data on such crimes.
7. Develop an enhanced understanding of how activities relating to terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, are financed, and of the measures that are effective in countering legal and illegal sources of funding, including networks, for such attacks.
8. Develop an understanding and awareness of the applicability and effectiveness of national administrative powers that can be employed to constrain the activities and mobility of individuals engaged in terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.

^aThe inclusion of these policy recommendations in this manual does not represent their endorsement by Member States, including the Member States discussed in the manual. Furthermore, the recommendations may have different levels of applicability to the Member States referenced in the manual and may need to be consistent with different legal frameworks in those Member States.

9. Develop robust mechanisms for proscribing or designating individuals and organizations engaged in or providing support for terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and consider whether measures are in place to regularly monitor the efficacy of their application to such attacks.

10. Apply existing legislation addressing foreign terrorist fighters to individuals associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.

Background

The United Nations Office on Drugs and Crime (UNODC) is mandated to provide assistance to requesting Member States in the legal and criminal justice aspects of countering terrorism. The UNODC Terrorism Prevention Branch is responsible for carrying out this mandate, primarily by assisting Member States in becoming party to international legal instruments against terrorism, incorporating the provisions of such legal instruments into national legislation and building the capacity of national criminal justice systems to implement those provisions effectively, in accordance with the rule of law and with due respect for human rights.

The General Assembly, in its consensus resolution relating to the seventh review of the United Nations Global Counter-Terrorism Strategy, condemned in the strongest terms terrorism in all its forms and manifestations, and all terrorist acts, including those on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. In the resolution, the General Assembly called upon Member States to take appropriate measures to address the new and emerging threats posed by the rise in terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, including through investigation, information exchange and cooperation, and requested the Secretary-General, in consultation with Member States, to develop a greater understanding of the motivations, objectives, organization and the threat posed by such groups within the global terrorist landscape, including new and emerging threats, and to help to build, upon request, effective counter-narratives, capacities and strategies in that regard, and to report thereon in advance of its seventy-seventh session.¹

Similar language was adopted by the General Assembly in its resolution 73/285, entitled “Combating terrorism and other acts of violence based on religion or belief” in the wake of the attack in Christchurch, New Zealand.²

This manual therefore adopts the terminology “terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief”, as used by the General Assembly.

It should be noted that this does not imply that there is a consensus among the international community that the terminology adopted in this manual should have universal application or that the Member States examined in the manual automatically accept that the adopted terminology and definition fully reflect the emerging threats in their countries. As discussed below, the Member States analysed in this manual in fact use different language to describe the phenomenon. Australia, for example, identifies two threat categories to deal with such terrorist attacks: “ideologically motivated violent extremism” and “religiously motivated violent extremism”. Canada differentiates between “religiously motivated violent extremism”, “politically motivated violent extremism” and “ideologically motivated violent extremism”. Norway prefers to use the terms “right-wing extremism” and “right-wing terrorism”, in a manner similar to that of Germany (“right-wing extremism” and “right-wing violent extremism”), while the United Kingdom of Great Britain and Northern Ireland uses terminology such as “right-wing terrorism”, “far-right terrorism”, “extreme-right terrorism”, “violent right-wing extremism”, and “white supremacist terrorism”. Finally, the United States of

¹ General Assembly resolution 75/291, para. 36.

² On 15 March 2019, an individual attacked two mosques in Christchurch, New Zealand. The attacks resulted in the death of 51 people. See the report “Royal Commission of Inquiry Into the Terrorist Attack on Christchurch Mosques on 15 March 2019: executive summary”. Available at <https://christchurchattack.royalcommission.nz/>; see also General Assembly resolution 73/285.

America uses the term “racially or ethnically motivated violent extremism”. To reflect the diversity of terms that are used to describe the phenomenon in the different Member States, this manual employs, in each dedicated national section, the accepted national terminology used by the relevant State.

Additionally, while Member States were consulted in the development of the manual,³ its publication does not imply the expression of any opinion on the part of those Member States concerning its contents.

The manual, developed as part of a project funded by Germany, is aimed at providing a tool for policy and practitioner communities and at helping to enhance their conceptual and analytical understanding of the current trends relating to terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and the ways that members of the international community respond to this growing threat. Overall, the project is aimed at raising awareness of the key stakeholders involved in countering the threat of such attacks and at providing information on how to deal with this phenomenon.

Owing to resource limitations, the scope of this manual has been restricted to six Member States (Australia, Canada, Germany, Norway, the United Kingdom and the United States), which were chosen in view of the degree to which they have been affected by terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and their significant experience in dealing with the phenomenon. With that in mind, this manual only represents a preliminary attempt to understand the different challenges and responses of a limited number of Member States to the phenomenon. While limited in scope, it is hoped that the manual will lead to more comprehensive attempts, in future, to review a larger number of Member States. Comparing the experiences and efforts of several Member States will contribute to a better and more comprehensive understanding of how the international community continues to tackle the phenomenon.

³ Member States and international experts contributed to the drafting process for this manual, including through contributions at two webinars and an expert meeting.

Introduction

We must also step up the fight against resurgent neo-Nazism, white supremacy and racially and ethnically motivated terrorism. The danger of these hate-driven movements is growing by the day. Let us call them what they are: white supremacy and neo-Nazi movements are more than domestic terror threats. They are becoming a transnational threat. These and other groups have exploited the pandemic to boost their ranks through social polarization and political and cultural manipulation. Today, these extremist movements represent the number one internal security threat in several countries. Individuals and groups are engaged in a feeding frenzy of hate – fundraising, recruiting and communicating online both at home and overseas, travelling internationally to train together and network their hateful ideologies.⁴

Terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief vary in the ideology they draw from, but are often linked by hatred and racism towards minorities, xenophobia, Islamophobia or antisemitism.⁵ As explained in this manual, individuals and groups espousing such ideologies do not constitute coherent or easily defined movements but rather a shifting, complex and overlapping milieu of individuals, groups and movements (online and offline) espousing different but related ideologies.⁶ In the words of the Secretary-General:

The transnational threat from racially, ethnically or ideologically motivated individuals and groups resorting to terrorist tactics, variously described as “white supremacist”, “far-right” or “extreme right-wing”, has also increased. These groups have sought to capitalize on the COVID-19 crisis in order to increase and diversify their support base, including by accelerating pre-existing trends of social polarization and cultural manipulation. Violence is often perpetrated through low-cost, low-tech, copycat attacks by unaffiliated individuals or small groups, targeting soft and symbolic targets, such as places of worship. Several States in Western Europe, North America and Oceania now consider this to be the fastest growing or even the most prominent domestic security threat that they face, as discussed at an open briefing held in October 2020 by the Security Council Committee pursuant to resolution 1373 (2001) concerning counter-terrorism.

Such groups are ideologically and organizationally fragmented, frequently informed by racism, neo-Nazism, antisemitism, Islamophobia or anti-Muslim intolerance, racial supremacism, ultranationalism, xenophobia, intolerance related to sexual orientation or gender identity, and misogyny. Not all Member States regarded such groups as a threat to international peace and security in 2020, but increasing evidence of their transnational dimensions has been exposed through investigation, information exchange and cooperation between States. This includes international travel, networking, communication and mutual inspiration through cyberspace. The phenomenon poses frontier challenges, including the use of cryptocurrencies for financing, gamification in recruitment efforts, an ecosystem of social media platforms and websites resilient to takedown operations, and narratives that use ambivalent and coded language to avoid being classified as unlawful speech.⁷

⁴ António Guterres, Secretary-General of the United Nations, “Secretary-General Guterres calls for a global reset, ‘to recover better, guided by human rights’”, statement delivered at the forty-sixth regular session of the Human Rights Council, Geneva, 22 February 2021.

⁵ Counter-Terrorism Committee Executive Directorate, “Member States concerned by the growing and increasingly transnational threat of extreme right-wing terrorism”, CTED Trends Alert (April 2020).

⁶ Ibid.

⁷ A/75/729, paras. 10–11.

The threat of such terrorist attacks has increased and intensified since the beginning of 2020.⁸ This assertion is supported by evidence from a number of dynamic influences and trends. First, in almost all of the Member States examined in this manual, it was possible to detect a consistent increase in the number of offences related to such attacks. Second, while violent extremists were always part of the political landscape in the examined Member States, in the last few years, they have notably maximized their usage of social media platforms and other online tools to increase their reach and influence, and thus mobilize an unprecedented number of supporters. The ability of movements to organize wide-scale protests in Germany and the United States are examples of this phenomenon. Third, significant concerns have been raised with regard to the growing transnational interaction and collaboration between violent extremist groups. The participation of violent extremist actors from a broad range of Member States in foreign conflicts, the ability of organizations such as Combat 18, National Action and the Atomwaffen Division to establish chapters in multiple Member States and the growing transnational convergence of skinhead organizations around white power music festivals and mixed martial arts competitions are just a few examples of such dynamics.

Furthermore, the global COVID-19 pandemic has provided groups and individuals supporting such attacks with an opportunity to advance their ideologies and propagate new conspiracy theories, anti-minority and anti-immigration narratives and fake news that purport to address the fears and isolation experienced by individuals.⁹

In order to respond to the growing threat of terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, both State actors and international organizations have engaged in the implementation of various legal, operational and administrative countermeasures. In this context, the present manual reflects the objective of UNODC to inform practitioners, academics, decision-makers and the public about these efforts, their effectiveness and how they reflect the unique landscapes of the phenomenon within different Member States. Hence, following a brief discussion of the international efforts to collaborate in the struggle against the phenomenon, the manual provides summaries of the recent evolution of this threat in the six selected Member States. The manual presents an analysis of legislation regarding terrorism and hate crimes, administrative policies and operational practices adopted in each of the six Member States. To further enhance the effectiveness of the comparative analysis, the overview of the landscape of the phenomenon and the response to it in each Member State is discussed in terms of similar parameters.

Specifically, in relation to each Member State, the manual discusses the main active groups affiliated with such attacks, how they are organized and their ideological universe. The manual provides an overview of the general trends in the phenomenon, such as target selection, reasons for fluctuations in the level of violence, and prominent violent tactics, as well as how recent developments may impact the future trajectory of this form of violence. The manual draws on this analysis to outline a number of good practices reflecting responses to the phenomenon and how the implementation of different legal and operational frameworks generates different levels of impact on violent extremist groups and their ability to engage in violent or illegal activities. Following this, the manual concludes with a list of national agencies and legal instruments that are employed within each of the six Member States to address the threat of such attacks.

The selection of the six Member States examined in this manual was driven by the degree to which each has been affected by terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. Each of the six Member States has developed different responses to the phenomenon, including different ways to operationally and legally define it, a fact that

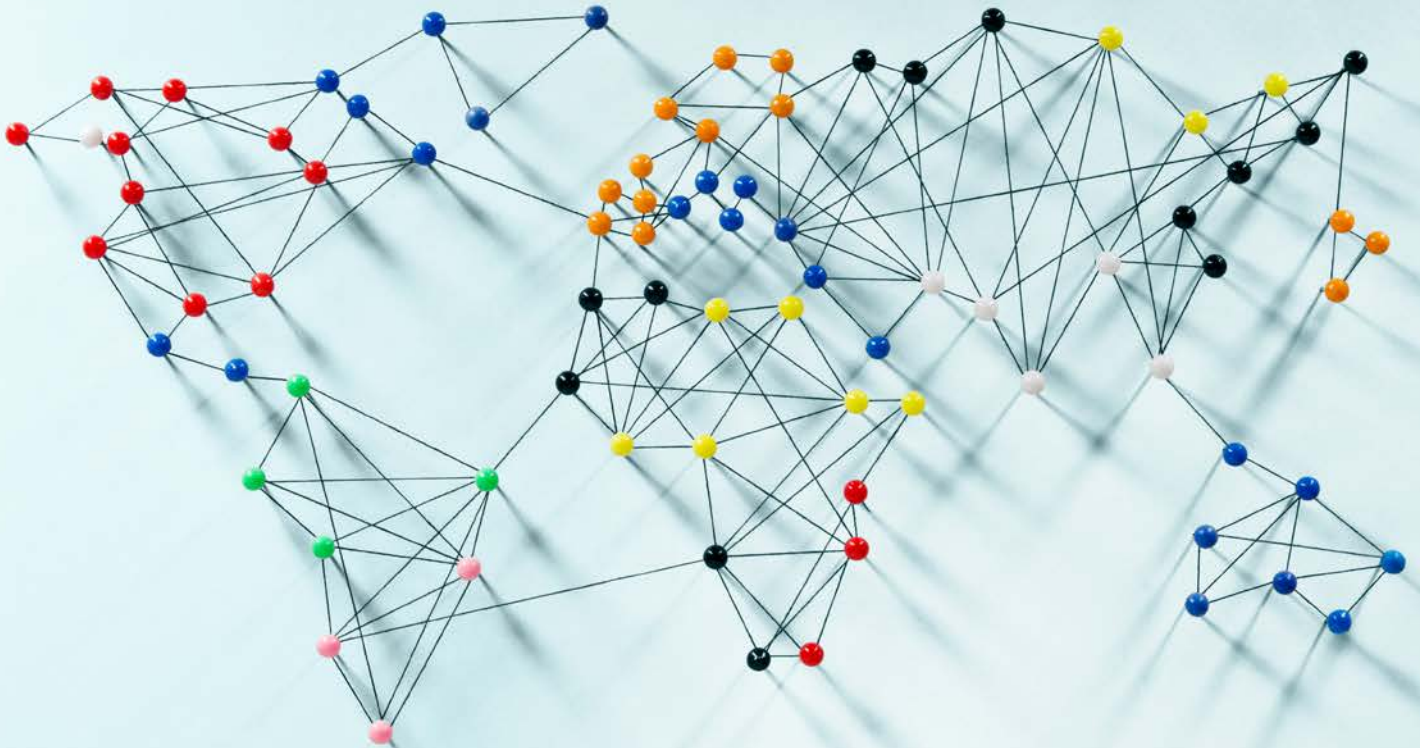
⁸ Counter-Terrorism Committee Executive Directorate, CTED Trends Alert (April 2020).

⁹ Joel Finkelstein and others, "COVID-19, conspiracy and contagious sedition: a case study on the militia-sphere" (n.p., Network Contagion Research Institute, 2020).

allows insights to be drawn about the effectiveness of counter-terrorism measures and how they may impact potential bilateral or multilateral collaboration. It is important to recognize that legislative efforts in the areas of counter-terrorism must take into consideration the protection of human rights and that the former and latter are not conflicting goals, but complementary and mutually reinforcing.¹⁰

¹⁰ See United Nations Office on Drugs and Crime (UNODC), *Counter-Terrorism Legal Training Curriculum: Module 4 – Human Rights and Criminal Justice Responses to Terrorism* (Vienna, 2014).

1



CHAPTER 1. The United Nations and other multilateral organizations and initiatives

1.1 Overview

Terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, both ideologically and, to a lesser extent, operationally, are a transnational phenomenon. To successfully address the phenomenon, therefore, international coordination and cooperation between Member States are required. Much of this coordination and cooperation occurs through intergovernmental bodies. While acknowledging the wide array of multilateral efforts by Member States, owing to time and space limitations, the present chapter focuses on the efforts of five intergovernmental bodies: (a) the United Nations; (b) the European Union; (c) the Global Counterterrorism Forum; (d) the Financial Action Task Force; and (e) the Christchurch Call to Action.

1.2 United Nations

The United Nations is committed to supporting Member States in addressing terrorism in all its forms and manifestations. Beginning with its resolution 1566 (2004), the Security Council has condemned terrorism in all its forms and manifestations and emphasized that terrorism and violent extremism conducive to terrorism cannot and should not be associated with any religion, nationality or civilization. In its resolution 1624 (2005), the Council called upon all States to take all measures as may be necessary and appropriate and in accordance with their obligations under international law to counter incitement of terrorist acts motivated by extremism and intolerance. More recently, the international community has also recognized the need to address the threat of terrorist acts motivated by extremism and intolerance. The Secretary-General acknowledged the threat in his 2018 report for the sixth review of the Global Counter-Terrorism Strategy,¹¹ as well as his initial 2020 report¹² and 2021 update report¹³ for the seventh review of the Strategy. In 2019, the Secretary-General launched the United Nations Strategy and Plan of Action on Hate Speech, in response to the growth in xenophobia, racism, intolerance, violent misogyny, antisemitism and anti-Muslim hatred around the world. The Strategy is intended to guide the United Nations system in its efforts to address hate speech and enhance United Nations efforts to address its root causes and drivers.

In the context of Member States alerting the United Nations to their increasing concern about the growing and increasingly transnational threat posed by such attacks, the Counter-Terrorism Committee Executive

¹¹ A/72/840, para. 13.

¹² A/74/677, para. 11.

¹³ A/75/729, paras. 10–11.

Directorate, established by the Security Council, issued two Trends Alert publications, one in April 2020, entitled “Member States concerned by the growing and increasingly transnational threat of extreme right-wing terrorism” and an updated version with the same title, published in July 2020. The Trend Alerts were followed by a virtual open briefing on emerging trends in violent extremism conducive to terrorism and addressing violent extremism through a human rights-based approach, which was held on 9 October 2020.¹⁴ The Counter-Terrorism Committee Executive Directorate also supports initiatives such as Tech Against Terrorism.¹⁵

The United Nations system promotes the implementation, by Member States, of the strong and comprehensive international framework developed over the years to prevent and counter terrorism in all its forms and manifestations, in line with their obligations under international law, including international human rights law, international humanitarian law and international refugee law, and provides Member States with capacity-building and other technical assistance upon request.

Furthermore, the United Nations system at all levels is already responding, through the lens of the 2030 Agenda for Sustainable Development, to a range of challenges related to terrorist acts committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, by supporting Member States in building and sustaining peaceful, just and inclusive societies. United Nations entities work to address hate speech, discrimination, racism, xenophobia and misogyny, and to promote gender equality, socioeconomic inclusion, tolerance and intercultural dialogue, youth empowerment, good governance, access to inclusive and equitable quality education, including media and information literacy, global citizenship and human rights education. Discussions on further support to Member States have been undertaken and will be taken forward through the Working Group on Preventing and Countering Violent Extremism Conducive to Terrorism of the United Nations Global Counter-Terrorism Coordination Compact¹⁶ and the Secretary-General’s High-Level Action Group to Prevent Violent Extremism.

1.3 European Union

The European Union, as a regional body, has played an active role in counter-terrorism efforts, issuing its first counter-terrorism strategy in 2005. On 9 December 2020, the European Union adopted its latest European Union-wide Counter-Terrorism Agenda, which is a core component of the wider Security Union Strategy adopted by the European Commission in July 2020.¹⁷ At the European Union level, the European Parliament adopted a resolution on 25 October 2018 calling on States members of the European Union to combat the rise of neo-fascist violence in Europe.¹⁸ Similarly, the European Commission has proposed initiatives relating to counter-terrorism, such as a code of conduct on countering illegal hate speech online¹⁹ and the inclusion of hate speech and hate crimes on the list of “European

¹⁴ The virtual open briefing was the first time that a Security Council body had held a dedicated meeting focused on terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. The recording of the full event can be accessed at <https://media.un.org/en/asset/k1n/k1n7tsi6c4>.

¹⁵ See www.techagainstterrorism.org/.

¹⁶ The United Nations Global Counter-Terrorism Coordination Compact is led by the United Nations Office of Counter-Terrorism. It brings together 40 United Nations entities, including UNODC, as well as the International Criminal Police Organization (INTERPOL), the World Customs Organization and the Inter-Parliamentary Union.

¹⁷ European Commission, Migration and Home Affairs, “Counter terrorism and radicalization”. Available at <https://ec.europa.eu/home-affairs/what-we-do/policies/counter-terrorism/>.

¹⁸ European Parliament resolution of 25 October 2018 on the rise of neo-fascist violence in Europe (2018/2869(RSP)) (*Official Journal of the European Union*, C 345/22, 16 October 2020).

¹⁹ European Commission, “The EU Code of conduct on countering illegal hate speech online”. Available at <https://ec.europa.eu/>.

Union crimes.”²⁰ In a similar spirit, on 7 October 2019, participants in the fifth annual European Union Internet Forum, which included participants from the European Commission, member States and various online service providers committed to working together on a voluntary basis to contain the viral spread of terrorist and violent extremist online content, while ensuring strong data protection and fundamental rights safeguards.²¹ The agreement was enacted in response to the commitments made under the Christchurch Call to Action (see below).

There are also two justice and home affairs agencies – both having coordinating, non-coercive roles – that appear to be directly relevant to addressing the threats and risks posed by terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.

The first is the European Union Agency for Law Enforcement Cooperation (Europol). Europol has involved itself in confronting right-wing extremism through at least three lines of effort, namely, facilitating information and intelligence exchanges among European Union member States, improving European Union-wide strategic awareness and intelligence, and countering online right-wing extremist propaganda.²² These three lines of effort interact with four issue areas agreed to by the European Union-wide ministerial-level Justice and Home Affairs Council at its meeting held on 7 and 8 October 2019, namely:

- Create a better situational overview of right-wing violent extremism and terrorism
- Continue to develop and share good practices on how to strengthen the prevention, detection and addressing of violent extremism and terrorism
- Cooperate with key third countries
- Address the spread of unlawful right-wing extremist content online and offline²³

The second is Eurojust, which is the European Union Agency for Criminal Justice Cooperation. Eurojust’s mission is to provide tailor-made operational support to national judicial authorities in their responses to criminal activity, in particular in cases of complex and cross-border investigations and prosecutions. Regarding terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, Eurojust has offered legal and operational assistance at all stages of judicial counter-terrorism proceedings,²⁴ and facilitated the coordination of several investigations concerning this type of terrorism. As part of its commitment to the four strands of action to address violent right-wing extremism and terrorism adopted by the Justice and Home Affairs Council on 8 October 2019, Eurojust recently organized two expert workshops on addressing violent right-wing extremism and terrorism,²⁵ at which counter-terrorism experts from European Union member States and third countries shared experiences relating to the legal challenges faced in investigating and prosecuting cases involving such attacks. Many of these experiences are also shared through and documented in the

²⁰ “European Union crimes” is a reference to “particularly serious crimes with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis”. For the proposal to include hate speech and hate crimes in the list of European Union crimes, and a definition of “European Union crimes”, see European Commission, “Initiative to extend the list of EU crimes in Article 83(1) TFEU to hate speech and hate crime”, 23 February 2021. Available at <https://op.europa.eu/>.

²¹ European Commission, “Fighting terrorism online: EU Internet Forum committed to an EU-wide crisis protocol”, 7 October 2019. To put this agreement into practice, the European Union Internet Referral Unit of the European Union Agency for Law Enforcement Cooperation (Europol) had organized two tabletop exercises, on 11 September 2019 and 23 November 2020; see Europol, “Virtual tabletop exercise coordinated by Europol: disrupting terrorism and violent extremism”, 1 December 2020.

²² Europol, “Written contribution to JPSG: reporting on the fight against right-wing extremism and terrorism (RWE)”, 21 September 2020.

²³ Council of the European Union, Justice and Home Affairs, Outcome of the Council Meeting: 3717th Council meeting, document 12837/19, p. 18.

²⁴ European Union Agency for Criminal Justice Cooperation (Eurojust), 2019 *Eurojust Report on Counter-Terrorism* (The Hague, 2020).

²⁵ Eurojust, *Eurojust Expert Workshops on Violent Right-Wing Extremism and Terrorism: Summary of the Discussions* (The Hague, 2021).

Eurojust publication series *Terrorism Convictions Monitor*, which provides summaries of national court decisions and jurisprudence on terrorist cases, including those involving terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.²⁶

1.4 Global Counterterrorism Forum

Through its Countering Violent Extremism Working Group, in April 2021, the Global Counterterrorism Forum convened two high-level exploratory dialogues on racially or ethnically motivated violent extremism, which often overlap with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. The focus of the meetings was on examining the plurality of terminology used to identify the threat, describe the threat landscape and consider what role the Global Counterterrorism Forum can play in addressing the challenge.²⁷

Additionally, the International Institute for Justice and the Rule of Law, an institution inspired by the Global Counterterrorism Forum, produced a criminal justice practitioner's guide in July 2021 covering the phenomenon.²⁸

1.5 Financial Action Task Force

The Financial Action Task Force (FATF) is the international standard-setting body for countering terrorist financing and the financing of the proliferation of weapons of mass destruction.²⁹ Recommendations detailed in its 2012 publication entitled *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation*, updated in March 2022, are critical for strong measures against national and international terrorist financing, money-laundering and proliferation financing operations. The FATF report of June 2021 on ethnically or racially motivated terrorist financing identified fundraising techniques used in such terrorist financing and the challenges faced in constraining it and surveyed the different legal structures across nation States for combating it, with an eye towards informing potential policy responses from government and non-governmental actors.³⁰

1.6 Christchurch Call to Action

The Christchurch Call to Action to eliminate terrorist and violent extremist content online is a multi-stakeholder initiative established jointly by France and New Zealand. The Call to Action was launched on 15 May 2019, two months after the terrorist attack in Christchurch, New Zealand. Rather than being a traditional diplomatic initiative, the Call to Action consists of a set of voluntary commitments adopted by Governments and online service providers to eliminate terrorist and violent extremist content online in a manner consistent with a free, open and secure Internet and international human rights law.³¹ The Call to Action asserts that the events in Christchurch highlighted the urgent need for action and enhanced collaboration and cooperation among a wide range of actors with influence over the issue, including international organizations, civil society actors and traditional media.

²⁶ Eurojust, *Terrorism Convictions Monitor Series*. Available at www.eurojust.europa.eu/.

²⁷ Global Counterterrorism Forum, *Activities*, "GCTF exploratory dialogues on REMVE". Available at www.thegctf.org/.

²⁸ International Institute for Justice and the Rule of Law, *IJJ Criminal Justice Practitioner's Guide: Addressing Racially or Ethnically Motivated Violent Extremism* (Valletta, 2021).

²⁹ Financial Action Task Force, "Who we are". Available at www.fatf-gafi.org/.

³⁰ Financial Action Task Force, "Ethnically or racially motivated terrorism financing", FAFT Report (Paris, 2021).

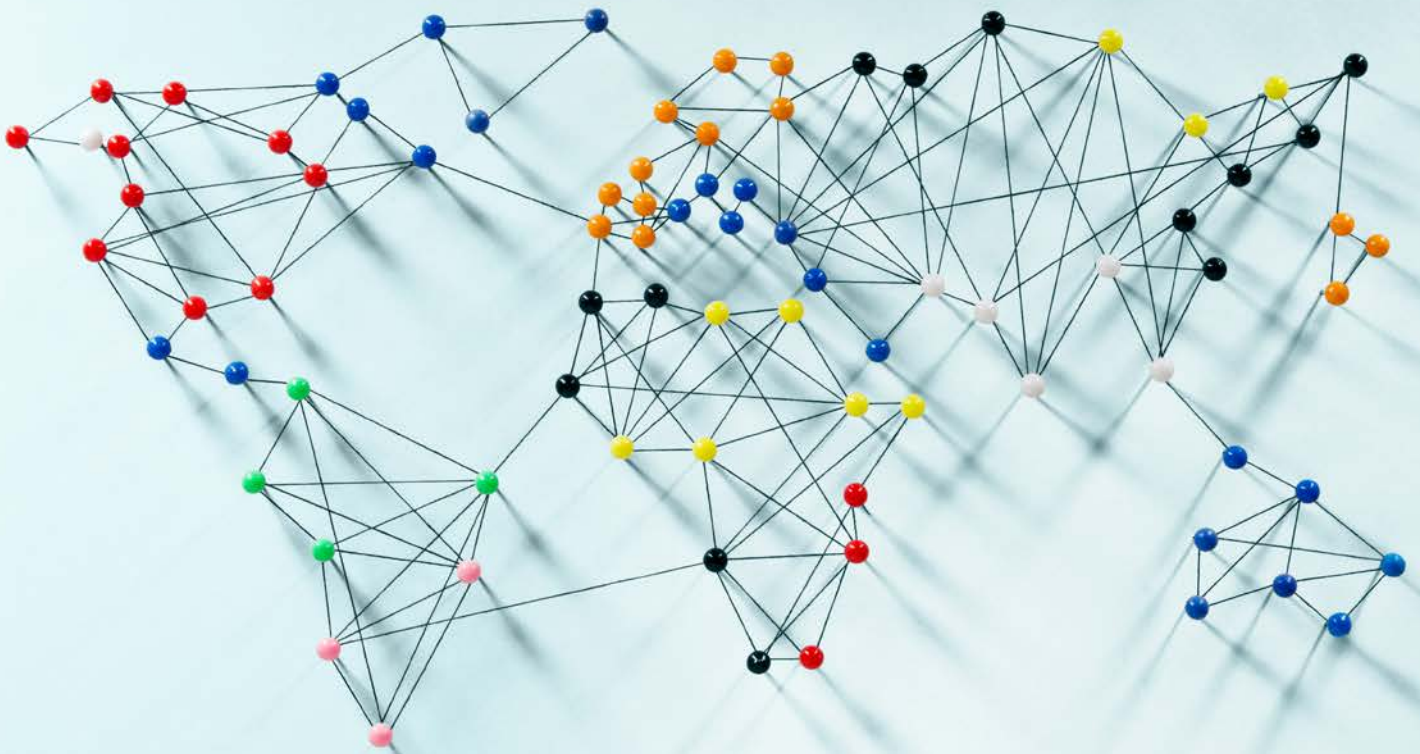
³¹ New Zealand, Ministry of Foreign Affairs and Trade, "Christchurch call to action to eliminate terrorist and violent extremist content online". Available at www.christchurchcall.com/.

Supporters now include 70 Governments, online service providers and international organizations.³² A civil society advisory network of almost 50 civil society and technical community organizations provides advice to supporters of the Christchurch Call to Action on the topics of human rights and Internet freedoms. All six of the countries examined in this manual (Australia, Canada, Germany, Norway, the United Kingdom and the United States) have joined the Call to Action. The work and relationships of the Call to Action are active, with a strong emphasis on multi-stakeholder collaboration. A progress report of February 2021 summarizes actions taken by Governments and online service providers since 2019 to uphold the commitments contained in the Call to Action.³³ More recently, at the leaders' summit held on 15 May 2021, on the occasion of the second anniversary of the Christchurch Call to Action, participating leaders agreed to a workplan focusing on four areas of thematic focus: building the Christchurch Call to Action community; improving crisis response mechanisms; transparency; and positive online interventions and understanding algorithmic outcomes and user journeys.³⁴

³² See, New Zealand, Ministry of Foreign Affairs and Trade, "Christchurch call to eliminate terrorist and violent extremist content online: supporters". Available at www.christchurchcall.com/.

³³ New Zealand, Ministry of Foreign Affairs and Trade, *Christchurch Call Community Consultation: Final Report* (Wellington, 2021).

³⁴ Jacinda Arden, Prime Minister of New Zealand, and Emmanuel Macron, President of France, "Second anniversary of the Christchurch Call summit", joint statement at a virtual summit on the second anniversary of the Christchurch Call to Action, 15 May 2021.



CHAPTER 2. Overview of the threat posed by terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief

The present chapter analyses the evolution of the threat of terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, within six Member States (Australia, Canada, Germany, Norway, the United Kingdom and the United States) and the diverse movements and groups that characterize the phenomenon in those States. This manual takes into account the operational capabilities and sophistication of these organizations, their most prominent violent tactics, and the factors that enable them to mobilize support and finance their activities. All of these factors need to be examined in order to understand the potential threat posed by individuals associated with such attacks.

2.1 Australia

2.1.1 Australia: main movements and groups

Australia has adopted terminology that distinguishes between ideologically motivated violent extremism and religiously motivated violent extremism. Ideologically motivated violent extremism, which has become an increasing security concern in Australia,³⁵ is characterized by a diverse assortment of groups and individuals motivated by a number of different grievances, outlined below.

White supremacists and white nationalists

In addition to espousing white racial supremacy, like their counterparts in other Member States, white supremacist and white nationalist groups have previously been animated by antisemitic, anti-radical left, anti-LGBTQI and anti-non-white immigrant (especially anti-Asian) beliefs. While such agendas remain important for these actors, in recent years, they have shifted their emphasis towards anti-Islam and anti-Muslim activity.³⁶ In the past, one of the highest-profile white supremacist groups was the Australian National Movement, which became defunct by the mid-2000s after a series of both successful and

³⁵ Andrew Greene, “Neo-Nazis among Australia’s most challenging security threats, ASIO boss Mike Burgess warns”, Australian Broadcasting Corporation, 24 February 2020.

³⁶ Kristy Champion, “A ‘lunatic fringe’? The persistence of right wing extremism in Australia”, *Perspectives on Terrorism*, vol. 13, No. 2 (April 2019), p. 2; Max Kozolowski, “How Australia’s far-right were divided and conquered – by themselves”, *The Sydney Morning Herald*, 11 January 2019.

prevented anti-Asian arson attacks in the late 1980s to early 1990s and again in the mid-2000s. Among other recently defunct or inactive groups is the True Blue Crew. Actors such as the United Patriots Front and Reclaim Australia, although ostensibly focused on anti-Islam and anti-Muslim activism, were in fact led by white supremacists³⁷ and effectively acted as key manifestations of changes in the white supremacist scene in Australia.³⁸ Later, groups such as Antipodean Resistance and The Base adopted so-called “accelerationist” beliefs.³⁹ Currently, the most conspicuous and active white supremacist group appears to be the National Socialist Network.⁴⁰

Anti-government extremists⁴¹

The two primary movements under this category are Freeman on the Land and QAnon, which are nationally tailored versions of international and transnational movements, respectively. Freeman on the Land are also referred to as “Sovereign Citizens” and are closely related to the United States-based ideology that goes by the same name. Its supporters typically reject most forms of established governmental authority and selectively choose to accept or reject certain laws, using a convoluted set of pseudo-legal arguments.⁴² The ideology of QAnon centres around an unfounded conspiracy theory that a globally active “deep State” cabal of satanic paedophile elites is responsible for all evil in the world.⁴³ Freeman on the Land/Sovereign Citizens have been previously identified by the New South Wales police as a potential terrorist threat⁴⁴ and in July 2020 a supporter of the movement was arrested after communicating violent ideologically motivated threats and violating firearms statutes.⁴⁵ Both the QAnon and the Freeman on the Land/Sovereign Citizen movements are also heavily influential within political assemblies protesting COVID-19-related masking regulations, and the latter has become increasingly confrontational and at times violent towards law enforcement officials.⁴⁶

“Single-issue” actors⁴⁷

Australia has also been confronted by anti-abortion extremism, including at least two violent incidents, one of which was an attempted mass casualty attack that led to a fatality.⁴⁸ Australia also has a sizeable organized movement whose central organizing principle is its anti-Muslim and anti-Islam animus.⁴⁹

³⁷ See Kozolowski, “How Australia’s far-right were divided and conquered”; Christine El-Khoury, “Anti-Muslim extremists: how far will they go?”, Australian Broadcasting Corporation, 22 November 2015.

³⁸ Campion, “A ‘lunatic fringe?’”.

³⁹ Accelerationism is “the desire to hasten the collapse of Governments and social structures by sowing chaos and creating political tension” (Counter-Terrorism Committee Executive Directorate, “Member States concerned by the growing and increasingly transnational threat of extreme right-wing terrorism”, CTED Trends Alert (July 2020), p. 3).

⁴⁰ Online interview with Australian security officials, dated 29 June 2021.

⁴¹ The Australian Security Intelligence Organisation (ASIO) categorizes movements such as QAnon or Freeman on the Land as motivated by a single or specific issue.

⁴² Daniel Baldino and Kosta Lucas, “Anti-government rage: understanding, identifying, and responding to the sovereign citizen movement in Australia”, *Journal of Policing, Intelligence and Counter Terrorism*, vol. 14, No. 3 (October 2019); Stephen A. Kent, “Freemen, sovereign citizens, and the challenge to public order in British heritage countries”, *International Journal of Cultic Studies*, vol. 6 (2015).

⁴³ GNET Team, “What is QAnon?”, Global Network on Extremism and Technology, 15 October 2020. See also Kaz Ross, “Why QAnon is attracting so many followers in Australia: and how it can be countered”, *The Conversation*, 24 August 2020.

⁴⁴ James Thomas and Jeanavive McGregor, “Sovereign citizens: terrorism assessment warns of rising threat from anti-government extremists”, Australian Broadcasting Corporation, 30 November 2015.

⁴⁵ Margaret Scheikowski (Australian Associated Press), “NSW judge rejects terror-risk claim”, *Perth Now*, 29 July 2021.

⁴⁶ Josh Butler, “‘Disgraceful’ attack on police after anti-mask argument, as ‘sovereign citizens’ create trouble”, *The New Daily*, 4 August 2020.

⁴⁷ Note that some single-issue actors would not be categorized as ideologically motivated violent extremists by ASIO.

⁴⁸ Australia, Supreme Court of Victoria, *R. v. Knight*, Case No. 1539 of 2001, (2002) VSC 498, 19 November 2002.

⁴⁹ As noted earlier, the present manual does not include groups under this category, such as the United Patriots Front, which on its face initially appeared to be centrally focused on anti-Muslim and anti-Islam activism, but whose leaders were later discovered to be crypto-neo-Nazis and white supremacists. See Kozolowski, “How Australia’s far-right were divided and conquered”; El-Khoury, “Anti-Muslim extremists”.

While engaging in largely legal activities, including peaceful protests and political organizing,⁵⁰ some formal organizations have drawn the attention of security agencies because their activities have previously attracted violent elements to their cause.⁵¹

Other actors

These are actors whose ideologies do not necessarily fit easily into any of the categories mentioned above. Among formal organizations and groups, the Proud Boys are an illustrative example of this category. A group whose ideology centres on “Western chauvinism”, the Proud Boys is a male-only organization that eschews overt racism and claims to accept members of any racial background, but nevertheless heavily traffics in equal parts white nationalist online memes, extreme misogyny, anti-Muslim hate and anti-Left radicalism.⁵²

2.1.2 Australia: contemporary threats

Ideologically motivated violent extremism in Australia is enabled by at least two factors. The first is the ability of groups to recruit from socially proximal contexts that in varying ways often glorify or promote violence and that take place in both licit and illicit contexts. Groups like the Proud Boys and True Blue Crew have recruited from mixed martial arts and gym subcultures, while other neo-Nazi groups have drawn supporters from larger heavy metal, punk and Oi! rock music scenes.⁵³ Neo-Nazis have also recruited from the ranks of the military, and white supremacists appear to have had a presence within outlaw motorcycle gang social circles.⁵⁴ More recently, various groups associated with ideologically motivated violent extremism have become involved with movements opposed to public measures resulting from the COVID-19 pandemic, allowing for interaction with individuals from other political orientations, based on shared narratives of distrust of government agencies and pharmaceutical companies.⁵⁵

The second factor is the role of the Internet. Many groups associated with ideologically motivated violent extremism in Australia, such as various white supremacist groups and Freeman on the Land actors, have had international linkages for decades.⁵⁶ Yet the Internet has greatly enhanced these actors’ capabilities to conduct outreach and recruit new supporters. For example, a subset of violent neo-Nazis across the globe, including in Australia, who subscribe to accelerationism, such as The Base, have used the Internet to recruit individuals with the intent of eventually having them commit acts of violence.⁵⁷

⁵⁰ An illustrative example is the Q Society (not to be confused or associated with the QAnon movement), an organization dedicated to anti-Muslim and anti-Islam advocacy. See Daniel Piotrowski, “Revealed: The secretive Q Society’s battle against Islam”, News.com.au, 26 June 2014.

⁵¹ Australian Associated Press, “Reclaim Australia in ASIO’s sights, intelligence chief tells senators”, *The Guardian*, 18 October 2016; Jennifer Russell and Australian Associated Press, “Violence erupts at Bendigo mosque protest as the Australian flag is burnt and police are forced to intervene with capsicum spray”, *Daily Mail*, 29 August 2015.

⁵² For an overview of the Proud Boys, see Southern Poverty Law Center, “Proud Boys”. For an illustrative example of potentially violent Proud Boys activity in Australia, see Michael McGowan, “Australian Proud Boys filmed threatening critics at a business and a home”, *The Guardian*, 11 February 2021.

⁵³ Tzvi Fleischer, “Sounds of hate”, *The Review*, vol. 25, No. 8 (August 2000).

⁵⁴ Claudia Poposki and Holly Hales, “Inside the bikies’ den: Fourth Reich gang clubhouse is raided by police as officers search members wearing jackets emblazoned with Nazi Swastikas”, *Daily Mail*, 10 August 2018.

⁵⁵ Kaz Ross, “Far-right groups have used COVID to expand their footprint in Australia: here are the ones you need to know about”, *The Conversation*, 11 December 2020; Eden Gillespie, “The rise of ‘Sovereign people’ and why they argue laws don’t apply to them”, Special Broadcasting Service (Australia), updated 13 August 2021.

⁵⁶ Champion, “A ‘lunatic fringe?’”; Anti-Defamation League, “The lawless ones: the resurgence of the Sovereign Citizen movement – an Anti-Defamation League Special Report” (August 2010).

⁵⁷ Jason Wilson, “The Base: Exporting accelerationist terror”, Hatewatch (Southern Poverty Law Center), 12 August 2020; AlexMann and Kevin Nguyen, “The Base tapes”, Australian Broadcasting Corporation, 25 March 2021.

Within this context, authorities have conducted investigations into ideologically motivated violent extremism in all of the states and territories of Australia.⁵⁸ Excluding incidents of street violence, authorities had successfully interdicted 7 out of 11 cases before the potential onset of violence. Organizationally, those 11 cases had involved either groupuscules (two to four individuals) or lone-actor organizational structures.⁵⁹ Although information about these cases suggests that ideologically motivated violent extremist activity has been overwhelmingly characterized by low levels of operational and technical sophistication,⁶⁰ a 2020 threat assessment by the Australian Security Intelligence Organisation (ASIO) suggests that that is changing.⁶¹ The low level of operational sophistication also suggests that ideologically motivated violent extremist attacks in Australia are likely self-funded.

Another important feature of ideologically motivated violent extremism in Australia is the demographic background of the perpetrators themselves. Earlier manifestations of violent white supremacy, for example, the firebombing plots and activity of formal groups such as the Australian Nationalist Movement in the 1990s and mid-2000s, were conducted by older males with blue-collar socioeconomic backgrounds. At the moment, it appears that individuals involved in ideologically motivated violent extremism, while still predominantly male, are younger and better educated than their predecessors.⁶²

These high-profile cases of violence may represent a much larger phenomenon frequently manifested in lower-profile hate crimes, including homicides, non-fatal assaults and attacks against property. Only 21 individuals are thought to have been prosecuted under hate crime statutes since the statutes were enacted in the 1990s.⁶³ However, the actual prevalence of such crimes is unclear, as Australia lacks a national hate crime database, which makes consistent nationwide tabulations, and generalizable inferences based on them, difficult.⁶⁴

A final aspect of the threat landscape in Australia, worth noting, relates to the potential associations between groups and movements associated with ideologically motivated violent extremism and members of Australia's military. The presence of ideologically motivated violent extremism within the military, to whatever extent it exists, may intersect with the emerging issue of the involvement of Australian ideologically motivated extremists in foreign conflicts. In 2018, in two of the five known cases

⁵⁸ Mike Burgess, Director-General of ASIO, "Director-General's annual threat assessment" (statement), Canberra, 17 March 2021. For more information, see Lydia Khalil, Submission to the Parliamentary Joint Committee on Intelligence and Security: inquiry into extremist movements and radicalism in Australia" (February 2021). Since September 2014, when the national terrorism threat level was raised to "probable", two counter-terrorism disruption operations have related to ideologically motivated violent extremism.

⁵⁹ Four of the cases, including two high-profile incidents in 2016 and 2020, involved white supremacists. One case in 2013 involved a former member of the Australian military, who was arrested with firearms and material for constructing an explosive device. Relative to other violent extremist actors, such as Al-Qaida and Da'esh operatives and associates, planned violence involving far-right actors appears to be operationally and technically simple. As of late, this appears to be changing. The fifth case involved a Sovereign Citizen extremist who communicated violent threats and violated firearms regulations.

⁶⁰ Arguably the one exception to this observation seems to be Christopher James Gray, a white supremacist and former military service member who was in possession of viable explosive devices at the time of his arrest.

⁶¹ Anthony Galloway, "More organized, sophisticated and security conscious than before: right-wing extremist threat growing," *The Sydney Morning Herald*, 30 August 2020.

⁶² Burgess, "Director-General's annual threat assessment". In his assessment, Burgess noted: "More often than not, they [Australians linked to ideologically motivated violent extremism] are young, well-educated, articulate and middle class – and not easily identified. The average age of these investigative subjects is 25, and I'm particularly concerned by the number of 15- and 16-year-olds who are being radicalized."

⁶³ Hagar Cohen and Scott Mitchell, "Hate crime laws rarely used by Australian authorities, police figures reveal", Australian Broadcasting Corporation, 2 May 2019.

⁶⁴ Davide Schiappapietra, "Australia has no national hate crime database, but here's how to build one", Special Broadcasting Service-Italian, 19 March 2019. Extant data from a 2018 study on 88 suspected anti-LGBTQ-motivated homicides in New South Wales found that, in terms of weapons used for the attacks, "many were brutal, including stabbings, strangulation, bludgeoning, shooting, sexual assaults and frenzied attacks". The study also noted that attacks were organizationally mediated by large groups (five or more persons), groupuscules (two to four persons) and individuals. Given the data-related issues associated with the tracking of hate crime in Australia, it is unclear how representative these findings are across other targeted groups and geographic locations. See AIDS Council of New South Wales (ACON), *In Pursuit of Truth and Justice: Documenting Gay and Transgender Prejudice Killings in NSW in the Late 20th Century* (Surry Hills, New South Wales, Australia, 2018).

involving Australian nationals who had travelled to fight in a foreign conflict, the Australian nationals were identified as former military personnel.⁶⁵ More broadly, research has found a high incidence of anti-Islam attitudes among Australian Defence Force service members.⁶⁶ While problematic, such bias does not automatically equate to ideologically motivated violent extremism. However, such attitudes may provide a potential entry point into deeper engagement with that form of extremism.⁶⁷

2.2 Canada

2.2.1 Canada: main movements and groups

The Government of Canada has adopted terminology differentiating between religiously motivated violent extremism, politically motivated violent extremism and ideologically motivated violent extremism.⁶⁸ In contemporary Canada, terrorism on the basis of xenophobia, racism and other forms of intolerance has been grouped under the umbrella category of ideologically motivated violent extremism.⁶⁹

Adherents of ideologically motivated violent extremism in Canada are driven by a range of grievances, ideas and narratives, including conspiracy theories. The resulting world view consists of personalized narratives that centre on the willingness to incite, enable and mobilize to violence, including to achieve societal change. These narratives include the protection of the white race, loss of confidence in institutions, the pending collapse of society through civil war or race war, and hatred of women and the LGBTQI community.

Although unique in many ways, the landscape of ideologically motivated violent extremism in Canada is inextricably linked to narratives and influences emanating from other Member States. Compounded by the COVID-19 pandemic and the rapid spread of conspiracy theories online,⁷⁰ ideologically motivated violent extremist narratives that normalize and advocate violence have amplified the threat of such extremism. Common conspiracy theories among ideologically motivated violent extremists in Canada are linked to antisemitism, QAnon and opposition to COVID-19-related lockdown and vaccination and 5G technology.

The Government of Canada identifies four subcategories of ideologically motivated violent extremism: xenophobic, anti-authority, gender-driven and “other” grievance-driven violence.⁷¹ As in other Member

⁶⁵ Sean Rubinsztein-Dunlop, Suzanne Dredge and Michael Workman, “From neo-Nazi to militant: the foreign fighters in Ukraine who Australia’s laws won’t stop”, Australian Broadcasting Corporation, 7 May 2018. One individual, a former army soldier, had previously been a member of a formal neo-Nazi group, Right Wing Resistance, while the other, a former Air Force service member, had displayed social media information suggesting far-right sympathies.

⁶⁶ Jennifer Percival, “It’s no OK: white supremacy and Australia’s security services”, The Interpreter (Lowy Institute), 16 June 2020.

⁶⁷ John Stewart, “Army battalion identified as having neo-Nazi links”, Australian Broadcasting Corporation, 19 December 2000.

⁶⁸ With respect to the landscape of ideologically motivated violent extremism, the traditional terms “right-wing extremism” and “left-wing extremism” did not accurately reflect the complexity of the threat landscape and were overly politicized. Canada, House of Commons, 43rd Parliament, 2nd session, “Standing Committee on Public Safety and National Security”, Evidence No. 29 (12 May 2021).

⁶⁹ Canada, Canadian Security Intelligence Service (CSIS), CSIS Public Report 2020 (Ottawa, 2021), pp. 26–27. To be clear, the term “ideologically motivated violent extremism” is inclusive of, but not limited to, actors and ideologies that would fall under most scholarly definitions of “far-right.” For example, it also includes actors who are motivated by extreme misogyny, which many (but not all) terrorism scholars do not classify as far-right, per se. Anti-authority extremism, although typically defined in the scholarly literature on extremism and political violence in Canada as “far-right”, could, under the definition of ideologically motivated violent extremism used by CSIS, also be inclusive of anarchists holding left-leaning political beliefs. The terminology discussed is operationally focused. The criminal law of Canada does not use such terminology but focuses on political, religious or ideological purposes, objectives or causes (Criminal Code of Canada, sect. 83.01(1)(b)(i)(A)).

⁷⁰ Conspiracy theories and narratives are an essential element of violent extremist world views. They are commonly used as a narrative tool to demonize out-groups, victimize in-groups, delegitimize dissent and counternarratives, and encourage individuals to turn to violence for the purpose of “self-defence”. These narratives, combined with personal grievances and national dynamics, are commonly cited as sources of motivation by adherents of ideologically motivated violent extremism who have mobilized to violence.

⁷¹ CSIS, “CSIS public report 2019” (Ottawa, 2020).

States discussed in this manual, these categories are not silos, and threat actors may be motivated by more than one grievance or shift from one to another. The subcategories are as follows:

- (a) *Xenophobic violence*, defined as the fear or hatred of what is perceived to be foreign, different or strange, which leads to racially motivated or ethnonationalist violence. This has traditionally been referred to in the Canadian context as white supremacist or neo-Nazi violence;
- (b) *Anti-authority violence*, defined as opposition to, or rejection of, the authority of the State which leads to anti-Government violence, including violence against law enforcement personnel;
- (c) *Gender-driven violence*, defined as hatred of persons of a different gender and/or sexual orientation that can lead to violent misogyny and violence directed at LGBTQI persons, for example, people who identify themselves as incels;
- (d) *Other grievance-driven violence*. This subcategory includes violence perpetrated by a broad range of potential threat actors who have no clear affiliation to an organized group or external guidance, but who are nevertheless influenced by online echo chambers through which hate is normalized and violence is advocated.

2.2.2 Canada: contemporary threats

The current threat environment in Canada in relation to ideologically motivated violent extremism is both fluid and rapidly evolving but continues to result in acts of serious violence. Since 2014, lone Canadian threat actors, motivated in whole or in part by their ideological views, have killed 26 and wounded 40 individuals on Canadian soil across seven violent incidents, and Canadian threat actors also engaged in two plots that were disrupted.⁷² Of those plots, only the plot to commit a mass shooting at the Halifax Shopping Centre in Halifax, Nova Scotia, was the work of a cell.⁷³ In situations where perpetrators have acted alone without a clear affiliation to an organized group or external guidance, their actions were nevertheless shaped by their experiences within echo chambers of hate online.

In Canada, the threat landscape of ideologically motivated violent extremism has been shaped by several notable features. First, traditional ideologically motivated violent extremist groups with defined leadership and objectives have given way to more loosely networked movements with amorphous goals.⁷⁴ Online and real-life movements focusing on concepts rather than on a centralized organization continue to emerge. While a movement may collectively hold extreme views, only a small portion of its members may be willing to engage in serious violence.

Second, age does not appear to be a determining factor for individuals who desire to engage in the ideologically motivated violent extremist environment.⁷⁵ In fact, youth are capable of comprehending complex texts that are deemed foundational for many extremist world views. Youth are also vulnerable to ideologically motivated violent extremist viewpoints as a result of targeted radicalization and recruitment online through new social media apps, meme culture and attractive propaganda. However, the decentralized and predominantly online nature of the ideologically motivated violent extremist space enables youth to obfuscate their identities and ages and exaggerate or fabricate their capabilities.

⁷² CSIS, unclassified information derived from classified CSIS intelligence assessments.

⁷³ Blair Rhodes, "Woman convicted in Valentine's Day Halifax mall plot loses appeal", CBC News, 29 May 2019.

⁷⁴ A movement is a loosely organized collection of individuals linked by dense informal networks, both online and offline, while sharing a distinct collective identity. Movements involve conflictual relations with identified groups and tend to mobilize outside institutions with the goal of carrying out, resisting or undoing social change, possibly through the use of violence; CSIS, unclassified information derived from classified CSIS intelligence assessments.

⁷⁵ CSIS, unclassified information derived from classified CSIS intelligence assessments.

Third, special events such as elections provide an opportunity, particularly for those holding ethno-nationalist or anti-authority views, to promote conspiracy theories and other extreme narratives. These include claims of government corruption, “tyrannical” limitations on personal freedoms and control of the Canadian economy and mainstream media by international forces. Other narratives focus more on the loss of “traditional values” and the perceived negative influences of immigration.⁷⁶ Other special events, such as the summits of the Group of Seven or the Group of 20 and the Olympic Games, represent an opportunity for threat actors with grievances spanning a wider spectrum. Further to this, the COVID-19 pandemic continues to impact extremists from across the landscape of ideologically motivated violent extremism, emboldening them to promote their messages and, on occasion, engage in violence. The COVID-19 pandemic has exacerbated xenophobic anti-authority narratives online that have resulted in both acts of protest in violation of public order and serious acts of violence. Recent examples of this are the protest by some truckers that took place in downtown Ottawa, Ontario, from late January to late February 2022, which created turmoil for those living or working in the downtown area, and the blockades of international border crossings during the same period at the Ambassador Bridge in Windsor, Ontario, at Coutts, Alberta, where four men were charged with conspiracy to commit murder, and at the Pacific Highway border crossing in British Columbia.

In Canada, the rights to free expression, protest and dissent are guaranteed under the Canadian Charter of Rights and Freedoms, which forms part of the Constitution of Canada. Under the Charter, these rights are subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. For this reason, the online amplification of extreme views linked to racism, bigotry and misogyny, as well as sources of propaganda such as books, music, videos and online discussions, often do not constitute criminal offences unless they fall within the scope of the three hate propaganda offences in the Criminal Code. Moreover, although extreme and polarizing narratives do not usually manifest themselves as acts of violent criminal behaviour, they have the potential to undermine the fabric of Canadian society, including democratic processes. Although few adherents of ideologically motivated violent extremism are radicalized to become potentially violent threat actors, the ability to identify those few within online communities hosting potentially tens of thousands of adherents from all over the world remains a challenge.⁷⁷

A 2021 study⁷⁸ found that right-wing extremist accounts had been more active in 2020 than in 2019.⁷⁹ The study noted increases in the amount of content produced by right-wing extremist communities on the anonymous imageboard website 4chan (by 66.5 per cent) and on Facebook (by 8.2 per cent) and found that holders of active right-wing extremist Twitter accounts had sent more than double the amount of extremist messages in 2020 than in 2019.

The study also found that the COVID-19 pandemic had had a significant impact on right-wing extremist activity in 2020. The study found that the pandemic had been the most widely discussed topic across the communities analysed, accounting for 38.8 per cent of all messages that could be categorized by topic, with output often focusing on conspiracy theories and manifesting in anger against the government.⁸⁰

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Mackenzie Hart and others, *An Online Environmental Scan of Right-wing Extremism in Canada* (London, Institute for Strategic Dialogue, 2021), pp. 2–5. The study defined right wing extremism as “a loose movement, characterized by a racially, ethnically and sexually defined nationalism. The nationalism is often framed in terms of white power, and is grounded in xenophobic and exclusionary understandings of the perceived threats posed by such groups as people of colour, Jews, immigrants, the LGBTQI community and feminists” (p. 11).

⁷⁹ The data represent actors exercising constitutionally free speech that might not constitute criminal offences, despite the content itself being offensive (Mackenzie Hart and others, *An Online Environmental Scan of Right-wing Extremism in Canada*, p. 5).

⁸⁰ Ibid.

The potential for extremist infiltration and recruitment in the military services is another issue that has relevance for Canada in its efforts to confront ideologically motivated violent extremism. Canada has had to address such extremism within its armed services on multiple occasions.⁸¹ In 2012, the Canadian Forces National Counter-Intelligence Unit warned military officials that white supremacists were infiltrating and recruiting from their ranks.⁸² The Three Percenters and the Soldiers of Odin, previously active in Canada, have drawn rank-and-file support from reservists and veterans, while the anti-Muslim extremist group La Meute was founded by three former military members. Canadian military service members have also joined terrorist groups or committed acts of violence.⁸³ Criminal justice officials have raised similar concerns with respect to the ideologically motivated violent extremist presence within law enforcement institutions.⁸⁴ This development is particularly notable within the Canadian contexts because, while there has been growing attention paid to violent extremism in the armed forces, comparatively little is known about the extent of such extremism within law enforcement institutions.⁸⁵

2.3 Germany

2.3.1 Germany: main movements and groups

Like many other Member States, during the last decade, Germany experienced an overall increase in the levels and visibility of right-wing violent extremism. In the following sections, the terms “right-wing extremism” and “right-wing violent extremism” are used to describe the movements and groups in Germany associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. The main ideological movements associated with right-wing extremism in Germany promote variants of neo-Nazi, white supremacist and xenophobic ideology, which focus mainly on maintaining or restoring (what the adherents see as) the ethno-religious homogeneity of German society and state. Thus, it is not surprising that, in the last few years, violence against immigrants has become the most common manifestation of right-wing extremist violence in Germany, a trend that was intensified with the arrival to Germany of more than a million refugees from the civil war in the Syrian Arab Republic. Violence against immigrants is an important topic of consideration but, as is discussed later in this manual, antisemitic attacks and other criminal engagements are also part of the violent landscape associated with right-wing extremism in Germany.⁸⁶

⁸¹ As early as in the 1990s, Matt McKay and Nathan LeBlanc were two high-profile examples of far-right sympathizers who committed acts of violence while they were actively on duty or shortly after they were discharged. David Pugliese, “Canadian Forces warned of possible infiltration by white supremacist group”, *Vancouver Sun*, 17 June 2012; Clyde H. Farnsworth, “Canada investigates reported ties of rightist militants and military”, *The New York Times*, 17 May 1993. For a broader discussion, see Network for Research on Hateful Conduct and Right-Wing Extremism in the Canadian Armed Forces, “The RWE-CAF Research Network: examining policy-relevant issues on hateful conduct and right-wing extremism in the Canadian Armed Forces”. Available at <https://sites.ontariotechu.ca/rwe-caf/index.php>.

⁸² Pugliese, “Canadian Forces warned of possible infiltration by white supremacist group”.

⁸³ Murray Brewster, “Ranger who backed far-right groups to be dropped from reserves within weeks, says commander”, Canadian Broadcasting Corporation News, 11 September 2020. For example, in 2019, Patrik Mathews, at the time an army reservist, disappeared after a local newspaper reported that he had been recruiting on behalf of the neo-Nazi group The Base, which advocates terrorist violence and whose members have been arrested for violations related to ideologically motivated violence and planning. Mathews was arrested, along with two other associates from The Base, several months later in the United States. (Canadian Broadcasting Corporation News, “U.S. prosecutors want former Manitoba reservist sentenced to 25 years”, 4 October 2021.) Mathews had pled guilty to gun charges related to a neo-Nazi plot to instigate a race war in the United States and was sentenced to nine years in prison (Canadian Broadcasting Corporation News, “U.S. judge sentences Manitoban ex-reservist Patrik Mathews to 9 years in prison for role in neo-Nazi plot”, 28 October 2021); Canadian Broadcasting Corporation News, “‘We have to be neutral’: Canadian Forces warn members affiliated with radical groups”, 4 October 2017; Mack Lamoureux, “Armed man who allegedly stormed Trudeau’s residence appears to have posted QAnon content”, *Vice News*, 3 July 2020.

⁸⁴ Alex Boutillier, “Public safety minister acknowledges threat of white supremacist infiltration to Canada’s police forces”, *Toronto Star*, 25 June 2021.

⁸⁵ *Ibid.*

⁸⁶ Daniel Koehler, “Recent trends in German right-wing violence and terrorism: what are the contextual factors behind ‘hive terrorism?’”, *Perspectives on Terrorism*, vol. 12, No. 6 (December 2018).

Several ideological movements and political parties seem to be the main facilitators of right-wing extremist violence in Germany, even though most of the recent severe attacks were committed by lone agents. In Germany, a substantial number of perpetrators of violent attacks affiliated to right-wing extremist groups appear to have been radicalized following the consumption of propaganda materials and participation in rallies produced and organized by the Patriotic Europeans against the Islamization of the Occident (Patriotische Europäer gegen die Islamisierung des Abendlandes (PEGIDA)). This social grassroots movement emerged as a result of popular opposition to the willingness of the Government of Germany to absorb a high number of immigrants and refugees from the conflict in the Syrian Arab Republic. Starting in 2015, PEGIDA organized numerous rallies and demonstrations all over Germany.⁸⁷ In many cases, such rallies triggered and inspired attacks against minorities, immigrants and refugees. Moreover, it seems that PEGIDA rallies served as a recruitment reservoir for some neo-Nazi associations.⁸⁸ Another group whose formation was linked to the anti-immigrant demonstrations organized by PEGIDA was Gruppe Freital, a vigilante group based in the town of Freital, near Dresden, Germany, whose members were convicted in 2018 for founding a terrorist organization involved in multiple attacks against immigrants and refugees.⁸⁹

An additional ideological movement that is substantially less influential is Reichsbürger (“Citizens of the Reich”). Highly decentralized and, in many cases, lacking a formal organizational infrastructure, Reichsbürger promote conspiracy narratives, for example, that the Federal Republic of Germany is illegitimate since it never signed a peace agreement with the allies following the Second World War and that basic German law requires a popular referendum for the Government to be transformed into a legal and legitimate source of authority.⁹⁰ Only 5 per cent of the approximately 20,000 individuals who identify themselves as Reichsbürger can be considered right-wing violent extremists. In October 2016, for example, a supporter of the movement killed a police officer and hurt three others in the town of Georgensgmünd, Germany, when police officers attempted to enforce the withdrawal of his firearms licence.⁹¹

The potential role of right-wing extremist political parties in facilitating right-wing extremist radicalization and violence is an ongoing debate among scholars and judicial authorities in Germany. While parties such as Die Rechte (The Right) and Der Dritte Weg (The Third Way) were never able to gain meaningful electoral support, that was not the case for the National Democratic Party of Germany (Nationaldemokratische Partei Deutschlands (NPD)), which was recognized by many as a promoter of neo-Nazi ideas, especially those relating to opposition to immigrants and minorities, and German

⁸⁷ Jörg Michael Dostal, “The Pegida movement and German political culture: is right-wing populism here to stay?”, *The Political Quarterly*, vol. 86, No. 4 (2015); Counter Extremism Project, “Germany: extremism and terrorism”. Available at www.counterextremism.com/countries/germany.

⁸⁸ In 2015, a collaboration between local neo-Nazis and protesters from the group Patriotic Europeans against the Islamization of the Occident (PEGIDA) led to the formation of a group in Dresden (Freie Kameradschaft Dresden) that planned multiple attacks against refugees in order to “bundle the national forces in and around Dresden in order to plan events together, as a closed group, to implement spontaneous actions, to achieve goals and to support other national alliances”. See Johann Stephanowitz, Deutsche Press Agentur and Agence France Presse, “Landgericht Dresden verhängt Haftstrafen gegen Rechtsextremisten”, *Zeit Online*, 17 January 2020 (in German).

⁸⁹ Jeannette Cwienk, “Germany: ‘Freital Group’ members found guilty of terror-related crimes”, *Deutsche Welle* (English), 7 March 2018.

⁹⁰ Jan-Gerrit Keil, “Zwischen Wahn und Rollenspiel – das Phänomen der „Reichsbürger“ aus psychologischer Sicht”, in *„Reichsbürger“ – Ein Handbuch*, Dirk Wilking, ed. (Postdam, Germany, Demos – Brandenburgerisches Institut für Gemeinwesenberatung, 2015) (in German).

⁹¹ Germany, Federal Ministry of the Interior and Community, *Brief Summary: 2019 Report on the Protection of the Constitution – Facts and Trends* (Berlin, 2020). In August of that year, an attempt by the police to evict a member of Reichsbürger from his home was met with resistance when other Reichsbürger members joined him and threw stones at the officers. The 41-year-old resident then started shooting and injured three police officers. Lastly, in October 2016, four police officers who raided the home of a Reichsbürger member faced armed resistance when the perpetrator, hiding in the bedroom with a gun and wearing a bulletproof vest, shot the police officers through the door. One officer died from three bullet wounds, another was shot in the arm and the remaining two were injured by flying glass. See Jacob Aasland Ravndal and others, “RTV trend report 2021: right-wing terrorism and violence in Western Europe, 1990–2020” (Oslo, Centre for Research on Extremism: the Extreme Right, Hate Crime and Political Violence, University of Oslo, 2021).

territorial expansionism.⁹² NPD has lost electoral support in recent years. Since 2001, two attempts to ban the party have failed on procedural grounds and on grounds of proportionality. According to the Federal Constitutional Court, although NPD seeks to overthrow the existing free democratic basic order, the necessary evidence that the party could actually do so is lacking. In 2017, however, an amendment to the constitution (designated as the Basic Law, or *Grundgesetz*) made it possible to exclude parties from State financing. Proceedings to exclude NPD from State financing are currently ongoing.

There are also some indications of a growing collaboration between German and foreign right-wing violent extremist organizations in the context of mixed martial arts competitions.⁹³ The German events *Kampf der Nibelungen*, *Tiwaz* and the *Schild und Schwert Festival* (Shield and Sword Festival) usually attract an international audience. Combat 18 is an example of a group with limited cross-border collaboration. The group originated in the United Kingdom and was formerly present in at least six states in Germany. Charges were pressed against members of Combat 18 Deutschland in 2017 for transferring ammunition to Germany without the necessary licence. Combat 18 Deutschland was banned by the Ministry of the Interior of Germany in January 2020.⁹⁴ The ban was accompanied by a series of raids.

The influence of the pan-European Identitarian movement also seems to enhance collaboration between German and foreign right-wing extremist associations. The movement, which has several hundred supporters in Germany, espouses the protection of Europe's identity from Islamization and foreign cultural and demographic influences, including globalized universal liberalism.⁹⁵ The German members of the movement mostly engage in publicity activities aimed at attracting attention, such as scaling the Brandenburg Gate in August 2020.

Lastly, it is important to note two additional trends that are global in nature but manifest themselves within Germany. First, as reported by several Member States examined in this manual, the spread of COVID-19 provided a new space for the dissemination of conspiracy theories and anti-government activities, which were exploited by right-wing violent extremist movements all over the world, including in Germany. In April 2021, the Federal Office for the Protection of the Constitution announced that intelligence agencies would monitor the efforts of anti-lockdown activists to undermine the legitimacy of the Government of Germany as a source of authority.⁹⁶ This type of discourse seems to not only focus on promoting far-right violent extremism but to directly challenge the authority of the federal Government.

The second trend is the transition of groups that at first existed exclusively on online platforms to violent activism in the "real world". For example, the Oldschool Society began as an online network consisting of members who expressed hatred for migrants on social media. In November 2014, nine members of the Society were discovered to have engaged in logistical preparations for the bombing of refugee homes and mosques.⁹⁷

⁹² In the last several years, multiple violent incidents and plots involved individuals associated with these parties. In June 2019, Walter Lübcke, a member of the Christian Democratic Union party and the Hessen district president, was assassinated by Stephan Ernst, a neo-Nazi and former member of the National Democratic Party of Germany. In October 2019, a far-right extremist attacked a synagogue in Halle, Germany, and killed and injured several bystanders. In February 2020, a far-right extremist shot nine people with migrant background in Hanau, Germany.

⁹³ Karim Zidan, "RAM's revival and the ongoing struggle against MMA's far-right fight clubs", *The Guardian*, 27 November 2019.

⁹⁴ Deutsche Welle, "Raids in 6 states as Germany bans 'Combat 18' neo-Nazi group", 23 January 2020; Counter Extremism Project, "Germany: extremism and terrorism".

⁹⁵ José Pedro Zúquete, *The Identitarians: The Movement against Globalism and Islam in Europe* (Notre Dame, Indiana, United States, University of Notre Dame Press, 2018); Ben Knight, "A guide to Germany's far-right groups", *Deutsche Welle*, 16 June 2017.

⁹⁶ As stated clearly by the Minister of the Interior of Germany, Horst Seehofer, "Right-wing extremists are trying to take control [of the lockdown protests] and what we cannot tolerate at all is violence." See Ivana Kottasová and Nadine Schmidt, "Germany puts anti-lockdown group under surveillance for possible extremist ties", *CNN*, 29 April 2021.

⁹⁷ Lizzie Dearden, "German police investigating 'neo-Nazi terror plot' after bomb branded with swastika discovered", *The Independent*, 14 January 2017.

2.3.2 Germany: contemporary threats

Although agencies and organizations in Germany utilize various methods to measure far-right violent extremism and use various definitions of hate crime, hate activity and politically motivated violence, the overall trend is similar. As in several other Member States, there has been a notable rise in far-right violent extremist activity in Germany in recent years.⁹⁸

According to official reports of the Federal Office for the Protection of the Constitution,⁹⁹ the most significant rise in activity occurred in 2015, when the number of right-wing extremist criminal and violent offences increased to almost 22,000, from 16,559 in 2014, increasing further to 22,471 in 2016. In 2017, following a small decline, the number of offences stabilized at about 19,500, but rose again in 2019 and 2020. In 2019, according to official reports of the Federal Office, 21,290 right-wing extremist offences were recorded, and in 2020, more than 22,357 such offences were recorded. Of equal concern is the increase in violent right-wing extremist crimes, which numbered less than a thousand (925) in 2019 and rose to 1,023 in 2020.¹⁰⁰ It is important to note that the data used in the official reports, collected by the German police, do not exclusively focus on violent crimes against people.

These data are in line with the inroads that grassroots movements such as PEGIDA and the Reichsbürger movement have made into German society. In 2015, the Federal Office for the Protection of the Constitution estimated that the right-wing extremist scene had around 22,600 members and supporters. That number rose to 32,080 in 2019 and to 33,300 in 2020. The growing dominance of social movements that offer ideological legitimacy for violence facilitates less organized and more independent violent activism. While some right-wing extremist violence in Germany is still perpetrated by long-time members of far-right violent extremist groups, a substantial portion of the most recent incidents were perpetrated without clear advance planning and by individuals whom the security forces could not trace back to specific far-right violent associations.¹⁰¹

Contemporary acts of violence emanating from the right-wing extremist scene in Germany mainly involve attacks against immigrants and refugees, a trend that is in line with right-wing extremist ideology. Secondary but still popular targets are Jewish communities and institutions, as well as LGBTQI persons. Violence emanating from the right-wing extremist scene in the country is also influenced by the practices of organizations in other Member States. In January 2019, it was uncovered that NPD members had formed vigilante patrols in the town of Amberg in Bavaria, Germany, in response to a series of violent attacks by asylum-seekers. NPD had posted on social media pictures of its members patrolling the town wearing vests labelled “We’re creating safe zones”.¹⁰² Similar activities also led to the banning of a neo-Nazi group by the name of Nordadler (“Northern Eagles”). The group had planned to re-establish a National Socialist State and had started a neo-Nazi settlement project in rural areas. This attempt by Nordadler is not unique to far-right violent extremists in Germany.¹⁰³ Lastly, Germany, like several other

⁹⁸ Joseph Nasr, “Far-right crime hits record high in Germany”, Reuters, 4 May 2021.

⁹⁹ In Germany, the police collect nationwide data on politically motivated crime, including hate crimes. Data collection is based on a code of practice, guidelines and instructions. These were coordinated and agreed between the German federal Government and the governments of the German Länder (federated states) in working groups that are part of the standing conference of the Ministers of the Interior.

¹⁰⁰ Data from the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, which uses a more restrictive definition of hate crime, show similar trends. While in 2015, the number of hate crimes recorded by the German police was 3,046, in 2017, the number more than doubled (7,913), and in 2019 reached a new record of 8,585 hate crimes.

¹⁰¹ Koehler, “Recent trends in German right-wing violence and terrorism”.

¹⁰² Chase Winter, “Police refute claims of far-right patrols after migrant attacks”, Deutsche Welle, 3 January 2019.

¹⁰³ Comparable examples can be found in other Member States, such as the United States. In the United States, the former Aryan Nations similarly attempted to develop rural compounds and an all-white National Socialist state in the Pacific Northwest of the United States. See Robert W. Balch, “The rise and fall of Aryan Nations: A resource mobilization perspective”, *Journal of Political and Military Sociology*, vol. 34, No. 1 (2006), pp. 81–113.

Member States, has also considered the potential of right-wing extremist infiltration and recruitment within certain security authorities and sectors. In 2020, the country developed a situation report on the topic.¹⁰⁴

2.4 Norway

2.4.1 Norway: main movements and groups

In Norway, the terms “right-wing extremism” and “right-wing terrorism” are used in reference to several of the groups and movements associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. The enemy stereotypes of right-wing violent extremist ideology in Norway are often Muslims, non-Western immigrants, Jews, LGBTQI communities, the traditional media and those on the political left. Other potential targets are politicians and representatives of State authorities who are perceived as facilitating immigration and helping to destroy the white race and its culture.

In 2001, several of the right-wing violent extremist milieus in Norway collapsed after the racially motivated assassination of Benjamin Hermansen. The assassination, by members of the neo-Nazi group named the Boot Boys, was massively condemned, and extensive preventive efforts were initiated by the police and the Norwegian Police Security Service (PST). In 2003, the Boot Boys group was dissolved. Prior to 22 July 2011, right-wing violent extremism in Norway was predominantly regarded as a national phenomenon with a national focus. The identity of right-wing violent extremists was primarily rooted in the nation and the image of the perceived enemy was based on local factors. Right-wing extremist violence was mostly mere street violence committed against local enemies and resembled gang crime.

Since the terrorist attacks in Oslo and Utøya, Norway, on 22 July 2011,¹⁰⁵ however, and especially in recent years, right-wing extremism has become an increasingly transnational phenomenon with a transnational focus. Right-wing violent extremist groups appear to be drawing inspiration from each other and across borders.

Right-wing extremist groups have also developed networks and cooperation across borders, through both transnational organizations and events such as conferences and festivals. The Nordic Resistance Movement, for example, is a pan-Nordic organization with a clear hierarchical leadership structure. The Movement has leaders in each of the Member States in the Nordic region. The aim of the Movement is to establish a joint Nordic national socialist State by exerting a long-term influence over the population. The organization’s activities are non-violent but its propaganda expresses an acceptance of violence. The Nordic Resistance Movement has been publicly active in a few areas, organizing smaller-scale propaganda actions (for example, the dissemination of stickers and banners) and publicity stands in smaller Norwegian towns. The Movement is the first national socialist group to have been established in Norway since the assassination of Benjamin Hermansen in 2001. The Movement has become one of the most organized right-wing extremist groups in the Nordic region, but at present it has few adherents in Norway.

Overall, since 2020, the most prominent right-wing violent extremist milieus in Norway have focused on opposing Islam. Participants in these milieus perceive Islam as posing a threat to Norwegian values and culture. Several right-wing extremist groups claim that Islam is a totalitarian ideology that violates human

¹⁰⁴ See Germany, Bundesamt für Verfassungsschutz, *Rechtsextremisten in Sicherheitsbehörden Lagebericht* (Köln, September 2020). Available at www.verfassungsschutz.de/ (in German).

¹⁰⁵ The attacks represented the worst peacetime atrocity in Norway. The perpetrator murdered 77 people and injured over 300 people in two lone-wolf attacks, first detonating a bomb adjacent to several government buildings, including the Prime Minister’s office, killing eight people, then massacring 69 participants of the Workers’ Youth League of Norway at an annual summer camp on the small island of Utøya.

values and the Constitution of Norway. Currently, the most active right-wing extremist group is Stop the Islamization of Norway. The group has carried out a number of public demonstrations that have provoked bystanders, especially certain Muslims and activists from the political left.

Anti-Islam attitudes are increasingly being promoted by these groups on various digital platforms. As noted elsewhere in this manual, digital platforms play an important role in right-wing extremist activity. To date, there have been some right-wing extremist groups that have met in person in Norway, such as the groups discussed above, but such groups have tended to have far fewer members than their online counterparts.

Right-wing violent extremists also increasingly emphasize a “Western” rather than a national identity. This focus on a “Western” identity has paved the way for international right-wing extremist narratives and conspiracy theories such as the “Eurabia” and “Zionist occupied government” theories and, increasingly, the belief that there is a conspiracy to commit “white genocide” by means of the so-called “big replacement”. Supporters of this conspiracy theory argue that low birth rates among whites, together with high birth rates among non-white immigrants will, in the long term, lead to a demographic replacement that will ultimately render whites a demographic minority in the West.

2.4.2 Norway: contemporary threats

In Norway, the landscape of terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief is characterized by three key features. First, the terrorist threat from right-wing violent extremists in Norway is primarily posed by individuals. In cases where there is apparently no connection between the threat actor and extremist groups, it is often observed that the radicalization process, ideological basis and social network of the actors are based on participation in digital networks. The terrorist act itself might be carried out by one individual, but often, such lone terrorists have different types of affiliation with and, potentially, support from networks that are completely or partly digital. In many cases, digital networks have replaced physical meeting places. Applying the term “lone wolf” to such terrorists is thus usually misleading.¹⁰⁶

Digitalization has also notably added a new dimension to violent extremism. The Internet has increased both the geographical and numerical reach of violent extremist individuals and organizations. Extremist and violent extremist content found on digital platforms was a key motivation and inspiration for the perpetrators behind the attacks in Oslo and Utøya in 2011 and the attack in Christchurch in 2019.

For right-wing violent extremists in Norway, as in many other Member States, the Internet provides an important arena for promoting their ideas. In recent years, online platforms have been shown to facilitate network-building among extremists, and although technology companies are working to better address the misuse of their platforms, there is every sign that right-wing extremists will continue to exploit these platforms to some degree. Several platforms are publicly accessible and function as meeting places for violent right-wing extremist countercultures that oppose established norms and standards that they perceive as political correctness.

Right-wing violent extremist ideology makes use of memes, humour, clips from films and video games, and conspiracy theories. Transnational online platforms facilitate the rapid communication and sharing of large volumes of propaganda, which promotes group formation and dynamics. Communication on such platforms is often anonymous, with little or no censorship. The result is that violent extremist propaganda can become normalized, and the perceived enemy gradually becomes dehumanized.

¹⁰⁶ See Matthew Feldman, “Comparative lone wolf terrorism: toward a heuristic definition”, *Democracy and Security*, vol. 9, No. 3 (2013). For comparable examples of lone-wolf terrorism in other countries, such as the United States, see Mark S. Hamm and Ramón Spaaij, *The Age of Lone Wolf Terrorism*, Studies in Transgression Series (New York, Columbia University Press, 2017).

Some violent extremist movements in the United States, to an increasing extent, operate as a source of inspiration for right-wing violent extremists in Norway. Accelerationism is considered the most potent terrorist threat in the country.

As in other Member States, there is an overlap between right-wing violent extremist milieus physically and digitally. The Internet is, for instance, used as a platform for recruitment and to establish physical meeting venues, as well as contact with like-minded individuals online. Right-wing violent extremist ideas are distributed on various social media platforms and migrate to smaller or new platforms when major online platforms take action to address the exploitation of their sites.

Lastly, in Norway, as in other States examined in this manual, the COVID-19 pandemic has had a unifying effect on different right-wing violent extremist milieus. Anti-State ideas have increased in line with the resistance towards vaccines and infection control measures. Anti-State conspiracy theories such as the “new world order” and “deep State” theories, based on the idea that the world is governed by a secret, global elite, have also gained a foothold in Norway.

2.5 United Kingdom

2.5.1 United Kingdom: main movements and groups

The landscape of far-right violent extremism in the United Kingdom is fragmented and populated with a complex and diverse range of political parties, street movements and extremist organizations. To describe the diversity of actors that populate this landscape, the United Kingdom uses terminology such as “right-wing terrorism”, “far-right terrorism”, “extreme-right terrorism”, “violent right-wing extremism”, and “white supremacist terrorism”.¹⁰⁷ There are distinctions between these actors in terms of ideological outlook and operational activity but there are also important areas of interconnectivity between them that have relevance for manifestations of extreme far-right violence in the United Kingdom.

Broadly speaking, far-right political parties in the United Kingdom advocate ultra-nationalist, Eurosceptic and anti-immigration ideological perspectives. Of these parties, the British National Party (BNP) had a greater resonance among the far-right milieu, particularly until 2010. The party’s association with violent extremism is evidenced by convictions of members and individuals affiliated with it for violent and racially aggravated criminal offences. Prominent examples include the so-called “Soho bomber” David Copeland, who engaged in a bombing campaign in Soho, London, in 1999, killing three people and injuring another 140, and David Folley, who murdered an individual in an unprovoked racial attack in 2010. Several individuals linked to the party, including a former BNP political candidate, have been imprisoned for possession of explosive devices and firearms stored in preparation for a “race war”.¹⁰⁸ Against a backdrop of a global financial crisis, concern over immigration policies in the wake of conflicts abroad and the perpetration of terrorist attacks by actors in the United Kingdom inspired by and associated with Al-Qaida, BNP managed to attract more than half a million votes in the general election in 2010 before collapsing amid internal disputes and claims of corruption. Always operating on the fringes of the political system in the United Kingdom, any gains in electoral strength made by BNP in the last decade now appear to have dissipated.

¹⁰⁷ International Institute for Justice and the Rule of Law, *IJJ Criminal Justice Practitioner’s Guide: Addressing Racially or Ethnically Motivated Violent Extremism*.

¹⁰⁸ For example, Robert Cottage was jailed in 2007 for possessing explosive chemicals that he had been storing in anticipation of a civil war, and Terrence Gavan, a British National Party member, was convicted in 2010 of 22 offences relating to the possession of weapons, ammunition and explosives (BBC News, “Ex-BNP man jailed over chemicals”, 31 July 2007; Press Association, “BNP member given more 11 years for making bombs and guns”, *The Guardian*, 15 January 2010).

The nationalist and anti-immigration polemic of BNP has been shared by the more recently formed groups Britain First, the English Defence League (EDL) and National Action. The latter materialized in the vacuum in the far-right ideological environment created by the splintering of BNP and the disintegration of EDL in 2014. In this context, National Action quickly rose to prominence after staging antisemitic and pro-Nazi demonstrations and when a string of individuals associated with the group were convicted in 2014 and 2015 of violent criminal and hate crime offences.¹⁰⁹

Following the banning of National Action in 2016, far-right activists proceeded to set up new organizations espousing similar extremist agendas, including Scottish Dawn and National Socialist Anti-Capitalist Action (also known as NS131). These have been regarded by the Government of the United Kingdom as synonymous with National Action and subsequently also labelled as terrorist organizations.¹¹⁰ A further National Action offshoot groupuscule network, System Resistance Network, emerged in 2017 and former National Action activists also established the Sonnenkrieg Division and the Feuerkrieg Division. Influenced by the United States-based Atomwaffen Division, these neo-Nazi groups have adopted accelerationist and nihilistic world views that advocate violent conduct to de-stabilize society and invoke a “race war”. These groups, as well as the Atomwaffen Division and its alias, the National Socialist Order, have also been proscribed,¹¹¹ and some of them, although officially dissolved, have been assessed by the Government of the United Kingdom as remaining active.¹¹² In addition, other extremist neo-Nazi groups with links to wider transnational networks, including Blood and Honour and Combat 18, formerly the security arm of BNP, are part of the extreme far-right landscape in the United Kingdom.

It is important to note that the constellation of extreme far-right terrorist groups in the United Kingdom do not exist in a state of national isolation but form part of a wider international network of organizations. Combat 18 and Blood and Honour have a presence in other Member States. National Action activists have been reported to have connections with a foreign far-right militia organization¹¹³ and have also been associated with far-right violent extremist movements in the Baltic Sea States, Scandinavia and Germany.

As observed in other Member States, groups that espouse far-right violent extremist ideologies in the United Kingdom do not exist in isolation from broader far-right political parties and movements. There is a perceptible interconnectivity between the various groups occupying space in the far-right landscape in the country. Individuals move between different groups, and the operational activities and propaganda of far-right networks such as BNP, Britain First and EDL are capable of radicalizing individuals who later go on to be associated with more extreme groups and/or commit acts of extreme violence. For example, the leader of Britain First is a former BNP activist.¹¹⁴ A member of National Action who was convicted of terrorism offences in connection with a planned attack on Rosie Cooper, Member of Parliament, had been an activist in the Young BNP.¹¹⁵ Furthermore, an individual associated with the Sonnenkrieg

¹⁰⁹ BBC News, “Lee Rigby revenge attacker Zack Davies given life sentence”, 11 September 2015; Frances Perraudin, “Man jailed for antisemitic tweet to Labour MP”, 20 October 2014. Hate crime is defined by the Crown Prosecution Service as “any criminal offence which is perceived by the victim, or any other person, to be motivated by hostility or prejudice, based on a person’s disability or perceived disability, race or perceived race, religion or perceived religion, sexual orientation or perceived sexual orientation, or transgender identity or perceived transgender identity”.

¹¹⁰ United Kingdom, Home Office, “Further extreme right-wing groups banned in the UK”, press release, 28 September 2017. Section 3(6) of the Terrorism Act 2000 entitles the Home Secretary to specify by order that an alternative name or alias is to be treated as another name for a proscribed organization. Scottish Dawn and National Socialist Anti-Capitalist Action (NS131) were proscribed in September 2017 and System Resistance Network in February 2020.

¹¹¹ The Sonnenkrieg Division was proscribed in February 2020 and the Feuerkrieg Division in July 2020. The Atomwaffen Division and the National Socialist Order were proscribed in April 2021.

¹¹² United Kingdom, Home Office, “Policy paper: proscribed terrorist groups or organisations”, updated 26 November 2021.

¹¹³ Graham Macklin, “The evolution of extreme-right terrorism and efforts to counter it in the United Kingdom”, *CTC Sentinel*, vol. 12, No. 1 (January 2019), p. 16–17.

¹¹⁴ Matthew Feldman and Paul Stocker, “The post-Brexit far-right in Britain”, in *Violent Radicalisation and Far-Right Extremism in Europe*, Aristotle Kallis, Sara Zeiger and Bilgehan Ozturk, eds. (Istanbul, Seta Publications, 2018), p. 157.

¹¹⁵ Macklin, “The evolution of extreme-right terrorism”, p. 17.

Division, who was convicted of terrorism offences for encouraging an attack on member of the British royal family Prince Harry, joined National Action as a schoolboy.¹¹⁶ Similarly, online material posted by both the former leader of EDL and Britain First contributed to the radicalization of the perpetrator of the vehicle attack on Muslim worshippers outside a mosque in London in 2017.¹¹⁷

While the existence of centralized far-right networks and group affiliation are important for assessing the threat of far-right violent extremism in the United Kingdom, a greater threat is posed by lone actors and small cells, which often have no confirmed connection with an organization. An analysis of violent and terrorist attacks committed by far-right actors in the United Kingdom reveals that between 1991 and 2019 50 per cent of the 98 documented violent attacks planned and committed by far-right violent extremist actors in the United Kingdom involved individuals acting alone.¹¹⁸ A further 10 attacks were committed by small groups of two or three individuals.¹¹⁹ Moreover, there has been a noticeable increase in attacks committed by one perpetrator since 2007. Between 1991 and 2006, 14 per cent of violent far-right attacks were committed by lone actors, whereas between 2007 and 2019, lone actors accounted for 64 per cent of such attacks.¹²⁰ In the majority of those cases, there was no indication that the perpetrator had had a recognized affiliation with any far-right violent extremist group in the United Kingdom, suggesting that the perpetrators were likely to have been inspired by online networks that may or may not have been linked to those organizations, a development that represents a distinct challenge for law enforcement and counter-terrorism authorities. It is also evident that public officials and politicians have been the victims of targeted far-right criminality in the United Kingdom.¹²¹

2.5.2 United Kingdom: contemporary threats

Authorities in the United Kingdom have determined that the threat to national security posed by far-right extremism has increased significantly since 2014, to the extent that it represents the fastest-growing threat to security in the United Kingdom.¹²² As noted earlier, information extracted from the RTV dataset reveals that between 1991 and 2019 at least 98 violent and terrorist attacks were perpetrated by far-right sympathizers in the United Kingdom. Perpetrators were convicted of multiple criminal offences, including arson, murder and attempted murder, as well as possession of knives, explosives and chemical weapons. Excluding the bomb attack in Soho, London, in 1999, these attacks resulted in 32 fatalities and the wounding of 61 individuals. The figures would no doubt have increased if police and security officials had not successfully foiled at least 10 right-wing terrorist plots since 2017.¹²³

Responding to the evolution of the threat posed by far-right terrorism, the Home Office of the United Kingdom transferred responsibility for detecting extreme right-wing terrorist offences from the police to the Security Service (also known as MIS) in 2018, placing the terrorist risk posed by far-right terrorism

¹¹⁶ BBC News, “Teenage neo-Nazis jailed over terror offences”, 18 June 2019.

¹¹⁷ Lizzie Dearden, “Darren Osborne: how Finsbury Park terror attack became ‘obsessed’ with Muslims in less than a month”, *The Independent*, 2 February 2018.

¹¹⁸ The data discussed and analysed here are taken from Aasland Ravndal and others, “RTV trend report 2021”. It is important to note that there may have been more attacks, in particular non-fatal ones, that simply were not recorded in the RTV dataset, which was used for the analysis, and therefore are not discussed here. As stated in the RTV codebook: “We believe we are approaching sufficient coverage for making inferences about the entire universe of non-fatal but severe events from 2019 onwards. However, we are most likely not covering all such events.” (See Center for Research on Extremism, “Codebook for the right-wing terrorism and violence (RTV) dataset, 1990–2020” (Oslo, University of Oslo, 2021).)

¹¹⁹ Aasland Ravndal and others, “RTV trend report 2021”.

¹²⁰ Ibid The figures have been rounded up to the nearest whole percentage.

¹²¹ Patrick Grafton-Green, “Tommy Robinson protest: RMT boss Steve Headley attacked by mob at pub after speaking at counter-protest”, *Evening Standard*, 14 July 2018; Dayna Farrington, “Neo-Nazi group threaten to kill West Midlands Police Chief Constable”, *Express and Star*, 21 September 2019.

¹²² BBC News, “Fastest-growing UK terror threat ‘from far-right’”, 19 September 2019.

¹²³ United Kingdom, Security Service (MIS), “Director General Ken McCallum gives annual threat update 2021”, 14 July 2021.

alongside that posed by actors inspired by ideologies associated with groups such as Da'esh and Al-Qaida, as well as dissident loyalist and republican groups in Northern Ireland.¹²⁴ At present, 20 per cent of those in custody for terrorism-related offences in the United Kingdom have been categorized as espousing right-wing ideologies.¹²⁵ Notably, a number of those convicted of terrorist offences have been teenagers.¹²⁶ There is a concerning trend whereby an increasingly young demographic is being radicalized online by consumption of extreme far-right national and transnational propaganda on alt-tech platforms such as Telegram, 4chan, BitChute and Gab.¹²⁷ Another concern is that some members of both the British Army and the Metropolitan Police are among those who have been arrested and convicted of terrorism and racially aggravated hate crimes.¹²⁸ Lastly, the charging in September 2021 of an individual from Leicestershire of terrorism offences in connection with planned attacks on infrastructure sites throughout the United Kingdom aimed at preventing “the emergence of a Chinese communist system”, raises concerns over the impact that the online migration of narratives associated with far-right conspiracy theorists and extremists in the United States is having on public security in the United Kingdom.¹²⁹

Alongside these developments, far-right extremist incidents have also contributed to an increase in the number of hate crimes committed in the United Kingdom. Between March 2020 and March 2021, 124,091 hate crimes were recorded by the police in England and Wales. Of those, 92,052 were racially motivated hate crimes, 6,377 religiously motivated hate crimes, 18,596 sexual orientation-related hate crimes, 9,943 disability-related hate crimes and 2,799 transgender-related hate crimes.¹³⁰ While increases in hate crime over the last five years have been mainly driven by improvements in the recording of crimes by the police, spikes in hate crime following certain events, such as the United Kingdom referendum on European Union membership and the terrorist attacks in 2017, are evident. A notable increase in public order hate crimes occurred during the summer of 2020, following the widespread Black Lives Matter protests and far-right counterprotests.¹³¹

2.6 United States

2.6.1 United States: main movements and groups

The Government of the United States uses the term “racially or ethnically motivated violent extremism” to encompass the potentially unlawful use or threat of force or violence in furtherance of ideological agendas derived from bias, often related to race or ethnicity, held by the actor against others or a given population group. Racially or ethnically motivated violent extremists purport to use both political and religious justifications to support their racially or ethnically based ideological objectives and criminal

¹²⁴ United Kingdom, *CONTEST: The United Kingdom's Strategy for Countering Terrorism* (London, Her Majesty's Stationery Office, 2018), p. 21.

¹²⁵ United Kingdom, Home Office, “Operation of police powers under the Terrorism Act 2000 and subsequent legislation: arrests, outcomes, and stop and search Great Britain, year ending December 2020”, 4 March 2021.

¹²⁶ Two teenage members of the Sonnenkrieg Division were convicted of encouraging terrorism in 2019. An 18-year old was convicted of 14 terrorism-related offences for promoting neo-Nazi violence in 2020. Also, Paul Dunleavy, a 16-year old leader of the Feuerkrieg Division, was found guilty of 12 terrorism offences and, as a result, became the youngest person in the United Kingdom to be convicted for a crime involving terrorism. He had previously downloaded a bomb-making manual at the age of 13. See Mason Boycott-Owen, “One in eight terror suspects is a child: the highest proportion on record”, *The Telegraph*, 10 June 2021.

¹²⁷ Graham Macklin, “United Kingdom”, in *Violent Right-Wing Extremism and Terrorism: Transnational Connectivity, Definitions, Structures and Countermeasures*, Kacper Rekawek and others, eds. (Berlin, Counter Extremism Project Germany, 2020), p. 129.

¹²⁸ Ben Quinn, “Met police officer convicted of belonging to neo-Nazi terror group jailed”, *The Guardian*, 30 April 2021; BBC News, “Neo-Nazi arrests: National Action suspects are in the Army”, 5 September 2017; Press Association, “British soldier given two-year sentence for making nail bomb”, *The Guardian*, 28 November 2014.

¹²⁹ Lizzie Dearden, “Man accused of planning coordinated UK terror attacks ‘to stop Chinese communist takeover’” *The Independent*, 1 September 2021.

¹³⁰ United Kingdom, Home Office, Official Statistics, “Hate crime: England and Wales, 2020–2021”, 12 October 2021.

¹³¹ Jonathan Hall, Independent Reviewer of Terrorism Legislation, “Three aspects of United Kingdom's law and policy on right wing terrorism”, speech delivered to the Global Counterterrorism Forum, 21 April 2021.

activities.¹³² As is the case in other Member States, racially or ethnically motivated violent extremists in the United States are characterized by significant ideological diversity and organizational instability (frequent merges and splits), as well as various operational methods. Fatal violence by such violent extremists is typically committed by lone actors or small cells against minorities and carried out on soft targets such as religious institutions, public events and businesses. Some racially or ethnically motivated violent extremists have shown a willingness to engage in cooperation and collaboration when they have shared similar objectives, such as the separation or subjugation of races.

The United States Government uses the term “anti-government or anti-authority violent extremism” to encompass the potentially unlawful use or threat of force or violence in furtherance of political and/or social agendas, which are deemed to derive from anti-government or anti-authority sentiment, including opposition to perceived economic, social or racial hierarchies, or perceived government overreach, negligence or illegitimacy. Several actors associated with such extremism, specifically, militia violent extremists within the larger body of anti-government or anti-authority violent extremists, fear that the Government is unwilling or unable to protect the United States from perceived threats such as undocumented immigrants, drug traffickers, Muslims and certain social and political activists.¹³³ These militia violent extremists often believe their actions are justified, given their self-appointed role as protectors of the United States Constitution, a responsibility they perceive as consistent with a well-armed citizenry purportedly sanctioned by the Second Amendment to the United States Constitution. They hold a deep belief in conspiracy theories regarding the suspension of civil liberties, the internment of Americans, foreign invasion and occupation, and the end of constitutional government.¹³⁴

Some racially or ethnically motivated violent extremists and anti-government or anti-authority violent extremists self-identify as adherents to the QAnon conspiracy theory.¹³⁵ The participation of some QAnon adherents in the violent siege of the United States Capitol Building on 6 January 2021 underscores how societal polarization continues to act as a catalyst for some to begin accepting the legitimacy of violent action.¹³⁶

The main domestic violent extremist actors in the United States follow two ideological streams, as described below.

Racially or ethnically motivated violent extremism, in particular white supremacist violent extremism

Threats posed by racially or ethnically motivated violent extremism encompass the potentially unlawful use or threat of force or violence in furtherance of ideological agendas derived from bias, often related to race or ethnicity, held by the actor against others or a given population group.¹³⁷ Racially or ethnically motivated violent extremists purport to use both political and religious justifications to support their racially- or ethnically-based ideological objectives and criminal activities.¹³⁸

Some racially or ethnically motivated violent extremist actors are adherents of the notion of white supremacy in the United States and include those who ascribe to neo-Nazi, white nationalist, racist

¹³² United States, Federal Bureau of Investigation (FBI) and Department of Homeland Security (DHS), “Strategic intelligence assessment and data on domestic terrorism” (May 2021).

¹³³ Catrina Doxsee, “Examining extremism: the militia movement”, Center for Strategic and International Studies, 12 August 2021.

¹³⁴ United States, FBI and DHS, “Strategic intelligence assessment”; “Domestic terrorism: definitions, terminology, and methodology” (November 2020); Merrick B. Garland, Attorney General, “Remarks: domestic terrorism policy address”, policy address on the first anniversary of the attack on the Capitol, Washington D.C., 15 June 2021; Doxsee, “Examining extremism”.

¹³⁵ United States, FBI, “Adherence to QAnon conspiracy theory by some domestic violent extremists”, 4 June 2021.

¹³⁶ Ibid.

¹³⁷ United States, FBI and DHS, “Strategic intelligence assessment”.

¹³⁸ Ibid.

skinhead, neo-pagan, Christian Identity or Klan ideologies. They advocate for the eradication or subjugation of non-whites and the separation of races. In addition, they promote practices and policies aimed at ensuring the privileged status of white Americans, as well as their social control over what they perceive as lesser racial groups. In this context, white supremacy groups tend to oppose, sometimes violently, any policies that are aimed at: (a) increasing equality between white and non-white populations in various spheres of society; (b) providing other ethnic or racial groups with more access to material and political capital; and (c) promoting greater cultural and demographic diversity, for example, through inclusive immigration policies.¹³⁹

Anti-government or anti-authority violent extremism, in particular militia violent extremism

Militia violent extremists seek to use or threaten to use force or violence to further their ideologies in response to perceived abuses of power by the Government, perceived bureaucratic incompetence or perceived government overreach, especially regarding suspected infringements on gun and land rights and excessive use of force by law enforcement authorities. These extremists are preoccupied with perceived or supposed imminent violations of government entities' constitutional authority at the local, state and federal levels. Some militia violent extremists use a range of conspiracy theories to justify their criminal activity, including theories regarding the "impending" suspension of civil liberties, the internment of Americans, foreign invasion or occupation, and the end of constitutional government in the United States.¹⁴⁰

The ideology of militia violent extremists also puts significant emphasis on the need to use or threaten to use violence in order to protect constitutional rights against perceived infringements. Specifically, the rhetoric of such extremists is focused on what they see as the ongoing intentional attempts of the federal Government to erode constitutional rights by promoting policies and legislation that: (a) attempt to limit or increase the monitoring of gun ownership; and (b) are perceived to limit civil liberties or freedoms, especially with regard to the use of force by law enforcement officials.

2.6.2 United States: contemporary threats

Although the election of the first African-American President and the economic recession may have contributed to the rise in the level of violence in the period 2008–2009, most studies that strive to explain the more recent rise in domestic terrorism in the United States highlight the growing political polarization in the society and political system of the United States and the related escalation of the political rhetoric, including the proliferation of conspiracy theories, by political leaders. These perceived dynamics empower potential ideologically motivated perpetrators, either because they feel that the environment is more permissive of such acts or that they have public legitimacy to express their views.¹⁴¹ Demographic changes may also be correlated with the increase in the level of domestic terrorist activity.

In accordance with the core components of some domestic violent extremist ideologies – xenophobia, racism and exclusionism – many violent extremist attacks in the United States have targeted minorities and immigrants. Increasingly, houses of worship and religious sites are also being targeted in the United States. In 2020, the United States Department of Homeland Security (DHS) published a security guide

¹³⁹ James Ridgeway, *Blood in the Face: The Ku Klux Klan, Aryan Nations, Nazis Skinheads, and the Rise of a New White Culture*, 2nd ed. (New York, Thunder's Mouth, 1995); Betty A. Dobratz and Stephanie L. Shanks-Meile, *The White Separatist Movement in the United States: "White Power, White Pride!"* (New York, Twayne Publishers, 1997).

¹⁴⁰ United States, FBI and DHS, "Strategic intelligence assessment".

¹⁴¹ Daniel L. Byman, "How hateful rhetoric connects to real-world violence," 9 April 2021; Cas Mudde, *Far-Right in America* (London; New York, Routledge, 2018).

entitled *Mitigating Attacks on Houses of Worship*, which notes that acts of targeted violence against houses of worship are a real, and potentially growing, problem in the United States and a top priority for DHS.¹⁴²

As in other Member States analysed in this manual, in the United States there is a growing concern about the convergence between violent extremism at the domestic level and the military and law enforcement authorities.¹⁴³

While older and more traditional militias were more inclined to maintain a hierarchical military structure and paramilitary practices, the recent emergence of the Boogaloo network and similar online networks suggests the emergence of a new form of militia, which may involve a more decentralized and informal organizational structure. This new form of militia seems to facilitate more effective local recruitment and mobilization to violence.¹⁴⁴ At the same time, the decentralized nature of such groups can pose a challenge for law enforcement agents looking to identify the groups' main leaders.¹⁴⁵

In conclusion, some domestic violent extremist movements are enhancing their profiles and empowering individuals and groups to engage in violence. Large-scale events such as the siege of the Capitol Building in Washington, D.C., on 6 January 2021¹⁴⁶ and the "Unite the Right" rally held in Charlottesville, Virginia, in 2017, involved collaboration and coordination between various types of violent extremists. Furthermore, domestic violent extremists have exploited such events to enhance their visibility and boost recruitment efforts.

¹⁴² United States, DHS, Cybersecurity and Infrastructure Security Agency, *Mitigating Attacks on Houses of Worship: Security Guide* (Washington, D.C., 2020), p. 2.

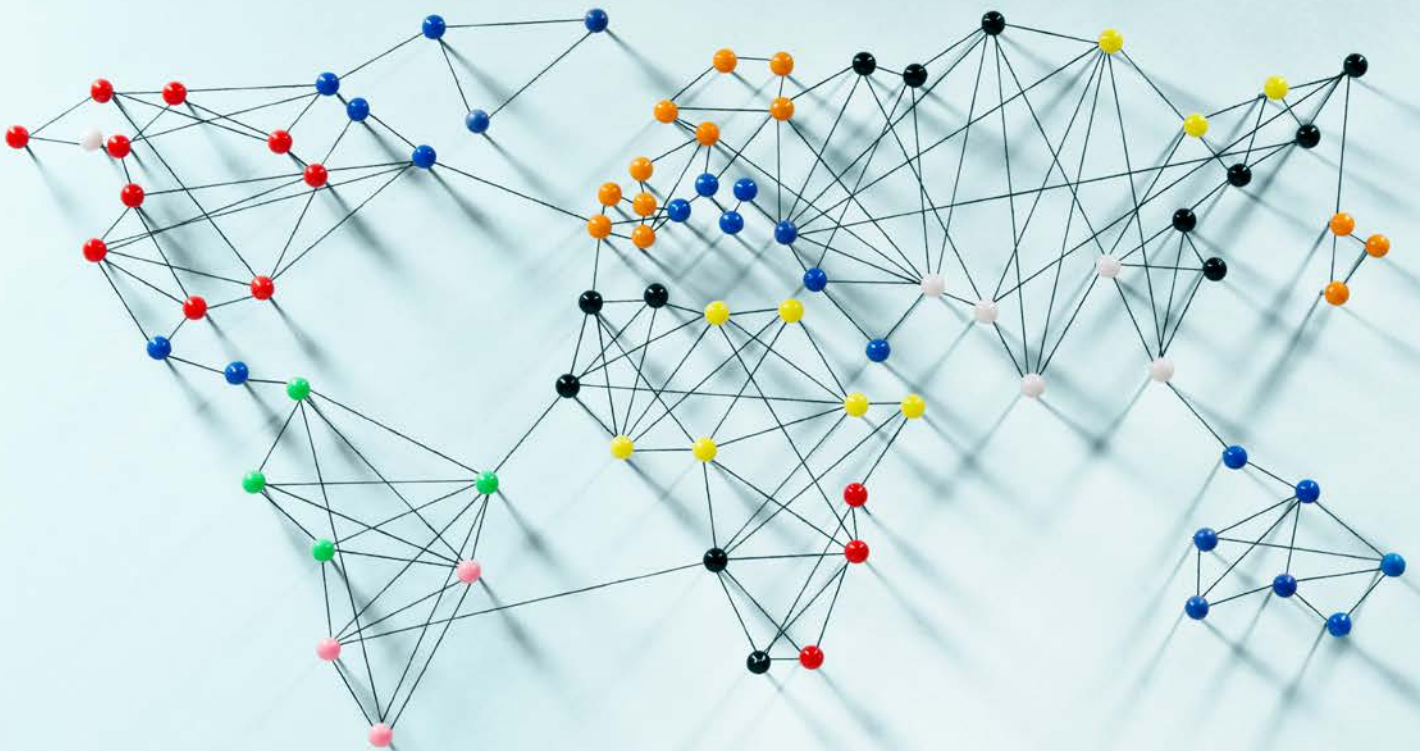
¹⁴³ Seth G. Jones, statement before the Senate Committee on Homeland Security and Governmental Affairs, entitled "Domestic terrorist tactics and targets", 3 August 2021. Available at www.hsgac.senate.gov/imo/media/doc/Testimony-Jones-2021-08-03.pdf.

¹⁴⁴ Matthew Kriner and Colin P. Clark, "Eclectic Boogaloo: the anti-government extremist movement's loose structure and adaptability is the key to its growth", *Slate*, 19 August 2020.

¹⁴⁵ It is also not clear how many of its members are affiliated with additional racially or ethnically motivated violent extremist groups and only identify as Boogaloo members for specific activities. Boogaloo's decentralized nature also means that various affiliates operate independently in terms of engagement in violent activities. While some of the Boogaloo groups tend to engage in more spontaneous acts of violence during demonstrations and rallies, there have been some cases in which members have plotted more high-level operations. See Nate Gartrell, "Steven Carrillo, Boogaloo-associated suspect in killing of two CA officers, has first court appearance in federal death penalty case", *Santa Cruz Sentinel*, 23 June 2020; Anti-Defamation League, "The Boogaloo movement", 5 August 2021.

¹⁴⁶ Eric Tucker and Mary Clare Jalonick, "FBI chief warns violent 'domestic terrorism' growing in US", *Associated Press News*, 3 March 2021.

3



CHAPTER 3. Legal and administrative responses to terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief

The present chapter analyses contemporary domestic measures in the six Member States examined (Australia, Canada, Germany, Norway, the United Kingdom and the United States) that State authorities can rely on to address terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. To that end, the chapter considers, in respect of each Member State examined, the national actors and agencies involved in responding to the phenomenon, as well as legal and administrative measures that can be employed by different State authorities to disrupt and counter it. Each section concludes with a brief analysis of such countermeasures.

3.1 Australia

3.1.1 Australia: actors involved in the response

Responsibility for the implementation of the strands of the National Counter-Terrorism Plan of Australia regarding preparation, prevention, response and recovery is shared between multiple federal, state and territorial agencies. The National Threat Assessment Centre, based within ASIO, collates domestic and international intelligence to assess the nature of the threat of terrorism and protest-related violence in Australia. The state and territorial police forces, together with the Australian Federal Police (AFP), ASIO and other agencies, work together in joint counter-terrorism teams to identify, investigate, prevent and disrupt terrorist activities in Australia. Such teams exist in every Australian state and territory and have been the primary intergovernmental mechanism, at the federal and state levels, for investigating terrorist threats to security, including ideologically motivated violent extremism. The preferred approach of AFP has been to act early to intervene, divert and disrupt before any escalation to violence occurs. The diversion component has involved developing alternatives to prosecution, such as reintegration and rehabilitation, while balancing national security requirements, by identifying and assessing individuals for diversion into state-led intervention programmes to counter violent extremism. Disruption has included major counter-terrorism procedures utilizing federal offences specific to terrorism, state offences of a more general nature and the execution of search warrants, as well as a range of other tools, including operations to counter violent extremism, and online engagement and recovery operations.¹⁴⁷ Threats

¹⁴⁷ For further reading, see Australia, Australian National Security, "What Australia is doing, "The Australian Government". Available at www.nationalsecurity.gov.au/.

may be investigated and resolved by state police forces before transition to the joint counter-terrorism teams, especially where the threat meets the threshold for offences established under state laws.

The Office of the Commonwealth Director of Public Prosecutions assumes responsibility for prosecuting federal offences, including federal terrorism offences, while the directors of public prosecutions in the various states and territories assume responsibility for prosecuting state offences, including murder, assaults, threats and other forms of violent crime.¹⁴⁸ A decision is made by the relevant prosecuting agency as to whether the conduct investigated meets the legislative requirements of relevant offences. For federal terrorism offences, this is done in accordance with the Prosecution Policy of the Commonwealth, which states that there must be prima facie evidence of the elements of the offence and reasonable prospects of obtaining conviction, and that the prosecution must be in public interest, as well as other relevant factors.¹⁴⁹

Investigations relevant to possible terrorist offences can deploy special investigative techniques, including the interception of the telecommunications of suspects and any person likely to communicate with them, as well as powers to engage in undercover operations (both in person and online) to infiltrate and investigate terrorist organizations.¹⁵⁰ These powers have been employed to adduce evidence that was relied on in the successful prosecution of individuals for terrorist offences in a number of cases.¹⁵¹

In addition, there are powers that are unique to counter-terrorism investigations. For example, police authorities have emergency powers that can be utilized in limited circumstances to search premises without a warrant where there is an imminent threat to the life, health or safety of a person or to prevent something on the premises from being used in connection with a terrorism offence. The process to extend the investigation time is phased, with four hours as the standard period and an additional eight hours by application to the court. In addition, the investigation period – the period for which a suspect can be held prior to being charged – is increased from 12 to 24 hours when the matter concerns an alleged terrorism offence, as opposed to an ordinary criminal offence. This comprises the standard four-hour rule and any number of extensions on application to the court not exceeding an additional 20 hours, totalling a maximum period of 24 hours.¹⁵² AFP is also empowered to apply for a preventative detention order to detain an individual for up to 24 hours, which can be extended to a maximum of 48 hours on the grounds that it will prevent the commission of an act of terrorism that is expected to occur within 14 days, or preserve evidence of a terrorist act that has occurred in the previous 28 days.¹⁵³ Since its introduction in 2005, this power has yet to be employed.¹⁵⁴ AFP also has the option of seeking a control order as a preventive measure at a particular point in time in cases where there may not be sufficient evidence to make an arrest or press charges.

Furthermore, ASIO is entitled to apply to a judge for a questioning warrant or a questioning and detention warrant to require an individual to be questioned in relation to a terrorism offence. Under a questioning warrant, an individual can be questioned and detained for up to 24 hours. However, under a questioning and detention warrant, an individual can be detained for questioning for up to seven days.¹⁵⁵ These powers came into effect in 2003 and were due to expire in September 2020 but were extended to March 2021.¹⁵⁶

¹⁴⁸ Australia, Australia New Zealand Counter-Terrorism Committee, “National counter-terrorism plan” 4th ed. (Canberra, 2017), p. 15.

¹⁴⁹ Australia, Commonwealth Director of Public Prosecutions, “Prosecution policy of the Commonwealth: guidelines for the making of decisions in the prosecution process” (Canberra, 2021).

¹⁵⁰ Australia, Telecommunications (Interception and Access) Act 1979 as amended by the Telecommunications (Interception) Amendment Act 2006 No. 40.

¹⁵¹ Evidence from an undercover officer was adduced in *The Queen v. Abdul Nacer Benbrika and others* [2009] VSC 21.

¹⁵² Australia, Crimes Act 1914, sects. 23C, 23DA and 23DF.

¹⁵³ Australia, Criminal Code Act 1995, sect. 105.

¹⁵⁴ Australian Human Rights Commission, *Review of Australian Federal Police Powers* (Canberra, 2020), p. 68.

¹⁵⁵ Australian Security Intelligence Organisation Act 1979, sect. 34K.

¹⁵⁶ Law Council of Australia, “ASIO’s extraordinary detention powers extended until March 2021”, 4 September 2020.

According to a 2018 parliamentary report, only 16 questioning warrants had been requested by ASIO and issued, all of which were executed between 2004 and 2010. ASIO had yet to make any request for a questioning and detention warrant.¹⁵⁷

These various powers afforded to authorities to assist with intelligence-led disruption of terrorist activity support the prevention element of the National Counter-Terrorism Plan of Australia.¹⁵⁸ This element also encompasses activities aimed at countering violent extremism,¹⁵⁹ which include initiatives such as Report Online Extremism, a tool for challenging extremist online communication,¹⁶⁰ and intervention programmes such as the Community Action for Preventing Extremism project (formerly known as Exit White Power), established in 2012 by the non-governmental organization All Together Now.¹⁶¹ Where appropriate, programmes aimed at countering violent extremism serve as a diversionary measure for at-risk or radicalized individuals and their family members. The Department of Home Affairs hosts a Countering Violent Extremism Branch, which is supported by AFP and other government agencies. AFP often acts as a conduit between Commonwealth and state-led programmes to counter violent extremism to assist in identifying and assessing individuals for referral. These programmes also provide a mechanism for deconfliction and information-sharing at the Commonwealth level.

3.1.2 Australia: legislation to counter the phenomenon

The Government of Australia responded to the attacks in the United States in September 2001 and in Bali in October 2002 by introducing an extensive range of new counter-terrorism laws. Prior to that, legislation specifically designed to counter terrorism was absent from the country's legislative framework, reflecting earlier government assessments of the threat of terrorism to national security that had found the threat to be negligible. Terrorism-related activities could only be prosecuted under existing domestic criminal law. However, mindful of the requirements of Security Council resolution 1373 (2001), the federal Government recognized that new laws which, for example, criminalized terrorist financing and expanded telecommunications interception powers, were necessary.¹⁶² Since 2001, Australia has enacted at least 82 new laws¹⁶³ and created approximately 100 new criminal offences to strengthen its counter-terrorism legislative architecture and implement its international legal obligations.¹⁶⁴

The most significant of these is the Security Legislation Amendment (Terrorism) Act 2002, which amended the Criminal Code Act 1995 to create a full suite of federal terrorism offences. These offences are set out in Part 5.3 of the Criminal Code, and the most commonly used offences are split into two categories: terrorist act offences and terrorist organization offences.

¹⁵⁷ Australia, Parliamentary Joint Committee on Intelligence and Security, *ASIO's Questioning and Detention Powers: Review of the Operation, Effectiveness and Implications of Division 3 of Part III of the Australian Security Intelligence Organisation Act 1979* (Canberra, 2018). The report did not specify the ideologies of those who had been issued questioning warrants.

¹⁵⁸ Australia, Australia New Zealand Counter-Terrorism Committee, "National counter-terrorism plan", pp. 18–19.

¹⁵⁹ ASIO defines violent extremism as "support for violence to achieve social, political or legal outcomes or in response to specific political or social grievance/s." (ASIO, Counter-Terrorism, "What is terrorism and violent extremism?". Available at www.asio.gov.au/.)

¹⁶⁰ Australia, "Report online extremist material", Living Safe Together, 14 May 2021. Available at www.livingsafetogether.gov.au/.

¹⁶¹ All Together Now, "Building community resilience to far-right extremism: a case study of the Community Action for Preventing Extremism (CAPE) project", Position Paper, (Haymarket, New South Wales, Australia, 2021).

¹⁶² Australia, Parliament of Australia, "Inquiry into the Security Legislation Amendment (Terrorism) Bill 2002 [No.2] and Related Bills: Report – Tabled 8 May 2002". Available at www.aph.gov.au/.

¹⁶³ Nicola McGarrity and Jessie Blackbourn, "Australia has enacted 82 anti-terror laws since 2001. But tough laws alone can't eliminate terrorism", *The Conversation*, 29 September 2019.

¹⁶⁴ Bernadette McSherry, "Terrorism offences in the Criminal Code: broadening the boundaries of Australian criminal laws", *University of New South Wales Law Journal*, vol. 27, No. 2 (2004), p. 354; George Williams, "The legal legacy of the 'war on terror'", *Macquarie Law Journal*, vol. 12 (2013), pp. 3, 6–7.

The first category, terrorist act offences, is contained in Division 101 of the Criminal Code and includes the offences of engaging in a terrorist act, providing or receiving training connected with terrorist acts, possessing things connected with terrorist acts, and collecting or making documents likely to facilitate terrorist acts. Division 101 also sets out a catch-all offence covering other acts carried out in preparation for, or in the planning of, terrorist acts, which is the most frequently used terrorism offence in Australia and criminalizes conduct at an early “preparatory” stage, earlier than a traditional “attempted” offence. These offences (relating to terrorist acts) all rely on the same concept of a “terrorist act”, which is defined in section 100.1 of the Criminal Code as an action which causes serious physical harm or death, serious property damage, endangerment of life, serious risk to safety or serious interference, disruption or destruction to information systems such as telecommunications, finances and public utilities. The action must be done, or the threat of action must be made, with the intention of advancing a political, religious or ideological cause, and the action must be done, or the threat must be made, with the intention of either 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. The action does not fall within the definition of “terrorist act” if it is advocacy, protest, dissent or industrial action and is not intended to cause the aforementioned harm.

The second category, terrorist organization offences, is contained in Division 102 of the Criminal Code and includes the offences of directing the activities of a terrorist organization, membership of a terrorist organization, recruiting for a terrorist organization, training involving a terrorist organization, getting funds to, from or for a terrorist organization, providing support to a terrorist organization and associating with terrorist organizations. Again, terrorist organization offences all rely on the same concept of a “terrorist organization”, defined in section 102.1 of the Criminal Code as an organization that is: (a) directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (as defined above); or (b) an organization that has been proscribed, or “listed”, by the Government as a terrorist organization. Meeting the second limb of this definition is simpler than meeting the first. While the prosecution must prove in any event that the accused person knew that the organization in question was a terrorist organization, the ability to rely on the listing significantly reduces the breadth of evidence required to be presented.

Furthermore, in addition to the terrorist act offences and terrorist organization offences, the Criminal Code sets out the offences of advocating terrorism, urging violence against groups and members of groups, and numerous offences relating to the financing of terrorism, although these are less commonly used. There are also provisions allowing for the imposition of control and preventative detention orders, discussed in further detail below. Many of the terrorism offences contained in the Criminal Code are the subject of extended geographical jurisdiction such that the offence applies whether or not the conduct constituting the offence occurs in Australia,¹⁶⁵ allowing prosecutors to pursue Australians who undertake the relevant offending overseas.

Since the introduction of terrorism offences into the federal criminal law of Australia, AFP has charged individuals with terrorism offences where sufficient evidence existed. Historically, however, authorities have prosecuted individuals suspected of committing terrorism-related acts under ordinary criminal law. Since 2001, 97 individuals, including 7 who were juveniles when charged, have been convicted of terrorism-related offences. Since September 2014, when the national terrorism threat level was raised, 151 people have been charged as a result of 78 counter-terrorism operations throughout Australia. Authorities have responded to 11 domestic terrorist attacks and conducted 21 major counter-terrorism disruption operations in response to the planning of potential or imminent attacks in Australia. Two of

¹⁶⁵ See, for example, Criminal Code Act 1995, sect. 101.6 (3). The definition of extended geographical jurisdiction is set out in section 15.4 of the Criminal Code.

the disrupted plots involved individuals associated with ideologically motivated violent extremism, including one individual who was convicted. At the time of writing, there were a number of individuals before the courts for offences relating to ideologically motivated violent extremist ideology, including one individual who had carried out a terrorist act. This was the first ideologically motivated violent extremist attack in Australia.¹⁶⁶

3.1.3 Australia: the response

In addition to criminal prosecution of the offences mentioned above, authorities are able to rely on several other measures and pieces of legislation to address various aspects of ideologically motivated violent extremism.¹⁶⁷ One of these is the use of executive powers to constrain the mobility and other activities of suspects. If the Minister for Home Affairs consents, AFP is empowered to apply to the court for control orders placing restrictions on the liberty and freedom of movement of individuals by, for example, imposing curfews for up to 12 hours a day and requiring the wearing of a tracking device and/or reporting to the police.¹⁶⁸ Contravention of a control order is a federal offence. In order to seek ministerial consent to apply for a control order, AFP must suspect on reasonable grounds that:

- (a) The order would substantially assist in preventing a terrorist act, or the provision of support for or facilitation of a terrorist act;
- (b) The subject of the order has engaged in specified conduct (including engaging in hostile activity in a foreign country); or
- (c) The subject of the order has been convicted of specified terrorism offences.¹⁶⁹

Accordingly, a control order can apply to foreign fighters returning from abroad, as well as to individuals who have completed a term of incarceration for terrorism offences and are deemed to still pose a threat to the community. Since 2014, when the National Terrorism Threat Level was raised to “probable”, AFP has applied for and been granted 23 control orders for 18 individuals by the court. Since November 2019, with the introduction of the legislation on high-risk terrorist offenders, AFP has applied for and obtained more control orders than it did in the 15 years prior. To date, none of these have concerned individuals associated with ideologically motivated violent extremism.¹⁷⁰

¹⁶⁶ Philip Galea was convicted in 2019 of the offences of preparing a terrorist act and attempting to collect or make documents likely to facilitate terrorist acts, in relation to a planned attack on various sites in Melbourne, Australia, and commenced developing an instruction manual on how to carry out ideologically fuelled acts of violence. Galea was sentenced to 12 years’ imprisonment in November 2020. In March 2020, Joshua Lucas and Benjamin Lucas were charged with committing acts in preparation for, or planning a terrorist act, in connection with a right-wing plot to attack an electrical substation in New South Wales. Benjamin Lucas was also charged with two counts of possessing a prohibited firearm. In December 2020, Tyler Jakovac was charged with advocating a terrorist act after using an encrypted online messaging service to encourage others to kill “non-whites, Jews and Muslims”. In November 2021, Wade Homewood was charged with advocating terrorism and urging violence against non-white, Jewish and Muslim persons. In February 2022, Simon Fleming, who had previously been arrested, was charged with engaging in a terrorist act after firing a weapon and taking hostages in a shop. See Australian Associated Press, “Far-right terrorist Phillip Galea jailed for at least nine years for Melbourne plot”, *The Guardian*, 20 November 2020; Australian Associated Press, “Second man charged with terrorism over alleged rightwing plot on NSW south coast”, *The Guardian*, 21 March 2020; Kevin Nguyen and Ashlee Charlton, “Albury teenager Tyler Jakovac urged online groups to kill ‘non-whites, Jews and Muslims’, court documents allege”, Australian Broadcasting Corporation, 10 December 2020; Ursula Malone, “Tamworth man charged with using social media to advocate violence against politicians”, Australian Broadcasting Corporation, 24 November 2021; Tim Fernandez, “NSW gunman radicalised by ‘racist’ ideology before Windang siege, police say”, Australian Broadcasting Corporation, 23 February 2022.

¹⁶⁷ ASIO distinguishes between ideologically motivated extremism and religiously motivated extremism. See ASIO, Counter-Terrorism, “What is terrorism and violent extremism?”. Available at www.asio.gov.au/.

¹⁶⁸ Australia, Criminal Code Act 1995, sect. 104.

¹⁶⁹ For example, on the grounds that such an order would assist in preventing a terrorist act, that the person has provided training or received training from a listed terrorist organization or that the person has provided support for or facilitated the engagement in a hostile activity in a foreign country. See Australia, Criminal Code Act 1995, sect. 104.2 (2).

¹⁷⁰ Australian Human Rights Commission, *Review of Australian Federal Police Powers*, pp. 94–95.

Australian authorities also have powers to proscribe individuals and organizations using two distinct mechanisms. One of these obligates the Minister for Foreign Affairs to proscribe any organization, person or asset in order to give effect to designations made by the United Nations Security Council.¹⁷¹ A second mechanism empowers the Government of Australia to “list” an entity as a terrorist organization if satisfied on reasonable grounds that the entity is: (a) directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or (b) advocates the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).¹⁷² The meaning of “advocates” is broadly interpreted and includes “urging, counselling or providing instruction”, as well as “directly praising” the commission of a terrorist act.¹⁷³

Many of the groups associated with ideologically motivated violent extremism in Australia have either fragmented, disappeared or mutated into other types of home-grown organizations, thus the landscape, in terms of relevant movements and groups attracting scrutiny by the authorities, is constantly shifting. The National Socialist Network, which promotes a neo-Nazi ideology, is alleged to have a presence in New South Wales, South Australia and Queensland, and its members are thought to be tactically aware of national proscription laws. To date, three ideologically motivated violent extremist groups, the Sonnenkrieg Division, The Base and the National Socialist Order, have been proscribed as terrorist organizations. Concerns have been raised about the existence of chapters of four violence-prone ideologically motivated groups banned in Europe and North America but operating in Australia, namely, Combat 18, Blood and Honour, Generation Identity and the Proud Boys.¹⁷⁴ Combat 18 was linked to a drive-by shooting of a mosque’s dome in Perth in 2011, and in 2015, individuals associated with the group plastered anti-Islam stickers over a playground in Melbourne. The Proud Boys, banned by Canada, are operating in Australia and are thought to have a small membership.

No individuals associated with ideologically motivated violent extremism have as yet faced prosecution for any offences relating to membership of a terrorist organization. Most individuals involved with ideologically motivated violent extremism have been charged and prosecuted in Australia for acts done in preparation for, or planning of, terrorist acts.¹⁷⁵ This offence does, however, carry a maximum penalty of life imprisonment, in contrast to maximum penalties of 10 to 25 years for the various terrorist organization offences. The Parliamentary Joint Committee on Intelligence and Security, which at the time of writing was conducting an inquiry into extremist movements and radicalization in Australia, has been authorized as part of that process to consider the extent to which the Commonwealth’s listing laws are fit for purpose in tackling the challenges to security that Australia currently faces.¹⁷⁶

Australia also has legislation aimed at preventing residents travelling abroad from fighting in conflicts in other States, including in cases where they travel to support terrorist organizations overseas. Until 2014, this conduct was criminalized under the Crimes (Foreign Incursions and Recruitment) Act 1978.¹⁷⁷ This legislation was repealed and replaced with an expanded regime criminalizing foreign incursions, set out in Part 5.5 of the Criminal Code.¹⁷⁸ While this new regime responded to individuals travelling to and returning from fighting in Iraq and the Syrian Arab Republic, it also applies to ideologically motivated

¹⁷¹ Charter of the United Nations Act 1945, as amended by the Suppression of the Financing of Terrorism Bill 2002, sects. 15–25.

¹⁷² Australia, Criminal Code Act 1995, sect. 102.1 (2).

¹⁷³ Australia, Criminal Code Act 1995, sect. 102.1.

¹⁷⁴ William Allchorn, “Australian radical right narratives and counter-narratives in an age of terrorism” (Abu Dhabi, Hedayah and Centre for Analysis of the Radical Right, 2021).

¹⁷⁵ Galea was convicted of the offence, under section 101.6 of the Criminal Code Act 1995, of doing an act in preparation for, or planning, a terrorist act. Joshua Lucas and Benjamin Lucas were both charged with the same offence.

¹⁷⁶ Linton Besser and Roscoe Whalan, “Neo-Nazi groups banned in Canada and Europe set sights on Australia”, Australian Broadcast Corporation, 28 March 2021.

¹⁷⁷ See Australia, Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014 and the Criminal Code Act 1995.

¹⁷⁸ See Australia, Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014.

violent extremist actors travelling to fight abroad. The new provisions of the Criminal Code, which are contained in Division 119, criminalize engaging in hostile activity in a foreign country, as well as entering into a foreign country with the intention of engaging in a hostile activity in that or any other country.¹⁷⁹ They also criminalize engaging in conduct preparatory to either offences.¹⁸⁰ Hostile activity is broadly defined.¹⁸¹ It is also a criminal offence to enter into or remain in a declared area, namely, an area where a listed terrorist organization is engaging in hostile activity and which has been declared as such by the Minister of Foreign Affairs.¹⁸²

In 2018, two former Australian Defence Force service members returned to Australia after fighting in a foreign conflict and, as previously mentioned, in 2019, five Australians returned to the country after fighting in the same foreign conflict.¹⁸³ ASIO has reported that individuals with extremist ideologies are seeking to connect with people in other parts of the world and that in 2020 it assisted authorities in working to prevent an Australian citizen from leaving the country to fight alongside an extreme right-wing group on a foreign battlefield.¹⁸⁴ No criminal charges have been laid in relation to any of the individuals associated with ideologically motivated violent extremism who have returned from fighting for organizations abroad, which may raise questions about the applicability of these laws in countering the activities of foreign terrorist fighters associated with this form of extremism.¹⁸⁵

While State security actors in Australia are carefully monitoring threats of ideologically motivated violent extremism, growing attention has been focused on how authorities address lower-profile, but closely-related ideologically motivated hate crime activities.¹⁸⁶ Civil remedies exist at the Commonwealth level in the Racial Discrimination Act 1975, which renders it unlawful to offend, humiliate or intimidate in public a person or group on the basis of race, colour or national or ethnic origin.¹⁸⁷ However, this is not a criminal offence and it provides a private remedy leading to an apology and/or compensation.¹⁸⁸ Most cases are conciliated through the Australian Human Rights Commission and only a very small percentage of unresolved cases proceed to the Federal Court.¹⁸⁹ In addition, there are a range of criminal offences at the Commonwealth level that can apply to conduct involving hate speech, including the offences of advocating terrorism, advocating genocide, urging violence against the Constitution, and urging violence against

¹⁷⁹ Australia, Criminal Code Act 1995, sect. 119.1.

¹⁸⁰ *Ibid.*, sect. 119.4.

¹⁸¹ Section 117.1 of the Criminal Code Act 1995 includes, for example, unlawfully destroying or damaging real or personal government property, engaging in a terrorist act and conduct aimed at overthrowing a government by force.

¹⁸² See section 119.3 of the Criminal Code Act 1995. There is no need for the Foreign Minister to evaluate the extent of hostile activity that is occurring in a particular area. The Australian Human Rights Committee has recommended that the provisions on declared areas should be repealed or, alternatively, that section 119.3 should be amended so that an area can only be declared if the Minister is satisfied that a listed terrorist organization is engaging in hostile activity to a significant degree (Australian Human Rights Commission, "Review of the "declared areas" provisions", submission to the Australian Parliamentary Joint Committee on Intelligence and Security (August 2020)). The declarations regarding Ar-Raqqa, Syrian Arab Republic, and Mosul, Iraq, the only areas to have been declared, were revoked in 2017 and 2019 and only one person, who has no association with ideologically motivated violent extremism, has been prosecuted for an offence under section 119.2.

¹⁸³ Nino Bucci, "Five Australians free to return after fighting in Ukraine far-right 'finishing school' alongside Russian nationalist militia", Australian Broadcast Corporation, 22 April 2019; Sean Rubinsztein-Dunlop, Suzanne Dredge and Michael Workman, "From neo-Nazi to militant".

¹⁸⁴ Greene, "Neo-Nazis among Australia's most challenging security threats". The individual's passport was cancelled.

¹⁸⁵ Blackburn, "Counterterrorism legislation and far-right terrorism in Australia and the United Kingdom", p. 91.

¹⁸⁶ Australian law does not define hate speech. The Department of Home Affairs has defined it as "speech that is hateful in itself (i.e. directed at a target person or group), and speech that incites hatred against a person or group by other persons. The latter is vilifying speech, which applies to a narrower range of conduct designed to incite hatred, contempt or ridicule the target group by other (third-party) persons." (Australia, Department of Home Affairs, Department of Foreign Affairs and Trade, and Attorney's General Department, "Joint submission to the inquiry into extremist movements and radicalism in Australia" (February 2021), p. 9. Available at www.aph.gov.au).

¹⁸⁷ Australia, Racial Discrimination Act 1975, sect. 18C.

¹⁸⁸ It does apply to online material. See *Federal Court of Australia, Toben v. Jones* (2003) 129 FCR 515, resolved by the defendant publishing an apology and removing online commentary.

¹⁸⁹ The Federal Court only handled one case in the period 2015–2016. See Australian Human Rights Commission, "Race hate and the RDA", 8 September 2016.

groups or members of a group,¹⁹⁰ as well as offences relating to using postal or telecommunications services to make threats to kill or seriously harm¹⁹¹ and to menace, harass or cause offence.¹⁹² In December 2020, an individual was charged with two Commonwealth offences outlined in section 80 of the Criminal Code, which included advocating terrorism and urging violence against members or groups. It was alleged that the individual had been using social media forums and communication applications to encourage other people to commit violence in support of ideologically motivated violent extremism.¹⁹³ Following the attack in Christchurch, the Criminal Code was amended by the Criminal Code Amendment (Sharing of Abhorrent Violent Material) Act 2019 and new offences were introduced relating to the use of voice calls, text messages and online communications for the sharing of abhorrent violent material and for content and hosting service providers who fail to expeditiously remove abhorrent violent material.¹⁹⁴

In addition, the majority of states and territories in Australia have passed relevant hate crime legislation. The Anti-Discrimination Act 1991 of Queensland criminalizes racial and religious vilification, defined as public incitement of hatred towards, serious contempt for, or severe ridicule of, a person or group on the grounds of race, religion, sexuality or gender;¹⁹⁵ and serious racial and religious vilification, which includes threatening harm, or inciting others to do so.¹⁹⁶ The State of Victoria introduced the Racial and Religious Tolerance Act 2001, which contains similar provisions.¹⁹⁷ In that State, when sentencing an offender for any criminal offence, the court must consider whether the offence was motivated (wholly or partly) by hatred for or prejudice against a group of people with common characteristics with which the victim was associated or with which the offender believed the victim was associated.¹⁹⁸ In New South Wales, there is a specific offence of publicly threatening or inciting violence on grounds of race, religion, sexual orientation, gender identity or intersex or HIV/AIDS status.¹⁹⁹ Again, there have been very few recorded cases of individuals associated with ideologically motivated violent extremism being convicted of offences under these acts.²⁰⁰

Regarding terrorist financing, current information on ideologically motivated violent extremism and supporting logistical activity suggests, at least for now, that such activities are self-funded. There have been no prosecutions of individuals associated with ideologically motivated violent extremism under the terrorist financing laws of Australia. However, as authorities increasingly turn their attention to ideologically motivated illicit activity, criminality connected to financial activities is more likely to be a focus of investigations in future. Provisions in the Criminal Code and other existing legislation may be relevant to investigations of this nature. Division 103 of the Criminal Code sets out offences relating to providing

¹⁹⁰ Division 80 of the Criminal Code Act 1995.

¹⁹¹ The offence under section 474.15 of the Criminal Code Act 1995 carries a penalty of up to 10 years' imprisonment. In December 2020, the New South Wales Joint Counter Terrorism Teams charged an 18-year old man with one count of urging violence against members or groups, an offence under section 80.2A of the Act.

¹⁹² The offence, under section 474.17 of the Criminal Code Act 1995, of using a carriage service in a way that reasonable persons would regard as being, in all the circumstances, menacing, harassing or offensive carries a penalty of three years.

¹⁹³ Australian Federal Police, "Updated: NSW Joint Counter Terrorism Team charge 18-year old Albury man", 10 December 2020.

¹⁹⁴ See section 474.34 of the Criminal Code Act 1995. The offence attracts a penalty of up to three years for individuals or a fine of up to 10,000 penalty points. For corporate entities, it attracts a penalty of up to 50,000 penalty points or 10 per cent of the annual turnover in the period in which the offence occurred. For more information, see Australia, eSafety Commissioner, Submission: Parliamentary Joint Committee on Law Enforcement Inquiry – Criminal Code Amendment (Sharing of Abhorrent Violent Material) Act 2019, No. 38 (15 October 2021).

¹⁹⁵ Section 124 of the Anti-Discrimination Act 1991 of Queensland.

¹⁹⁶ Section 131A of the Anti-Discrimination Act 1991 of Queensland.

¹⁹⁷ Sections 3, 7 and 8 of the Racial and Religious Tolerance Act, No. 47 of 2001, of Victoria.

¹⁹⁸ Section 5 (2) (daaa) of the Sentencing Act, No. 49 of 1991, of Victoria, p. 41.

¹⁹⁹ Section 93Z of the Crimes Act 1900, No. 40, of New South Wales.

²⁰⁰ Three men associated with an ideologically motivated violent extremist group were convicted in the State of Victoria, Australia, of religious vilification offences in 2017 following protests outside a mosque that were connected to the United Patriots Front, each receiving a fine of 2,000 Australian dollars as a result. See James Oaten, "Far-right nationalists found guilty of inciting serious contempt for Muslims after mock beheading video", Australian Broadcast Corporation, 5 September 2017.

and collecting funds while being reckless as to whether the funds will be used to facilitate or engage in a terrorist act, and intentionally making funds available to another person, or collecting funds for, or on behalf of, another person while being reckless as to whether the funds will be used to facilitate or engage in a terrorist act.²⁰¹ The offences are considered to be committed even if a terrorist act does not occur or the funds are not used to engage in a specific terrorist act, but also when the funds are used to engage in more than one terrorist act. As noted above, the terrorist organization offences in the Criminal Code include an offence of receiving funds from, or making funds available to, a terrorist organization.

Other provisions in the Charter of the United Nations Act 1945 contain powers allowing for the seizure, confiscation and freezing of assets of terrorists and terrorist organizations.²⁰² The fault element attached to most terrorist financing offences is recklessness, thereby increasing the burden of responsibility on an individual to check the standing of any organization before sending funds to it.²⁰³ Lastly, the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 sets out further offences of a more procedural nature, including with regard to reporting obligations, access to information, electronic funds transfer and identity documents, that do not necessarily require proof of a connection to terrorism.

3.1.4 Australia: analysis of the response

The rise of ideologically motivated violent extremism in Australia in recent years is not as acute as in other Member States considered in this manual, although ASIO has recently confirmed that the threat to national security posed by some of the groups associated with such extremism is real and growing.²⁰⁴ As at October 2021, approximately 15 per cent of the caseload of the joint counter-terrorism teams was focused on ideologically motivated violent extremism, and ASIO has estimated that nearly 50 per cent of its priority domestic counter-terrorism caseload has also been focused on that form of extremism.²⁰⁵ This situation has not yet translated into a significant number of criminal prosecutions, but it does point to the extent to which intelligence resources are being devoted to investigating and disrupting ideologically motivated violent activity. However, other than amending the Criminal Code 1995 to criminalize the provision of online hosting or content services for “abhorrent violent material”, which includes depictions of terrorist acts, as a response to the attack in Christchurch, the Government of Australia has not introduced any new legislation or revised existing laws to respond to this new security threat.²⁰⁶ This suggests that it has taken the view that the extensive range of counter-terrorism measures introduced since 2002, principally as a response to threats posed by Da’esh, Al-Qaida and associated individuals, groups, endeavours and entities, contain measures sufficient to counter the threat of ideologically motivated violent extremism and respond to it.²⁰⁷

The prosecutions of individuals involved with ideologically motivated violent extremism for federal terrorism and other criminal offences and the recent proscription of the National Socialist Order, the Sonnenkrieg Division and The Base as terrorist organizations support this position. There are, then, a range of terrorism and other offences within the Criminal Code and across Australian jurisdictions that

²⁰¹ Division 103 the Criminal Code Act 1995.

²⁰² Sections 20–22 of the Charter of the United Nations Act 1945.

²⁰³ See Division 103 of the Criminal Code Act 1995. The offences require the fault element of intention in relation to providing and collecting funds and making them available, and the fault element that applies to the connection between such conduct and acts of terrorism is the lower threshold of recklessness. See also Australia, Parliament of Australia, Parliamentary Business, Committees, Joint Committee on Intelligence and Security, Review of security and counter terrorism legislation, “Chapter 6: Suppression of the Financing of Terrorism”. Available at www.aph.gov.au/.

²⁰⁴ Greene, “Neo-Nazis among Australia’s most challenging security threats”.

²⁰⁵ Henry Zwart, “Australian far-right terrorism investigations have increased 750 per cent in 18 months”, SBS News, 8 October 2021; see also 60 Minutes Australia, “Major investigation: Targeting Australia’s largest neo-Nazi group”, video, 15 August 2021.

²⁰⁶ Australia, Criminal Code Amendment (Sharing of Abhorrent Violent Material) Act 2019. Note that the current legislative framework in Australia is neutral with regard to specific beliefs and can be applied equally to a range of extremist views.

²⁰⁷ Blackburn, “Counterterrorism legislation and far-right terrorism in Australia and the United Kingdom”, p. 77.

enable the prosecution of criminal conduct aligned with ideologically motivated violent extremism. That said, the cases involving ideologically motivated violent extremism where federal terrorism legislation has been applied in Australia highlight a number of unique challenges, including in relation to the topics set out below.

Organizations

While it is still possible to prosecute an individual for an offence relating to other terrorist organizations associated with ideologically motivated violent extremism other than the three which have been listed by the Government, the prosecution will have to lead evidence as to the nature of the organization in order to establish that it is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act. Such evidence would usually be given by an expert witness. However, as has been noted, the landscape of such extremist organizations, especially home-grown ones without an international parent organization or established structure, is highly fragmented, fluid and subject to rapid changes as existing organizations merge and new ones form. Therefore, evidence of the nature of such organizations may be hard to obtain and subject to challenges.

Expert evidence

Expert evidence in matters relating to ideologically motivated violent extremism is contentious. Admissibility of expert evidence is an exception to the prohibition on opinion evidence, and strict rules govern both the content and manner of giving expert evidence. Expert evidence is commonly used in prosecutions of federal terrorism offences, especially to contextualize the extremist motive. If calling an expert, however, the prosecution must demonstrate that the expert has a recognized specialist knowledge arising out of training, study or experience, and the evidence given must be limited to opinion based wholly or substantially on that knowledge. The more recent, diffuse and localized nature of ideologically motivated violent extremism has created a number of challenges for prosecutors. Identifying a suitably qualified expert can be difficult, both locally and also when the evidence reveals an international aspect, such as support for various organizations overseas associated with ideologically motivated violent extremism. It may be necessary for the prosecution to approach multiple experts, including experts overseas, to give evidence. One possible challenge lies not only in identifying relevant experts, but also in ensuring that they can provide their opinions as “experts” in accordance with Australian law. There are also limitations on how much evidence an expert can provide on organizations associated with ideologically motivated violent extremism who use encrypted online platforms to recruit members, promote extremist ideologies and encourage acts of extreme violence. There is little information about some of the smaller, more recently established organizations, beyond that available from common open sources.

Evidence of ideology

All prosecutions for terrorist act offences, and all prosecutions for offences involving terrorist organizations that are not “listed”, require proof of the political, religious or ideological cause in question. In cases involving ideologically motivated violent extremism, that may be constituted by, for example, possession of extremist propaganda, including literature, imagery, symbols, and audio and video clips. Often, such material is very graphic in nature, as well as incredibly voluminous, particularly in cases where the ideology sought to be furthered by an accused person’s conduct is wide-ranging, from white nationalism, white supremacy, neo-Nazism and antisemitism, to accelerationism, anti-government sentiment and demonstrated adherence to numerous ideologically motivated violent extremist organizations and perpetrators of historical acts of violence. Courts are reluctant to expose members of a jury to vicarious trauma by having them view graphic material. Summaries of the content of such material have been relied on in court, but these summaries must be agreed upon in advance between the prosecution and the legal representatives of the accused. If agreement cannot be reached, the conflict must be litigated before the trial judge in the absence of a jury. In any such argument, the prosecution must establish that such evidence is

relevant, that is, that if it were accepted, it could rationally affect the assessment of the probability of the existence of a fact in issue in the proceeding. A further admissibility issue arises with material that could be prejudicial. In the aftermath of the attack in Christchurch, individuals associated with ideologically motivated violent extremism may have had footage of or praise for the attack in their possession. Reliance on that fact as evidence of ideology, however, is not assured; given the extensive coverage of the attack in Australia and the notoriety it gained from being viewed, such evidence may be challenged as being more prejudicial than probative. In this regard, each case will turn on its own facts and circumstances.

Constitutional challenges

The Constitution of Australia does not contain a bill of rights or otherwise guarantee freedom of speech. It does, however, contain a more limited implied right to political communication, which has been raised in a prosecution concerning ideologically motivated violent extremism in order to challenge the validity of federal terrorism offences. While such challenges have also occurred in the context of prosecutions involving religiously motivated violent extremism, ideologically motivated violent extremism is more closely aligned with the political aspect of this constitutional right. Such challenges are more likely in prosecutions relating to advocating terrorism, urging violence, collecting or making a document connected with a terrorist act, or doing acts in preparation for, or planning, a terrorist act, as the evidence in these prosecutions routinely comprises communications made by an accused person as part of the conduct constituting the offence.

Social media evidence

The use of social media evidence in the prosecution of terrorism cases poses several challenges for prosecutors. First, if the prosecution is relying on such evidence to prove the offence, it is essential that it can be established that the accused was the owner and operator of the relevant social media account or accounts. This can be difficult when a particular accused person is operating an account using an anonymous identity to post content. Second, many social media platforms, including encrypted platforms, are based overseas. In order to obtain foreign evidence from these platforms in an admissible form, a mutual assistance request must be made to the relevant country. These requests routinely take more than 12 months to process.

The approach taken by Australia to tackle hate crime connected to individuals associated with ideologically motivated violent extremism and their possession and distribution of online extremist material is difficult to assess. While it is a Commonwealth offence for Internet providers to have violent and abhorrent material on their servers, there is no offence for the individual possession or distribution of these materials, except where their possession, creation or collection can be connected to a terrorist act in accordance with the terrorist act offences set out in the Criminal Code, although this represents a relatively high threshold. Furthermore, hate speech currently remains a largely civil matter in which State authorities are unlikely to have any involvement, unless the speech in question rises to the level of advocating terrorism or acts in preparation for, or planning, a terrorist act. To the extent that there are relevant criminal offences, Australian hate crime laws collectively exist as a cluster of statutes at the federal, state and territory levels, which may require a more comprehensive approach. The prevalence of hate-related criminal activity remains unclear, as Australia lacks a national crime database that captures the motivation behind an offence and whether, for example, it is aggravated by religious, racial or gender-related factors, thus rendering consistent nationwide tabulations, as well as generalizable inferences based on them, difficult. The introduction of a more consistent approach across Australian states in identifying, categorizing, criminalizing and responding to situations in which victims are threatened, abused, insulted and attacked because of their ethnic, religious or political background or gender orientation may be worthy of examination as part of any proposed review of legal responses to the acknowledged real and growing threat to Australian citizens posed by ideologically motivated violent extremism.

3.2 Canada

3.2.1 Canada: actors involved in the response

A number of departments and agencies contribute to the implementation of the counter-terrorism strategy of Canada.²⁰⁸ The primary responsibility for investigating the activities of individuals and groups who may pose a national security threat domestically or abroad and for collecting and analysing related intelligence lies with CSIS, the Communications Security Establishment and the Royal Canadian Mounted Police (RCMP). Other federal agencies contribute to counter-terrorism intelligence-gathering. Representatives from these agencies assist Integrated National Security Enforcement Teams (INSETs), led by RCMP, the country's federal law enforcement agency. INSETs are established in the country's main cities and have responsibility for national security criminal investigations, including those related to terrorism offences.²⁰⁹ The Public Prosecution Service of Canada (PPSC) counsel provides legal advice to the INSETs at the investigation stage in relation to national security criminal investigations.

In accordance with the Canadian Security Intelligence Service Act, CSIS has the mandate to investigate threats to the security of Canada, advise the Government of Canada on such threats and take measures to reduce them. The Act also outlines the intelligence-gathering and disruption powers CSIS may undertake with and without a warrant. Under strict legal conditions and oversight, designated CSIS employees may commit acts that would otherwise be considered offences when there are reasonable grounds to believe that the activity they are investigating constitutes a threat to national security.²¹⁰ Under warrant, CSIS threat reduction measures may include altering or disrupting a communication (for example, changing the content of a website or email), altering or destroying equipment, fabricating information, making and interrupting a financial transaction, and impersonating someone.²¹¹

Following investigation by INSETs, suspects may be arrested without a warrant by a peace officer, such as an RCMP officer, if the officer believes on reasonable grounds that the suspect has committed or is about to commit a terrorism offence. When a person is arrested for any crime, including a terrorism offence, the peace officer must bring the suspect before a judge generally within 24 hours in order to lay a charge and have the judge determine if the suspect should be released on bail or detained pending and during the criminal prosecution.

In addition, a peace officer who believes on reasonable grounds that a terrorist activity may be carried out and suspects on reasonable grounds that the imposition of a recognizance with conditions on a person, or the arrest of a person, is necessary to prevent the carrying out of the terrorist activity may, with the Attorney General's consent, lay an information before a provincial court judge to begin the process for imposing a recognizance on a person, pursuant to section 83.3 of the Criminal Code. There is also the possibility for a person who fears on reasonable grounds that another person may commit a terrorism offence to lay an information before a provincial court judge, with the Attorney General's consent, to begin the process for imposing a peace bond on a person pursuant to section 810.011 of the Criminal

²⁰⁸ Canada, "Annex A: roles and responsibilities relating to counter-terrorism", in *Building Resilience against Terrorism: Canada's Counter-Terrorism Strategy*, 2nd ed. (Ottawa, 2013).

²⁰⁹ Canada, "Arrests and prosecutions in Canada for committing terrorism offences", in *2018 Public Report on the Terrorist Threat to Canada*, 3rd rev. (Ottawa, 2019).

²¹⁰ Canadian Security Intelligence Service Act (R.S.C. 1985, c. C-23), sect. 12, as amended and the National Security Act 2017 (S.C. 2019, c. 13). For discussion and academic analysis, see Michael Nesbitt, *Reviewing Bill C-59, an Act Respecting National Security Matters 2017: What's New, What's Out, and What's Different from Bill C-51, a National Security Act 2015?*, School of Public Policy Research Paper, vol. 13:12 (Calgary, Alberta, University of Alberta, Canadian Global Affairs Institute, 2020); Michael Nesbitt, "Bill C-59 and CSIS's 'new' powers to disrupt terrorist threats: holding the Charter-limiting regime to (constitutional) account", *Alberta Law Review*, vol. 57, No. 1, (2019); Craig Forcese and Kent Roach, *False Security: The Radicalization of Canadian Anti-Terrorism* (Toronto, Irwin Law, 2015).

²¹¹ Canadian Security Intelligence Service Act, sect. 21.

Code. In both cases, the person is not charged with any terrorism offence but is made subject to judicially imposed conditions, the breach of which is a crime.

In matters concerning terrorist offences, the police must involve PPSC in order to obtain consent from the Attorney General to lay charges. This consent is a safeguard against the unreasonable charging of individuals with terrorism offences.

Canada has previously been criticized for lagging behind other countries in developing initiatives beyond intelligence-gathering and law enforcement action designed to counter ideologically motivated violent extremism because it had not considered the threat posed as sufficiently serious.²¹² However, the Government has undertaken new initiatives in recent years that have the potential to address these criticisms. In 2017, the Canada Centre for Community Engagement and Prevention of Violence was created; the Centre is mandated to support the work of communities, front-line agencies, non-governmental organizations, research institutions and federal and provincial agencies to build capacity and develop multisectoral prevention and intervention programmes designed to prevent and counter radicalization to violence at the local level.²¹³ In 2018, the Centre launched the National Strategy on Countering Radicalization to Violence, which set out its priorities. Furthermore, the Centre administers the Community Resilience Fund, which is designed to provide time-limited funding to research, knowledge mobilization projects and prevention and intervention programmes in Canada, including in online spaces.²¹⁴ The Government has also invested 45 million Canadian dollars in its Anti-Racism Strategy 2019–2022 and has pledged to invest 30 million Canadian dollars in community-based anti-racism and anti-discrimination projects.²¹⁵ Recognizing that the fight against racism in Canada is far from over, the Budget 2022 proposes to provide 85 million Canadian dollars over four years, starting in 2022/23, to the Department of Canadian Heritage to support the work under way to launch a new anti-racism strategy and national action plan on combating hate.²¹⁶ In addition, non-governmental organizations in various regions in Canada encourage the reporting of hate crimes and monitor and challenge national online sources of ideologically motivated violent extremist rhetoric.²¹⁷ Canada has also developed a Digital Charter, launched in 2019, which highlights the Government’s commitment to pursuing bilateral and multilateral efforts to work with the digital industry and social media outlets to address online hate and violent extremism.²¹⁸ During the summer of 2021, the Government also consulted Canadian citizens on the role that the Government should have in addressing online harms such as hate speech, violent extremism and content that incites violence. The Government subsequently published a report entitled “What We Heard”. In the report, the Government acknowledged that respondents had identified a number of overarching concerns, including in relation to the freedom of expression, privacy rights, the impact of the proposal on certain marginalized groups, and compliance with the Canadian Charter of Rights and Freedoms more generally. As a result, the Government is engaging with an expert advisory

²¹² Barbara Perry and Ryan Scrivens, “Uneasy alliances: a look at the right-wing extremist movement in Canada,” *Studies in Conflict and Terrorism*, vol. 39, No. 9 (February 2016), pp. 834–835; Barbara Perry, “The threat of right-wing extremism,” *Policy Options* (Institute for Research on Public Policy), 13 September 2017.

²¹³ Public Safety Canada, “Canada Centre for Community Engagement and Prevention of Violence”, 15 December 2021. Violent extremism is defined by the Government as “a term describing the beliefs and actions of people who support or use violence to achieve extreme ideological, religious or political goals” (Canada, Canada Centre for Community Engagement and Prevention of Violence, *National Strategy on Countering Radicalization to Violence*, (Ottawa, 2018), p. 7).

²¹⁴ Canada, Canada Centre for Community Engagement and Prevention of Violence, *National Strategy on Countering Radicalization to Violence*.

²¹⁵ Canada, Canadian Heritage, *Building a Foundation for Change: Canada’s Anti-Racism Strategy 2019–2022* (Ottawa, 2019).

²¹⁶ Government of Canada, Federal budget, Budget 2022, “Chapter 8: Safe and Inclusive Communities” (date modified: 4 July 2022). Available at <https://budget.gc.ca/2022/report-rapport/chap8-en.html#2022-1>.

²¹⁷ For example, the British Columbia Hate Crime Team and the Alberta Hate Crimes Committee, which launched a website (<https://stophateab.ca/>) to encourage the reporting of hate-related incidents.

²¹⁸ Canada, “Canada’s digital charter: trust in a digital world”, 12 January 2021.

group to provide advice and is planning further stakeholder consultations in order to produce a revised framework for online harms as soon as possible.²¹⁹

3.2.2 Canada: legislation to counter the phenomenon

The terrorism offences and the recognizance with conditions to prevent the commission of a terrorist activity are found in Part II.1 of the Criminal Code, while the terrorism peace bond is found in Part XXVII.²²⁰ Enacted in late 2001, following the events of 11 September, these provisions were subsequently amended by further counter-terrorism legislation, introduced partly in reaction to two terrorist attacks in the provinces of Quebec and Ontario in 2014.²²¹ Each of the offences in the Criminal Code requires the prosecution to prove beyond a reasonable doubt either a connection to terrorist activity, a terrorist group or, sometimes, both. Offences include knowingly participating in any activity of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity,²²² knowingly facilitating a terrorist activity,²²³ knowingly instructing others to carry out a terrorist activity,²²⁴ counselling others to commit a terrorism offence without identifying a specific terrorism offence,²²⁵ making property available knowing that it will be used by or will benefit a terrorist group²²⁶ or committing an indictable offence that constitutes a terrorist activity.²²⁷ A terrorist group is defined as “an entity that has as one of its purposes or activities facilitating or carrying out any terrorist activity”.²²⁸ It is also a terrorist group if it is a listed entity. Prosecutors have not, however, relied exclusively on the listing of an organization to prove that it is a terrorist group.

“Terrorist activity” is a defined term in the Criminal Code.²²⁹ The definition has two parts. Part (a) defines terrorist activity as certain offences found in other parts of the Criminal Code, which were created in order to enable Canada to ratify various United Nations counter-terrorism conventions and protocols. Part (b) is a general definition of “terrorist activity” as an act or omission, in or outside Canada, that is committed in whole or in part for a political, religious or ideological purpose, objective or cause, and in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada, and that intentionally:

- (a) Causes death or serious bodily harm to a person by the use of violence;
- (b) Endangers a person’s life;
- (c) Causes serious risk to the health or safety of the public or any segment of the public;

²¹⁹ Canada, Canadian Heritage, “Consultation closed: the Government’s proposed approach to address harmful content online” (available at www.canada.ca/), “What We Heard: The Government’s proposed approach to address harmful content online” (available at www.canada.ca/en/canadian-heritage/campaigns/harmful-online-content/what-we-heard.html), “The Government’s commitment to address online safety” (available at www.canada.ca/en/canadian-heritage/campaigns/harmful-online-content.html).

²²⁰ Canada, Criminal Code (R.S.C., 1985 c. C-46), sect. 810.011.

²²¹ For example, the Anti-terrorism Act (S.C. 2001, c. 41) and the Anti-terrorism Act, 2015 (S.C. 2015, c. 20). The National Security Act, 2017 (S.C. 2019, c. 13), which came into force in June 2019, later amended some of the terrorism provisions in the Criminal Code.

²²² Canada, Criminal Code, sect. 83.18.

²²³ *Ibid.*, sect. 83.19.

²²⁴ *Ibid.*, sect. 83.22 (1).

²²⁵ Section 83.221 (1) of the Criminal Code of Canada. For commentary on this offence, see Nesbitt, *Reviewing Bill C-59, an Act Respecting National Security Matters 2017*.

²²⁶ Canada, Criminal Code, sect. 83.03 (b).

²²⁷ *Ibid.*, sect. 83.27.

²²⁸ *Ibid.*, sect. 83.01 (1).

²²⁹ *Ibid.*

- (d) Causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm listed in subparagraphs (a)–(c) above; or
- (e) Causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of advocacy, protest, dissent or stoppage of work that is not intended to result in the conduct or harm listed in subparagraphs (a)–(c) above.

“Terrorist activity” is also defined to include a conspiracy, attempt or threat to commit any such act or omission as set out under the definition, or being an accessory after the fact or counselling in relation to any such act or omission.

The definition of terrorist activity used in Canada excludes the expression of a political, religious or ideological thought, belief or opinion unless it constitutes an act or omission that satisfies part (b) of the definition of terrorist activity.²³⁰ If there are reasonable grounds to believe that an individual committed an offence, he or she may be charged, depending of the facts, with offences under the Criminal Code, such as homicide, arson or terrorism offences. In situations where the accused is convicted of a regular criminal offence and, in the circumstances of the case, the evidence proves, beyond a reasonable doubt, that the accused committed a terrorism offence, this will be taken into consideration by the court as an aggravating factor for the purposes of sentencing.²³¹ Furthermore, if an individual is convicted of an indictable offence that does not in itself attract a punishment of life imprisonment, but where the indictable offence also constitutes a terrorist activity, there is a maximum punishment of life imprisonment.²³² Moreover, under section 83.2 of the Criminal Code, where someone commits an indictable offence for the benefit of, at the direction of, or in association with, a terrorist group, the maximum sentence is life imprisonment.

The prosecution for terrorism offences of individuals associated with ideologically motivated violent extremism has been fairly limited. None of the 56 individuals charged with terrorism offences between December 2001 and December 2019 were associated with a far-right group or espoused a far-right ideology.²³³ Terrorism proceedings were, however, instigated against a minor who self-identified as an incel following a stabbing attack at a massage parlour in Toronto, Canada, in 2020.²³⁴ Prosecutors also issued charges against an individual who, on 6 June 2021, drove a vehicle into a Muslim family, killing four and wounding another. At the time of writing, the suspect was facing charges on four counts of first-degree murder²³⁵ and one count of attempted murder,²³⁶ as well as additional charges that the offences also constituted terrorist activity.²³⁷

²³⁰ Canada, Criminal Code, sect. 83.01 (1.1).

²³¹ *Ibid.*, sect. 718.2 (a) (v).

²³² *Ibid.*, sect. 83.27.

²³³ Michael Nesbitt, “Violent crime, hate speech or terrorism?: how Canada views and prosecutes far-right extremism (2001–2019)”, *Common Law World Review*, vol. 50, No. 1 (February 2021), p. 38. Neither the perpetrator of the vehicle attack in April 2018, which killed 10 people and injured 16, nor the individual who attacked a mosque in Quebec City, Canada, in January 2019, killing six and injuring 19, were charged with terrorism offences. The former was convicted of 10 counts of first-degree murder and 16 counts of attempted murder. He was scheduled to be sentenced in 2022. The latter was convicted of six counts of murder. Prosecutors did not seek to persuade the court that the offence also constituted a terrorist offence or that that should be taken into consideration as an aggravating factor on sentencing. He was sentenced to life in prison with no parole for 40 years. The sentence was reduced on appeal and the matter was due to go before the Supreme Court at the end of 2021.

²³⁴ A 17-year old boy was charged with first-degree murder and attempted murder by means of committing a terrorist act (BBC News “Teenage boy charged in Canada’s first ‘incel’ terror case”, 20 May 2020).

²³⁵ Canada, Criminal Code, sect. 235.

²³⁶ *Ibid.*, sect. 239 (1).

²³⁷ Pursuant to sections 2, 83.01 (1) (b), 83.27 and 231 (6.01), of the Criminal Code of Canada. See Royal Canadian Mounted Police, “London Police Service and Royal Canadian Mounted Police provide update on the criminal charges related to the London, Ontario vehicle attack”, 14 June 2021.

3.2.3 Canada: the response

The Criminal Code of Canada generally addresses crimes motivated by hatred in its sentencing regime. When deciding on the appropriate sentence for any criminal offence, a court must consider as an aggravating factor evidence that the offence was motivated by bias, prejudice or hatred based on numerous non-exhaustive criteria such as race, religion or sexual orientation.²³⁸

There is also one specific offence that can be described as a “hate crime” in Canadian law, that of hate-motivated mischief committed against certain kinds of property, such as property primarily used for religious worship.²³⁹ The Criminal Code also contains three hate propaganda offences for which the motivation of hatred is an important component. These are: (a) inciting hatred in a public place against an identifiable group that is likely to lead to a breach of the peace;²⁴⁰ (b) wilful promotion of hatred against an identifiable group,²⁴¹ which each carry maximum sentences of two years’ imprisonment; and (c) advocating or promoting genocide against an identifiable group, which carries a maximum sentence of five years’ imprisonment.²⁴² “Identifiable group” means any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability.²⁴³ Bill C-19, the Budget Implementation Act, 2022, No. 1, which was introduced in Parliament on April 28, 2022, proposes to create a new hate propaganda offence of wilfully promoting antisemitism by denying, condoning or downplaying the Holocaust.

For the purposes of collecting hate crime statistics in Canada, “hate crime” is defined as including the hate propaganda offences. According to data reported by the police, there has been a marked rise in the commission of hate crime offences in recent years. Canadian police authorities reported that hate crimes motivated by race, religion or ethnicity increased by 47 per cent in 2017.²⁴⁴ After remaining at comparable levels in 2018, there was a further increase of 7 per cent in 2019, a year in which 1,946 criminal incidents motivated by hate were recorded, the majority of which were non-violent in nature.²⁴⁵ In 2020, the number of police-reported hate crimes in Canada increased by 37 per cent compared with the previous year, to 2,669 incidents. This marks the largest number of police-reported hate crimes recorded since comparable data became available in 2009.²⁴⁶ Evidence suggests, however, that few of the incidents captured by police statistics involved individuals associated with ideologically motivated violent extremism. Between 2001 and 2019, only 20 individuals associated with such extremism were charged with the “hate speech” type of offences of wilful promotion of hatred and public incitement of hatred, and one charge was issued for the offence of mischief to property.²⁴⁷ During the same period, there were 17 publicly recorded cases involving ideologically motivated violent extremism in which individuals were convicted of offences, including homicide, assault-related offences, arson and harassment. In these cases, the court took into consideration the hateful motivation of their criminal activity for the purposes of sentencing.²⁴⁸

²³⁸ Canada, Criminal Code, sect. 718.2 (a) (i).

²³⁹ *Ibid.*, sect. 430 (4.1 and 4.101). This is based on the notion that a hate crime can be considered as a regular crime motivated by hatred.

²⁴⁰ *Ibid.*, sect. 319 (1).

²⁴¹ *Ibid.*, sect. 319 (2).

²⁴² *Ibid.*, sect. 318.

²⁴³ *Ibid.*, sect. 318 (4).

²⁴⁴ Canada, Building a Foundation for Change. It was noted that police-reported hate crime is defined as a criminal violation against a person or property motivated by hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or gender identity or expression, or any other similar factor.

²⁴⁵ Greg Moreau, *Police-reported Hate Crime in Canada, 2019* (Ottawa, Statistics Canada, 2021).

²⁴⁶ Jing Hui Wang and Greg Moreau, “Police-reported hate crime in Canada, 2020” (Canadian Centre for Justice and Community Safety Statistics, Statistics Canada, 17 March 2022). Available at www150.statcan.gc.ca/n1/pub/85-002-x/2022001/article/00005-eng.htm.

²⁴⁷ Canada, Ontario Court of Justice, *R. v. M.G.*, 2017 ONCJ 565. See Nesbitt, “Violent crime, hate speech or terrorism?”, p. 44.

²⁴⁸ Nesbitt, “Violent crime, hate speech or terrorism?”, p. 45.

Authorities also have at their disposal a number of administrative and executive measures designed to prevent terrorist activity, although these have yet to be applied to any individuals associated with ideologically motivated violent extremism in Canada. Under these measures, the Government can revoke an individual's passport in order to restrict his or her ability to travel abroad.²⁴⁹ Furthermore, terrorism peace bonds, somewhat similar to the terrorism prevention and investigation measures of the United Kingdom, except that they are issued by criminal courts, allow the State to mitigate the risk of individuals committing terrorism offences in Canada and, depending on the circumstances, can be applied to individuals returning from abroad. Where satisfied that there is a reasonable fear that a person may commit a terrorism offence, a judge can impose any reasonable condition on the individual, which can last for a period of up to 12 months, or five years if the defendant has previously been convicted of a terrorism offence.²⁵⁰ The court must consider whether or not conditions should include a prohibition on the possession of firearms, surrendering a passport or remaining in a specific location. In its second annual report confirming statistical information relating to this measure, the Department of Justice of Canada confirmed that one terrorism peace bond had been entered into between 21 June 2020 and 20 June 2021.²⁵¹ As at May 2022, there had been 33 terrorism peace bond applications.

A similar measure exists in the Criminal Code in the form of a recognizance with conditions, which requires a defendant to enter into a recognizance designed to prevent the carrying out of a terrorist activity for a period of up to 12 months and, if the defendant has been convicted of a terrorism offence, for up to two years.²⁵² To bring an application before the court, the peace officer must have reasonable grounds to believe that a terrorist activity may occur and reasonable grounds to suspect that the recognizance with conditions is necessary to prevent that activity from occurring. Again, any reasonable condition can be imposed by the court, and the court must specifically consider whether or not conditions should include a prohibition on the possession of firearms, surrendering a passport or remaining in a specific location.²⁵³

As is the case in other Member States reviewed in this manual, in Canada there is more than one mechanism that entitles authorities to list individuals or organizations as terrorist entities. One of these is contained in the Regulations Implementing the United Nations Resolutions on Taliban, ISIL (Da'esh) and Al-Qaida, made pursuant to the United Nations Act, which enable Canada to comply with United Nations resolutions and prevent Canadian citizens from dealing in property and providing financial services to individuals and entities subject to measures imposed by the Security Council.²⁵⁴ In addition, the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism allow the Government to list a person or entity if it has reasonable grounds to believe that the person or entity has carried out, participated in, facilitated or attempted terrorist activity, or is acting on behalf of or under the direction of someone who has.²⁵⁵

Listing powers are also provided for in the Criminal Code. For an entity to be listed, there must be reasonable grounds to believe that the entity knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity, or knowingly acted at the direction of, in association with or on behalf

²⁴⁹ Canada, Canadian Passport Order SI/81-86, sect. 10.1. This can be done if there are reasonable grounds to believe that the individual might use the passport to commit an indictable offence in Canada or another jurisdiction, or any offence in a foreign country that would be considered an indictable offence in Canada.

²⁵⁰ Canada, Criminal Code, sect. 810.011.

²⁵¹ Canada, "Terrorism peace bonds annual report: June 21, 2020 to June 20, 2021", tabled in Parliament in May 2022. As at May 2022, there had been 33 terrorism peace bond applications.

²⁵² Canada, Criminal Code, sect. 83.3.

²⁵³ Ibid., sect. 83.03.

²⁵⁴ Canada, Regulations implementing the United Nations resolutions on Taliban, ISIL (Da'esh) and Al-Qaida, SOR/99-444.

²⁵⁵ Craig Forcese and Kent Roach, "Yesterday's law: terrorist group listing in Canada", *Terrorism and Political Violence*, vol. 30, No. 2 (February 2018), p. 268.

of such an entity.²⁵⁶ An “entity” may be a person, group or organization. Once an entity is listed, its property is frozen and can be subject to seizure and forfeiture.²⁵⁷

There are currently 77 entities listed in accordance with the provisions in the Criminal Code, 10 of which are associated with ideologically motivated violent extremism.²⁵⁸ In 2019, the Government of Canada added Blood and Honour and its armed unit, Combat 18, to its list of terrorist entities.²⁵⁹ That represented the first time that entities associated with ideologically motivated violent extremism had been added to the list. Following that, in 2021, the Government placed two new sets of entities associated with ideologically motivated violent extremism on the list. First, four such entities were added: the Atomwaffen Division, The Base, the Proud Boys and the Russian Imperial Movement.²⁶⁰ Later, in June 2021, two additional entities, the Three Percenters and Aryan Strikeforce, were added, as was one American neo-Nazi (James Mason), who had provided ideological and tactical instruction to listed entities on how to operate a terrorist group.²⁶¹

Unlike some other Member States examined in this manual, the listing of an entity under the provisions in the Criminal Code does not automatically result in it being considered an illegal entity, such that membership of the entity constitutes a criminal offence. Neither membership in a listed entity, nor association with it, constitutes a criminal offence.²⁶² Once listed, an entity is automatically defined as a terrorist group. There are various provisions in the Criminal Code that have “terrorist group” as a key element of an offence. These include knowingly participating in or contributing to any activity of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or conduct a terrorist activity. In these circumstances, in theory, the prosecution has an advantage if it can rely on the listing by the Government of an organization as evidence that it constitutes a terrorist group.²⁶³ Without this, the prosecution must prove beyond a reasonable doubt that the entity that the defendant was facilitating, contributing to or participating in meets the first part of the definition of a “terrorist group”, that is, an entity that has as one of its purposes or activities the facilitation or carrying out of any terrorist activity. To date, no individuals associated with listed ideologically motivated violent extremist entities have been prosecuted for these types of offences. Therefore, while the listing of the 10 entities, including individuals, referred to above may result in some disruption to their activities, it has not led to any consequential disruption as a result of a conviction for a terrorism offence.

The challenges that Canada faces concerning individuals travelling abroad to participate in international conflicts had been addressed by the Strengthening Canadian Citizenship Act, which allowed for the deprivation of Canadian citizenship of those with dual nationality convicted of terrorism. However, although

²⁵⁶ Canada, Criminal Code, sect. 83.05 (1).

²⁵⁷ *Ibid.*, sect.83.08.

²⁵⁸ Canada, Public Safety Canada, “Currently listed entities”. Available at www.publicsafety.gc.ca/.

²⁵⁹ Canada, Public Safety Canada, “Government of Canada announces initiatives to address violent extremist and terrorist content online”, 26 June 2019.

²⁶⁰ Canada, Public Safety Canada, “Government of Canada lists 13 new groups as terrorist entities and completes review of seven others”, 3 February 2021.

²⁶¹ Canada, Public Safety Canada, “Government of Canada lists four new terrorist entities”, 25 June 2021.

²⁶² Forcese and Roach, “Yesterday’s law: terrorist group listing in Canada”, p. 262.

²⁶³ Canada, Criminal Code, sect. 83.18. “Participating” includes training, recruiting and entering or remaining in a country on behalf of the group. See also *Supreme Court of Canada, R. v. Khawaja*, 2012 SCC 69, Case No. 34103, Judgment, 14 December 2012. The Supreme Court of Canada pointed out that the wording of the offence requires that there must be a specific intent to enhance the organization’s ability to conduct terrorist activity.

these provisions came into force in 2014, they were repealed in June 2017.²⁶⁴ There are, nevertheless, four terrorism offences in the Criminal Code that impose criminal liability on those who leave or attempt to leave Canada to commit certain terrorism offences outside Canada:

- (a) Leaving or attempting to leave Canada to participate in or contribute to any activity of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity;
- (b) Leaving or attempting to leave Canada to facilitate a terrorist activity;
- (c) Leaving or attempting to leave Canada to commit an indictable offence for the benefit of, at the direction of or in association with a terrorist group;
- (d) Leaving or attempting to leave Canada to commit an indictable offence that constitutes a terrorist activity.²⁶⁵

As at 1 June 2019, at least 14 Canadian citizens had travelled overseas to participate as foreign fighters. In some cases, investigations have been conducted and evidence has been collected by authorities, but the prosecution of these types of cases is time-consuming and complex. As yet, no one has faced prosecution.²⁶⁶

Currently, there is limited analysis available on the financial activities of entities or threat actors associated with ideologically motivated violent extremism in Canada. The existing domestic legislation serves to limit, contain and prohibit terrorist financing. The Proceeds of Crime (Money Laundering) and Terrorist Financing Act imposes reporting responsibilities on banks and financial institutions to counter terrorist financing and, as previously stated, the counter-terrorism legislative framework of Canada contains offences targeting the financing of terrorist activities and groups.²⁶⁷ However, there is no evidence to suggest that criminal proceedings based on these measures have yet been utilized to counter ideologically motivated violent extremism in Canada. The Financial Transactions and Reports Analysis Centre of Canada has observed that lone actors largely rely on personal funds from savings or employment to purchase weapons and materials to carry out attacks, and that their patterns of transaction behaviour have generally displayed no prior abnormal or suspicious financial activities. This understandably renders it very difficult for law enforcement authorities to anticipate any threat behaviour through analysis of financial activity alone.²⁶⁸

The Centre also reported that individuals associated with ideologically motivated violent extremism in Canada have funded international networks through, for example, the payment of membership fees, donations and the purchase of merchandise. In these incidences, transactions are typically made through payment processing companies and money service businesses.

²⁶⁴ The Strengthening Canadian Citizenship Act, S.C. 2014, c.22, sect. 8. Repealed by An Act to amend the Citizenship Act and to make consequential amendments to another Act, S.C. 2017, c. 14. Prime Minister Justin Trudeau announced at the time that “as soon as you make citizenship for some Canadians conditional on good behaviour, you devalue citizenship for everyone. A Canadian is a Canadian ... and by the way, there are penalties for anyone convicted of ... terrorism or an act of war or an offence against Canada. They end up locked up in jail for the rest of their lives.” See Tarek Fatah, “Justin Trudeau’s explosive audio: ‘Terrorists should get to keep their Canadian citizenship’”, Soundcloud, audio clip, 2016.

²⁶⁵ Canada, Criminal Code, sects. 83.181, 83.191, 83.201 and 83.202, respectively.

²⁶⁶ Soufan Center, *White Supremacy Extremism: The Transnational Rise of the Violent White Supremacist Movement* (New York, 2019), p. 29.

²⁶⁷ Proceeds of Crime (Money-Laundering) and Terrorist Financing Act (S.C. 2000, c. 17); sects. 83.03–83.04 of the Criminal Code of Canada.

²⁶⁸ Canada, Financial Transactions Reports Analysis Centre, Special Bulletin on Ideologically Motivated Violent Extremism: A Terrorist Activity Financing Profile (Ottawa, 2021).

3.2.4 Canada: analysis of the response

The counter-terrorism legislation of Canada has developed significantly since 2001. However, questions remain as to its relevance to the threat posed by ideologically motivated violent extremism. The Government of Canada has acknowledged that this threat is on the rise and has responded by aggressively invoking its listing powers to proscribe a number of entities associated with ideologically motivated violent extremism since 2019. Aside from the fact that being a member of a listed entity is not a crime, the country's legislative armoury for countering the threat of ideologically motivated violent extremism is similar to that of most of the countries considered in this manual. The terrorism offences in the Criminal Code, its executive and administrative measures and its hate crime and hate propaganda offences are comparable to those in other Member States, such as Australia and the United Kingdom. This suggests that there are sufficient measures in place to investigate, make arrests, prosecute and obtain convictions in relation to offences involving ideologically motivated violent extremism, when sufficient and tangible evidence is adduced by INSET actors and PPSC or provincial prosecutors.²⁶⁹

3.3 Germany

3.3.1 Germany: actors involved in the response

Counter-terrorism efforts utilize legislation and administrative tools that enhance the legal and operational powers of law enforcement authorities and place various restrictions on extremist movements and organizations.²⁷⁰ As in many other Member States, especially those espousing a federal political structure, counter-terrorism responsibilities in Germany are divided between multiple ministries and agencies. The Joint Centre for Countering Extremism and Terrorism (Gemeinsames Extremismus- und Terrorismusabwehrzentrum (GETZ)) focuses mainly on far-right extremism.²⁷¹ The primary agencies at the federal level engaged in the response to violent extremism are the Federal Office for the Protection of the Constitution, the Federal Criminal Police Office (BKA), the Federal Public Prosecutor General, the Federal Intelligence Service and the Military Counterintelligence Service.²⁷² In addition, state-level police forces and intelligence agencies are involved in anti-terrorism operations in various capacities. As might be expected, all of these entities are currently engaged, to various extents, in enhancing their capabilities to confront the growing threat of right-wing violent extremism. This re-prioritizing is also evident in recent logistical and operational efforts to better equip law enforcement agencies and agents in Germany to address this threat.²⁷³

Lastly, there are several agencies involved in preventing terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, through political education. The Federal Agency for Civic Education, a subordinate authority of the Federal Ministry of the Interior and Community, works in this area. In addition, the Federal Ministry of the Interior and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth fund deradicalization and

²⁶⁹ Note that hate crimes unconnected to terrorism offences are within the jurisdiction of provincial and/or municipal police forces and are prosecuted by provincial attorneys general.

²⁷⁰ Geoffrey Pridham, "Terrorism and the State in West Germany during the 1970s: a threat to stability or a case of political overreaction?", in *Terrorism: A Challenge to the State*, Juliet Lodge, ed. (New York, St. Martin's Press, 1981); Witold Mucha, "Polarization, stigmatization, radicalization. Counterterrorism and homeland security in France and Germany", *Journal for Deradicalization*, vol. 10 (2017).

²⁷¹ Paul Burke and Jonas Feltes, "Counter-Terrorism overview: Germany", CT Overview, (Delft, Netherlands, Technische Universiteit Delft, no date). Available at <https://counterterrorismethics.tudelft.nl/the-counter-terrorism-landscape-in-germany/>.

²⁷² Thomas Grumke and Rudolf van Hüllen, *Der Verfassungsschutz: Grundlagen, Gegenwart, Perspektiven?*, 2nd ed. (Leverkusen-Opladen, Germany, Barbara Budrich, 2019).

²⁷³ In 2019, the federal Government committed itself to creating 700 new positions in law enforcement and intelligence agencies that would focus on countering far-right extremism and monitoring online activities of militant far-right groups. (United States, Department of State, Bureau of Counterterrorism, "Country reports on terrorism 2019: Germany". Available at www.state.gov/).

disengagement programmes. In the last two decades, the first German deradicalization programme focused on right-wing extremism was EXIT Germany, which emerged using role model projects that had come into existence in Scandinavian countries in the mid- to late 1990s. EXIT Germany was established in 2000 and provides assistance for individuals seeking to leave neo-Nazi organizations and reintegrate into society.²⁷⁴ Over the last 15 years, EXIT Germany, which is part of Society Democratic Culture, a network of non-governmental organizations that aim to counter extremism, has been joined by more than 250 federal and local programmes.²⁷⁵ Some of these programmes engage in a comprehensive approach, working in both offline and online environments, while others mainly focus on deradicalization efforts in the cyberspace domain.

While not specifically constituting a classic deradicalization programme, there has also been an effort in the last few years to promote initiatives that can reduce interracial and ethnic tensions and undermine right-wing violent extremist narratives. Programmes such as the Civic Council²⁷⁶ and “Live Democracy!” are initiatives of the Ministry for Family Affairs, Senior Citizens, Women and Youth that provide funding for community programmes on preventing violent extremism and countering violent extremism.²⁷⁷

The federal programme “Live Democracy!”, launched in 2015, represents the Ministry’s effort to strengthen civic engagement and democratic practice at the local, state and federal levels. With an overall budget of 150.5 million euros, the programme funds projects and initiatives dedicated to promoting democracy and diversity and preventing extremism, as well as racism and other forms of group-related hate.

Under the “Live Democracy!” programme, through local-level networks of civil society and government actors, called Partnerships for Democracy, cities, municipalities and districts all over Germany develop strategies for action aimed at strengthening democracy and diversity and countering group-focused enmity.²⁷⁸ The partnerships decide independently on the types of measures to be carried out in their respective local areas.

A number of pilot projects in different thematic areas, for example, preventing right-wing extremism, are also funded under the programme in order to develop professional standards in tertiary prevention work. One project provides targeted assistance to individuals seeking to leave right-wing groups or organizations.

At the state level, the “Democracy Centres”, provide mobile counselling, counselling for victims and disengagement and exit counselling. Furthermore, throughout Germany, nationwide “Competence Networks” and “Competence Centres” are funded in 14 thematic areas, for example, right-wing extremism. They comprise about 47 civil society organizations as providers of nationwide expertise in support of the professional work of practitioners.

²⁷⁴ It should be noted that some prevention and youth work programmes were started in the early 1990s, in response to a wave of far-right violence in Germany after the reunification. See Arie W. Kruglanski, David Webber and Daniel Koehler, eds., “Deradicalization in Germany”, in *The Radical’s Journey: How German Neo-Nazis Voyaged to the Edge and Back* (New York, Oxford University Press, 2020).

²⁷⁵ Florian Gruber, Saskia Lützing and Uwe E. Kemmesis, “Extremismusprävention in Deutschland: Erhebung und Darstellung der Präventionslandschaft” (Wiesbaden, Germany, Bundeskriminalamt, Forschungsstelle Terrorismus/Extremismus, 2016), p.20 (in German).

²⁷⁶ Marcel Fürstenau, “Opinion: long live democracy”, Deutsche Welle, 18 January 2021.

²⁷⁷ Behnam T. Said and Hazim Fouad, *Countering Islamist Radicalization in Germany: A Guide to Germany’s Growing Prevention Infrastructure*, ICCT Policy Brief, (The Hague, International Centre for Counter-Terrorism, 2018).

²⁷⁸ Germany, Ministry for Family Affairs, Senior Citizens, Women and Youth, “Live Democracy!”. Available at www.demokratie-leben.de/.

3.3.2 Germany: legislation to counter the phenomenon

In Germany, public security legislation reflects a response to historical and ongoing security challenges and threats. The country's experience under the Nazi regime led to the inclusion of several provisions in its post-Second World War Basic Law that protect the democratic nature of the German State from internal anti-democratic parties, movements and ideologies. These provisions provide the Government of Germany with the authority to designate and ban organizations (except political parties) and related associations if the organizations are deemed to be a threat to the constitutional democratic order.²⁷⁹ A ban on a political party can only be ordered by the Federal Constitutional Court. Hence, the Government has a clear operational and legal path to respond to right-wing violent extremist groups by limiting the ability of such groups to organize, recruit and operate, as well as by targeting specific prominent individuals within them.

In the 1970s, in response to the rise in left-wing terrorism, the West German republic introduced laws that limited the rights of suspects, as well as provided more powers for counter-terrorism agencies. Specifically, the laws criminalized the formation or support of terrorist groups²⁸⁰ and provided law enforcement authorities with further search and surveillance capabilities.²⁸¹ Following the events of 11 September 2001, Germany passed two major sets of legislation to address the growing threat of terrorism committed by Al-Qaida and its associated actors. The first (*Sicherheitspaket I*) criminalized the formation of terrorist groups outside of Germany and provided tools to limit the engagement of religious clubs and associations in conduct contrary to the Basic Law of Germany.²⁸² The second set of legislative initiatives (*Sicherheitspaket II*) included a broad counter-terrorism law, the Act for the Fight against Terrorism (*Terrorismusbekämpfungsgesetz*), which introduced changes in the protocols that govern law enforcement operations in Germany. This included expansion of surveillance and information-gathering capabilities, as well as tighter control over immigration and identification procedures.²⁸³

In the following years, new anti-terrorism legislation was implemented, including the Aviation Security Act of 2005²⁸⁴ and the Act Supplementing the Act on the Fight against Terrorism of 2007, which provided further powers for law enforcement, especially with regard to data collection and surveillance. The latter Act was initially utilized by law enforcement authorities against religiously motivated terrorism, but in 2012, it was modified to allow for the targeting of far-right violent extremism.²⁸⁵ In 2009, the Parliament of Germany expanded the scope of terrorism offences by introducing into the Criminal Code (*Strafgesetzbuch (StGB)*) new articles on the preparation of serious violent offences endangering the State,²⁸⁶ which criminalize the preparation of serious acts of violent subversion and the distribution of instructions to execute such acts.²⁸⁷ Six years later, additional articles were introduced that criminalized the financing of terrorism, as well as

²⁷⁹ Germany, Basic Law for the Federal Republic of Germany, art. 9. English translation available at www.gesetze-im-internet.de/englisch_gg/index.html. For further reading, see Irina Wiegand, "National counter-terrorism (C-T) policies and challenges to human rights and civil liberties: case study of Germany", in *International Human Rights and Counter-Terrorism*, Eran Shor and Stephen Hoadley, eds. (2019), pp. 385–408; Dorle Hellmuth, "More similar than different: of checks, balances, and German and American Government responses to international terrorism", *German Politics*, vol. 27, No. 2 (March 2018).

²⁸⁰ Section 129 of the Criminal Code of Germany.

²⁸¹ Giovanni Capoccia, "Germany's response to 9/11: the Importance of checks and balances", in *The Consequences of Counterterrorism*, Martha Crenshaw, ed. (New York, Russell Sage Foundation, 2010); Pridham, "Terrorism and the State in West Germany during the 1970s".

²⁸² Franz Oswald, "German security after 9/11", in *European Security after 9/11*, Peter Shearman and Matthew Sussex, eds. (London, Routledge, 2017); Anna Oehmichen, "Terrorism and anti-terror legislation: the terrorised legislator? A comparison of counter-terrorism legislation and its implications on human rights in the legal systems of the United Kingdom, Spain, Germany, and France", PhD dissertation, Leiden University, 2009.

²⁸³ Wilhem Mirow, *Strategic Culture, Securitisation and the Use of Force: Post-9/11 Security Practices of Liberal Democracies* (New York, Routledge, 2016).

²⁸⁴ Burke and Feltes, "Counter-Terrorism overview: Germany".

²⁸⁵ Council of Europe, Committee of Experts on Terrorism (Codexter), Profiles on counter-terrorist capacity, "Germany" (September 2016).

²⁸⁶ Section 89a of the Criminal Code of Germany.

²⁸⁷ Council of Europe, Committee of Experts on Terrorism (Codexter), Profiles on counter-terrorist capacity, "Germany".

travel outside Germany in order to enter a State in which people are given terrorist training either for the purpose of committing a serious offence endangering the State or with the intent to instruct in or receive terrorist training. In addition, new articles provided authorization for the use of new national identity cards and passport restrictions for members of terrorist organizations.²⁸⁸

The Criminal Code²⁸⁹ also criminalizes a broad range of hate-related conduct. In Germany, a number of specific hate crimes relevant to the activities of individuals associated with far-right violent extremism can result in prison sentences. These include inciting hatred or violence against a racial or religious group or individuals belonging to them²⁹⁰ and disseminating material that incites hatred or violence against a racial or religious group.²⁹¹ When considering sentencing for other offences for which the hate motive is not already a statutory element of the offence, the court must take into consideration whether the offender's motivations were racist or xenophobic, or demonstrated evidence of contempt for humanity.²⁹² Offences such as disturbing the public peace by threatening to commit criminal offences (sect. 126 of the Criminal Code), the rewarding and approval of criminal offences (sect. 140) and threatening the commission of a serious criminal offence (sect. 241) have also been expanded by the Law to Combat Right-Wing Extremism and Hate Crime, introduced in 2021. In the Law, antisemitic motives were explicitly named as motives evidencing contempt for humanity.²⁹³ A further law, which entered into force in September 2021, determined that defamation turns into hate speech when expressions target individuals because of their belonging to a group (see new sect. 192a of the Criminal Code). Lastly, statutes are applied that criminalize in particular the distribution of propaganda material of anti-constitutional and terrorist organizations (sect. 86 of the Criminal Code) or the public display or use of codes and symbols of such organizations (sect. 86a, Criminal Code). These statutes cover, for example, displays of the swastika and shouting the Nazi salute "*Sieg Heil*".

The Federal Constitutional Court is the only government entity that determines the constitutionality of legislation. The Court has intervened in a number of instances dealing with counter-terrorism legislation. For example, in 2020, the Court deemed partially illegal the systematic access by security agencies to a centralized anti-terror database. The database, which was created in 2007 by BKA as part of the implementation of the Counter-Terrorism Database Act of 2006, was routinely shared with police authorities and intelligence services and included substantial personal data.²⁹⁴ In another landmark case, the Court placed limitations on the Government's authority to conduct "acoustic surveillance" in private residencies.²⁹⁵

It is important to note that there is no distinct procedure in Germany for sentencing terrorism suspects. Hence, all provisions of the Code of Criminal Procedure that apply to non-terrorism-related offenders before or during the trial are in principle to be applied to those suspected of terrorism. Those accused of terrorism offences are sentenced in accordance with the provisions of the ordinary criminal statutes

²⁸⁸ Ibid.

²⁸⁹ Criminal Code of Germany (*Strafgesetzbuch (StGB)*, version of June 2019), published in English. Available at www.gesetze-im-internet.de/englisch_stgb/index.html.

²⁹⁰ Germany, Criminal Code, sect. 130, providing for a prison sentence of up to five years.

²⁹¹ Ibid., sect. 130 (2) (1) (a) and (b), providing for a prison sentence of three years.

²⁹² Ibid., sect. 46 (2).

²⁹³ Ibid.

²⁹⁴ The Federal Constitutional Court determined that the usage and sharing of personal data should be more judicious and less excessive, and that personal data should be used only in cases where there is solid suspicion of involvement in actual criminal activities. Deutsche Welle, "Germany: anti-terror data mining ruled unconstitutional", 11 December 2020.

²⁹⁵ Decision of the Federal Constitutional Court of Germany of 3 March 2004 concerning Acoustic Surveillance of Housing Space; see also Hans-Joachim Lutz, "Terrorism and evidence gathering: case studies from Germany", *Southern Illinois University Law Journal*, vol. 42, No. 1 (2017), p. 55.

(mostly those pertaining to homicide, bodily harm, criminal offences against personal liberty or criminal offences dangerous to the public, such as arson or the activation of explosives), which are, in many cases, supplemented by charges specifically related to terrorism, when appropriate.²⁹⁶

3.3.3 Germany: the response

Several vectors of efforts seem to have shaped the response in Germany to political violence in general and to far-right violent extremism in recent years more specifically. The first is the creation of a legal and operational infrastructure for the effective dissemination and sharing of relevant intelligence and operational information. Such dissemination and sharing is carried out by GETZ, as well as by means of a counter-terrorism database that is monitored and formalized under the Counter-Terrorism Database Act.²⁹⁷

A second vector is the designation and/or banning of militant groups. Article 9, paragraph 2, of the Basic Law provides that “associations whose aims or activities contravene the criminal laws or that are directed against the constitutional order or the concept of international understanding shall be prohibited”²⁹⁸ Associations that are active in more than one federal state can be banned by the Federal Ministry of the Interior and Community. Political parties can only be banned by the Federal Constitutional Court. One example of a ban on an association is the banning in 2016 of the White Wolves Terror Crew. The Federal Ministry of the Interior justified the decision to ban the group by demonstrating that its members had perpetrated attacks against immigrants and refugees, and had advocated for the restoration of Nazism in Germany.²⁹⁹ Overall, from 1992 to 2021, 16 right-wing and Reichsbürger organizations were banned at the federal level, in addition to several bans at the state level. Bans on associations are a preventive measure used by officials at the administrative level to counter extremist developments at an early stage.

A third vector focuses specifically on the need to counter the growing ideological outreach of violent far-right groups via online platforms. In September 2015, a task force that included both government agencies and technology companies was organized to identify mechanisms of cooperation to address the threat of online hate speech. The most important outcome of the task force was the agreement of companies such as Google, Facebook and Twitter that the domestic law of Germany was to take precedence over their corporate policies with regard to reviewing and banning posts. Two years later, this collaborative policy was complemented by the enactment of the Network Enforcement Act, which formalized the responsibility of social networks with more than 2 million registered users in Germany to monitor and remove illegal hate materials (and in some cases, report such materials to the police), and made them subject to heavy fines if they failed to report material.³⁰⁰ In 2021, the Network Enforcement Act was amended such that the social networks are now also obligated to report certain criminal offences to BKA. The approach taken by Germany may have influenced the policies that were eventually adopted by the European Union and the international community. On 29 April 2021, the European Parliament approved the European Commission proposal of 2018 for a regulation of the European Parliament and of the Council on preventing the dissemination of terrorist content online.³⁰¹ The regulation allows European Union member States to request the removal, within an hour, of terrorist content.

²⁹⁶ See, for example, Germany, Bundesgerichtshof, “Urteil im sog. NSU-Verfahren hinsichtlich drei weiterer Angeklagter rechtskräftig”, press release No. 157/2021, 19 August 2021. Available at www.bundesgerichtshof.de (in German).

²⁹⁷ The counter-terrorism database is also being utilized in combination with public databases (such as those of online social media) to engage in what can be described as “grid searching”, that is, the search for and identification of individuals whose profile may indicate a high likelihood of involvement in militant activities. Burke and Feltes, “Counter-Terrorism overview: Germany”.

²⁹⁸ See Basic Law for the Federal Republic of Germany of 23 May 1949, last amended on 29 September 2020, art. 9, para. 2.

²⁹⁹ Reuters, “Germany bans neo-Nazi group as fears of far-right grow”, 16 March 2016.

³⁰⁰ Natasha Lomas, “Germany tightens online hate speech rules to make platforms send reports straight to the feds”, TechCrunch, 19 June 2020.

³⁰¹ European Commission, “Proposal for a regulation of the European Parliament and of the Council on preventing the dissemination of terrorist content online”, 12 September 2018. Available at <https://eur-lex.europa.eu/>.

In some areas, such as countering the financing of terrorism, Germany has quickly adapted to the growing threat of far-right violent extremism. For example, when Germany assumed the presidency of FATF, it listed the financing of racially motivated terrorism as one of the presidential priorities.³⁰²

Far-right violent extremist movements in Germany have been able to develop multiple sources of revenue, including through the use of white power music labels and festivals, the organization of sports events (mainly mixed martial arts) and real estate acquisitions. These activities are not illegal per se, which can make it challenging for authorities to use conventional legal tools such as those used to disrupt the financing of terrorism by larger groups such as Da'esh, Al-Qaida and their affiliates. So far, the utilization of the Money-Laundering Prevention Act, the Banking Act and the Insurance Supervision Act, all of which were amended in August 2008 to enhance the fight against money-laundering and the financing of terrorism, have rarely been used against far-right violent extremist actors in Germany.

3.3.4 Germany: analysis of the response

One of the policy responses utilized by the Government of Germany against far-right violent extremist groups is the establishment of bans on associations. Several reasons account for the apparently high impact that this preventive tool has. Germany has succeeded in curtailing the activities of far-right extremist associations through such bans. Traditional skinhead groups that terrorize the public have become rare. This major success is due in part to the previously mentioned deterrent effect that bans on associations have on other groups not directly affected by the bans. The success of such bans is due to the legal consequences of the bans, which establish, inter alia, that symbols of banned organizations may not be disseminated. This has made it harder for far-right extremists to “brand” their ideas. At the same time, however, former members of associations rarely change their convictions because of a ban.

Deradicalization programmes target active violent operatives and those who are still undergoing the process of radicalization. It seems that the latter group is experiencing substantial growth in Germany, according to the reports of the Federal Office for the Protection of the Constitution.³⁰³ One reason for this might be the intensified monitoring of right-wing extremist aspirations by the intelligence services. Several potential factors may undermine the effectiveness of deradicalization initiatives, including the fact that while individuals affiliated to Da'esh and Al-Qaida have emerged mostly from specific communities and social enclaves, that is not the case with far-right violent extremism, which presents a more diverse constituency.

Legislation enhancing the monitoring and surveillance powers of law enforcement agencies is an important component of the response to violent extremist groups in Germany. While more data and research are needed, there are some indications that seem to point to the effectiveness of this approach. According to the Federal Office for the Protection of the Constitution, the number of supporters or activist members of far-right groups in Germany between 2014 and 2019 was approximately 20,000, but the actual number of fatal or extremely violent attacks was fairly low, partly owing to the fact that far-right extremists do not need to be violent to be classified as extremists. According to the RTV dataset, there were 332 incidents that led to injuries (many were basically disturbances in public places), and only 7 of the incidents involved fatalities (in all but one incident, only one person was killed).

In conclusion, the Government of Germany is highly aware of the threat of right-wing extremism and has invested significant resources into addressing the phenomenon. The 89-point action plan against right-wing extremism and racism that was presented by the Government in November 2020 is a case in point.

³⁰² Available at www.fatf-gafi.org/.

³⁰³ Germany, Bundesamt für Verfassungsschutz, themen, Rechtsextremismus, “Zahlen und fakten”. Available at www.verfassungsschutz.de/ (in German).

The action plan includes more than a billion euros of additional funding and mandatory measures to be implemented between 2021 and 2024 to enhance research and prevention, as well as cooperation between security authorities, the judiciary, and relevant State and civil society bodies within Germany.³⁰⁴

3.4 Norway

3.4.1 Norway: actors involved in the response

Counter-terrorism efforts and law enforcement strategies in Norway have focused on preventative work and diverting resources to local solutions. Norway has championed prevention over punishment through the formation of communal and social support mechanisms that can provide resiliency against the proliferation of far-right violent extremism. This softer approach to counter-terrorism is uniquely moulded by traditional Norwegian egalitarian values, high levels of interpersonal and institutional trust, legal structures and the domestic political climate, as well as by the Government's perception of the level of threat posed by far-right violent extremism.³⁰⁵

In comparison with some other Member States in Europe, there is limited violent extremist activity in Norway. The responsibility for overseeing counter-terrorism efforts lies with PST, as opposed to a specific national security agency. That said, PST does work particularly closely with the Norwegian Intelligence Service, mainly through its Joint Intelligence and Counter-Terrorism Centre.³⁰⁶ At the local level, municipal police forces are tasked with dealing with radicalized individuals and local violent extremists, in close cooperation with other stakeholders, including PST.³⁰⁷ Prior to the adoption by Norway in 2014 of the National Action Plan against Radicalization and Violent Extremism, PST and local law enforcement authorities had, to some degree, a monopoly over preventative work.³⁰⁸ Since the implementation of the Action Plan, and in part as an acknowledgment that countering radicalization demands a multi-faceted strategy, the counter-terrorism response was expanded to include additional agencies and programmes. Nine ministries and agencies supervise the Action Plan, with the Ministry of Justice and Public Security playing a key role by being responsible for over half of the suggested measures. Other agencies included in the Action Plan are the Ministry of Education and Research, the Ministry for Children and Families and the Ministry of Culture and Equality.³⁰⁹ Community efforts play a vital role in the preventative work undertaken in Norway and are evident within the daily activities of public institutions and community actors, such as schools, youth clubs and outreach workers. The use of digital teaching resources on radicalization and violent extremism across secondary school education³¹⁰ and efforts to improve interfaith dialogue³¹¹ and mentoring schemes³¹² are examples of such efforts.

³⁰⁴ Federal Government of Germany, News, "A clear signal in the fight against right-wing extremism and racism", 25 November 2020. The action plan is available at www.bundesregierung.de/resource/blob/974430/1819984/4f1f9683cf3faddf90e27f09c692abed/2020-11-25-massnahmen-rechtsextremi-data.pdf?download=1 (in German).

³⁰⁵ Michael Joseph Piaseczny, "The determinants of differing legislative responses in similar States: a Nordic case study", *Mapping Politics*, vol. 9 (2018); Keiran Hardy, "Countering right-wing extremism: lessons from Germany and Norway", *Journal of Policing, Intelligence and Counter Terrorism*, vol. 14, No. 3 (October 2019).

³⁰⁶ See Intruks om samarbeidet mellom Etterretningstjenesten og Politiets sikkerhetstjeneste. Available at <https://lovdata.no/> (in Norwegian).

³⁰⁷ Katrine Fangen and Yngve Carlsson, "Right wing extremism in Norway: prevention and intervention", in *Right-Wing Extremism in Europe: Country Analyses, Counter-Strategies and Labor-Market Oriented Exit Strategies*, Ralf Melzer and Sebastian Serafin, eds. (Berlin, Friedrich-Ebert-Stiftung, 2013).

³⁰⁸ Rune Ellefsen, "Prevention of radicalization as an emergent field of plural policing in Norway: the accelerating role of militant islamists", *Nordic Journal of Studies in Policing*, vol. 2, No. 1 (April 2021). It should be noted that prior work in the area often incorporated community leaders, local governments and non-governmental organizations. However, the public still viewed the Police Security Service and local enforcement authorities as responsible for counter-terrorism efforts.

³⁰⁹ Norway, Ministry of Justice and Public Security, "Action plan against radicalization and violent extremism" (Oslo, 2014).

³¹⁰ *Ibid.*, measure No. 9.

³¹¹ *Ibid.*, measure No. 15.

³¹² *Ibid.*, measure No. 18.

3.4.2 Norway: legislation to counter the phenomenon

Despite the considerable number of small-scale violent acts by far-right violent extremist groups in Norway during the 1980s and 1990s, it was not until the aftermath of the events of 11 September 2001 that explicit provisions on terrorism were included in the Penal Code. Prior to that, individuals had been charged with ordinary offences such as assault and murder. The effects of the events of 11 September led to the introduction of anti-terrorism legislation and subsequent amendments in 2002, 2005 and 2008.³¹³ The threat of domestic terrorism in Norway remained low in that period, however, and therefore the focus of legislation was predominately on countering foreign country-based terrorism. The main legislative measures implemented by the Government of Norway between 2002 and 2008, which were predominantly enacted to keep up with global developments and meet international obligations, are summarized as follows:³¹⁴

- (a) Terrorist acts (sect. 131 of the Penal Code),³¹⁵ aggravated terrorist acts (sect. 132), terrorist conspiracy (sect. 133), and terrorist threats (sect. 134) were criminalized. The maximum sentence for those serious acts is 30 years, although this does not apply to other acts related to terrorism, such as terrorist threats and terrorist conspiracy (sect. 132);
- (b) Certain preparatory acts of terrorism were criminalized, greatly increasing the scope of criminal liabilities³¹⁶ and policing powers³¹⁷ (see the following subparagraph);
- (c) All forms of terrorist financial preparations were criminalized, and the financing of terrorist acts was prohibited (sect. 135);
- (d) Incitement of, and recruitment and training for, terrorist acts were made punishable by six years of imprisonment (sect. 136). These measures are viewed as relatively moderate, reflecting a noticeable pre-emptive stance,³¹⁸ emphasizing prevention by means of severe sanctions on the planning and other preliminary phases of terrorist acts.

The criminalization of various preparatory acts led to the expansion of law enforcement powers – a trend seen across other Member States. Section 222 d of the Criminal Procedure Act grants the police permission to use covert coercive measures. Surveillance of communications and audio and secret searches are permitted to avert terrorism, if there is reason to believe that someone intends to commit a criminal act as specified in sections 131 (Terrorist acts) or 134 (Terrorist threats) of the Penal Code. Furthermore, under section 17 d of the Police Act, PST is allowed to use coercive methods if there are reasons to investigate whether someone is preparing to commit a criminal act as specified in sections 131, 133 (Terrorist conspiracy) and 134 of the Penal Code.³¹⁹ These enactments downgrade the threshold for probable cause and thus enhance the ability of PST to apply coercive methods. Advancements in effective surveillance technologies also brought new investigative methods, and since June 2005, courts have been authorized

³¹³ Marianne Angvik, "Security and rights: the development of Norwegian counter-terrorism measures post 9/11 and their impact on the private sphere", Masters dissertation, University of Oslo, 2017; Norway, Ministry of Justice and Public Security, Ot.prp. No. 61 (2001–2002); Ot.prp. No. 60 (2004–2005); Ot.prp. No. 8 (2007–2008) (in Norwegian).

³¹⁴ Norway has often considered it necessary to follow European Union frameworks and Security Council resolutions. Furthermore, being a party to the Council of Europe Convention on the Prevention of Terrorism, Norway was obliged to criminalize terrorist-related recruitment and training in 2005.

³¹⁵ Norway, Penal Code. Available at <https://lovdata.no/NLE/lov/2005-05-20-28/>.

³¹⁶ Erling Johannes Husabø, "Counterterrorism and the expansion of proactive police powers in the Nordic States", *Journal of Scandinavian Studies in Criminology and Crime Prevention*, vol. 14, No. 1 (February 2013).

³¹⁷ Ibid.

³¹⁸ Angvik, "Security and rights".

³¹⁹ Husabø, "Counterterrorism and the expansion of proactive police powers", p. 11.

to permit the police to use covert or secret audio surveillance of oral communications if there is just cause to suspect someone of committing, or attempting to commit, a criminal act as specified in sections 131 or 134 of the Penal Code.³²⁰

In the aftermath of the terrorist attacks Oslo and Utøya, Norway, in 2011, the Government of Norway enacted 31 policy responses regarding, for example, control of weapons, police and military reforms and amendments to the Penal Code.³²¹ These reforms enhanced law enforcement powers in the areas of surveillance, control of weapons and data collection³²² across a broader range of terrorist activities.³²³ Moreover, in 2013, the Penal Code was further amended to broaden the criminalization of preparatory terrorist acts (sect. 131). This made it easier to investigate and stop lone offenders. In addition, since the above-mentioned provision on aggravated terrorist acts (sect. 132) had not yet entered into force, the maximum prison sentence for aggravated terrorist acts was changed in 2014 from 21 years to 30 years. In the following years, with the rise in manifestations of Al-Qaida and Da'esh in Norway and the joining by Norwegian foreign fighters of violent extremist groups inspired by ideologies associated with groups such as Al-Qaida and Da'esh, the Parliament of Norway amended sections 145 and 146 of the Penal Code. These amendments made it an offence to engage in unlawful overseas military activity in the interests of non-State actors³²⁴ and to recruit individuals for that type of military activity abroad.³²⁵ An additional provision, adopted in 2019, made it an offence to travel to another country with the intent to commit, plan or prepare an act of terrorism.³²⁶

In October 2018, Norway enacted the Anti-Money-Laundering Act and the Money-Laundering Regulation, closely mirroring the fourth and fifth European Union anti-money-laundering directives, of 2015 and 2018, respectively. In June 2020, the Government of Norway presented a new strategy for preventing money-laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction.

3.4.3 Norway: the response

Several vectors are involved in the efforts to counter far-right violent extremism in Norway. Foremost among them is the focus on early preventative measures. The country's first Action Plan against Radicalization and Violent Extremism was published in 2010. The second Action Plan, currently under implementation, was published in 2014³²⁷ and later revised in 2020.³²⁸

The Action Plan collectively pulls a range of ministries, municipalities and civil society organizations together, emphasizing the need for collaborative efforts against all forms of violent extremism, across five main categories.³²⁹ The Ministry of Justice and Public Security plays a dominant role in the Action Plan, facilitating the gathering of data and knowledge, improving national and international coordination and preventing the growth of extremist groups through penal regulation and guidance material for mentoring programmes and by enhancing the police presence on websites that promote violent extremism. Other

³²⁰ Norway, Criminal Procedure Act (No. 25 of 22 May 1981), sect. 216 m.

³²¹ Piaseczny, "The determinants of differing legislative responses in similar States".

³²² In 2016, the Criminal Procedure Act was amended to allow police authorities to access information prior to encryption in a database.

³²³ Including incitement, recruitment and training in relation to terrorism.

³²⁴ Norway, Penal Code, sect. 145. The maximum prison sentence for an offence under section 145 is six years.

³²⁵ *Ibid.*, sect. 146. The maximum prison sentence for an offence under section 146 is three years; see also Council of Europe, Committee of Experts on Terrorism (CODEXTER), Country profiles on counter-terrorist capacity, "Norway" (November 2008).

³²⁶ Norway, Penal Code, sect. 136 (b). The offence is punishable by imprisonment for up to six years.

³²⁷ Norway, Ministry of Justice and Public Security, "Action plan against radicalization and violent extremism" (Oslo, 2014).

³²⁸ Norway, Norwegian Ministry of Justice and Public Security, "Handlingsplan mot radikalisering og voldelig ekstremisme – revisjon 2020" (Oslo, 2020) (in Norwegian).

³²⁹ The five categories are: knowledge and expertise; cooperation and coordination; preventing the growth of extremist groups and helping to promote reintegration; preventing radicalization and recruitment through the Internet; and international cooperation.

ministries, such as the Ministry for Children and Families, are tasked with providing guidance to parents and supporting voluntary organizations in preventing radicalization, while the Ministry of Health and Care Services is tasked with developing competences in the public health sector with regard to supporting communities and individuals vulnerable to violent radicalization.

Prior to the Action Plan, in the early 1990s, a range of successful preventative interventions were employed to counter far-right violent extremist activity. Owing to the young age of the violent far-right actors, the interventions were tailored to supply educational, parental and other social support networks with the tools needed to help facilitate the transition of such actors back into mainstream society.

Project Exit was the first national deradicalization programme specifically designed to counter radicalization to far-right violent extremism. Established in 1997 in collaboration with academia, local police authorities and the youth mental health-oriented non-governmental organization Voksne for Barn (“Adults for Children”), the programme utilized two main early intervention methods:

(a) *Parental network groups*. Because of the integral role that parents play within the disengagement process, parental groups provided a platform for sharing advice and information between parents of children engaged in far-right violent extremist activities. The networks provided insight and context regarding such activities and distributed information on “non-alienating” methods for caring for and monitoring affected youth and distancing them from such activities.³³⁰

(b) *Structured youth-adult professional empowerment conversations*. These conversations between local police officers (acting as mentors) and young people (18 years of age or under) encouraged the withdrawal of young people from extreme groups and the prevention of criminal behaviour.³³¹

The project was deemed to be a large contributing factor in the plummeting of far-right violent extremism between 2002 and 2011.³³² Its success led to its dissemination to other Member States in Europe, consequently becoming the blueprint for many other “Exit” programmes. Critically, however, the programme seems to be less effective for older far-right actors³³³ and for participants with differing violent extremist ideologies.

Community action has also been central in countering far-right violent extremism. Outreach projects such as the Church Youth Project in Kristiansand³³⁴ strive to ensure that at-risk youth do not disengage from their community. Importantly, community outreach efforts can help individuals who want to leave far-right violent extremist groups yet have no alternative social network or mentor with whom they can forge trusting relationships.

The need for more legislative action, however, has also been suggested by the European Commission against Racism and Intolerance, which recommended that the Government of Norway introduce and

³³⁰ Riazat Butt and Henry Tuck, “European counter-radicalisation and de-radicalisation: a comparative evaluation of approaches in the Netherlands, Sweden, Denmark and Germany” (London, Institute for Strategic Dialogue Report, 2014), p. 31.

³³¹ In 2003, the Norwegian Police Security Service led a series of empowerment conversations with 95 young members of the far-right Vigird network, resulting in more than 50 per cent of the members immediately expressing their intention to leave the organization, and other group members stating that their engagement would be minimized. See Hardy, “Countering right-wing extremism”; Lorenzo Vidino and James Brandon, *Countering Radicalization in Europe* (London, International Centre for the Study of Radicalization and Political Violence, 2012).

³³² Hardy, “Countering right-wing extremism”.

³³³ Casie Elizabeth Daugherty, “Deradicalization and disengagement: exit programs in Norway and Sweden and addressing neo-Nazi extremism”, *Journal for Deradicalization*, No. 21 (2019).

³³⁴ Yngve Carlsson and Thomas Haaland, “Voldelige ungdomsgrupper: inter- vensjon på kommunenivå – erfaringsrapport fra Kristiansand 2001–2004”, NIBR-rapport, No. 20 (Oslo, 2004) (in Norwegian).

enact legislation to stop the funding of, and disband, racist and extremist groups and prohibit the use of hate speech by members of Government and Parliament both inside and outside of State institutions.³³⁵ Currently, Norway, unlike some of the other Member States discussed in this manual, has no legislative measures entitling it to proscribe domestic extremist groups.

The Government, however, has promoted several efforts to curb hate speech and disinformation, practices that are highly popular among far-right violent extremist groups. Protection against “serious” hate speech falls under sections 77(i), 185 and 186 of the Penal Code, respectively.³³⁶ However, owing to the stringent threshold of what speech is considered criminal, less than 10 prosecutions for the violation of hate speech laws occurred between 2005 and 2015.³³⁷ More recent measures for tackling hate speech have included the national Strategy against Hate Speech for the period 2016–2020³³⁸ and the International Strategy for Freedom of Expression of 2021.³³⁹ The Strategy against Hate Speech comprises six main target areas, including the facilitation of discussion forums, improved efforts to combat hate speech among children and youth, and the promotion of “sound news production” through “independent journalism.”³⁴⁰ The International Strategy for Freedom of Expression outlines strategies and action needed to improve the quality, access to and safety of freedom of expression. It highlights the need for a greater diversity of high-quality, independent and free media sources. The Strategy further calls for greater user access to reliable information and the creation of safer environments for the expression of speech through awareness campaigns and intercultural dialogue.

Norway also engages in a range of multilateral networks to safeguard freedom of expression and prevent violent extremism. Norway is a member of the Freedom Online Coalition and, through its contributions to the European Economic Area and Norwegian grant schemes, the Government supports a range of national and international organizations, such as the “No Hate Speech” campaign, run by the Council of Europe across the continent.³⁴¹

3.4.4 Norway: analysis of the response

Owing to its limited experience with violent extremism, Norway’s initial response to terrorism followed policies promoted by the other Member States covered in this manual or international organizations. After the attacks in Oslo and Utøya, Norway, in 2011, Norway strengthened its legislative stance and significantly invested in deradicalization and preventative efforts.

Norway’s response to terrorism and violent extremism has a strong focus on community action and preventative work, an approach that has proved fruitful in efforts to limit recruitment by and facilitate disengagement from local violent extremist groups. However, the effectiveness of this particular approach has more limited impact when:

- (a) Community members are unidentifiable, operating in networks that extend beyond community boundaries (e.g. through online forums and virtual networks), making them undetectable by local agencies, as was the case for the perpetrator of the attacks in Oslo and Utøya; or

³³⁵ Council of Europe, European Commission against Racism and Intolerance, “ECRI report on Norway: sixth monitoring cycle” (February 2021).

³³⁶ Norway, *The Equality and Anti-Discrimination Ombud Report: Hate Speech and Hate Crime* (Oslo, 2015); Norway, Norwegian Ministry of Children and Equality, *The Government’s Strategy against Hate Speech 2016–2020* (Oslo, 2015).

³³⁷ Norway, *The Equality and Anti-Discrimination Ombud Report*.

³³⁸ Norway, Norwegian Ministry of Children and Equality, *The Government’s Strategy against Hate Speech 2016–2020*.

³³⁹ Norway, Ministry of Foreign Affairs, “Freedom of expression: strategy for promoting freedom of expression in Norwegian foreign and development policy” (Oslo, 2021).

³⁴⁰ Norway, Norwegian Ministry of Children and Equality, *The Government’s Strategy against Hate Speech 2016–2020*, p. 41.

³⁴¹ *Ibid.*, p. 51.

(b) The scope of activity of the actor or actors surpasses the stage of community intervention and they are too firmly established for members to be disengaged and the group to be dismantled. At this point, the police and PST will have a more dominant role.

For community action to succeed, it is imperative that most of the community members, for example, teachers, social workers and parents, recognize and have the assurance to report warning signs to local authorities, in order to prevent young individuals from drifting into violent extremism. Not only should more support be given to community members with regard to reporting, but more education is needed to enable them to recognize and report suspicious behaviour, owing to the diverse constituency and backgrounds of far-right extremist actors.³⁴²

A key contributor to the successful reduction of far-right violent extremism in Norway at the turn of the century was the involvement of researchers at the local level, working alongside local organizations and community members. These collaborations allowed for the creation of interventions that utilized the growing body of scientific insights about radicalization and aptly tapped into engagement with local far-right extremist actors. Given that the demographic of some of these actors in Norway has shifted from young people to adults, with the majority of members now typically between 20 and 50 years of age,³⁴³ a new generation of formative research and knowledge regarding how to adapt and tailor programmes to the target group is imperative. There is also a need to involve institutions that specifically deal with adult militants, such as the Ministry of Labour and Social Inclusion and correctional services.³⁴⁴ Thus, one of the new measures in the 2020 revision of the Action Plan against Radicalization and Violent Extremism was the establishment of a national guidance function at the Labour and Welfare Administration. The office performing this function is now a national point of contact for other national services in cases involving radicalization and violent extremism. In addition, it offers advice and guidance to other Labour and Welfare Administration offices in such cases.

Since the attacks in Oslo and Utøya, waves of xenophobic and anti-Muslim hate rhetoric have intensified, causing divisive effects within Norwegian society. Online social networks and forums have become the most common platforms used to express hate speech. For example, the perpetrators of both the attacks in Oslo and Utøya and the attack on the Al-Noor Islamic Centre in Bærum, Norway, expressed anti-immigrant views in online forums and were radicalized online. The European Commission against Racism and Intolerance has expressed concern that there is “no effective mechanism in place for consistently removing hate speech from the Internet”.³⁴⁵ Hence, it seems that better collaboration between social media firms and the Norwegian authorities to limit the volume of online hate speech could be an important step forward in the struggle against online radicalization.³⁴⁶ Furthermore, the overturning of the convictions of three members of the Nordic Resistance Movement for hate speech in a court of

³⁴² The following quote from the review by the “22 July Commission” of the attacks in Oslo and Utøya, perpetrated by Anders Behring Breivik, exemplifies this point well: “Breivik’s person and preparation methods broke with the prevailing view of who, what and how anyone can pose a threat to society.” (Norway, Norges Offentlige Utredninger, *Rapport fra 22. Juli-kommisjonen*, NOU report 2012, No. 14. (Oslo, 2012), as cited in Fangen and Carlsson, “Right wing extremism in Norway: prevention and intervention” p. 351).

³⁴³ The reduction in violent far-right youth cultures and activity can be attributed to a variety of reasons. Currently, there are no attractive social arenas encouraging far-right youth engagement; the white power music scene has severely depreciated; younger generations are more tolerant of immigrants, in part through their upbringing in a multicultural society; and there are now greater and more available opportunities for young people.

³⁴⁴ Tore Bjørgo, “Right-wing extremism in Norway: changes and challenges”, RightNow! blog, Center for Research on Extremism, 25 February 2019.

³⁴⁵ European Commission against Racism and Intolerance, “ECRI report on Norway”, p. 7.

³⁴⁶ *Ibid.*, sect. 56.

appeal in September 2020³⁴⁷ highlighted the need to consider legislative reforms regarding the threshold set for prosecuting hate speech.³⁴⁸

In 2014, a Hate Crime Unit was established in the Oslo Police District. In 2017, a total of 12 support centres for crime victims were established, one in every police district in the country. In October 2021, the Hate Crime Unit in Oslo was extended to become a national hate crime expertise group. The Group's two main assignments are to increase knowledge about hate crime in all 12 police districts and, when needed, provide support and guidance in specific cases.

3.5 United Kingdom

3.5.1 United Kingdom: actors involved in the response

Since 2018, the Security Service of the United Kingdom (also known as MIS) has assumed the lead responsibility for investigating right-wing terrorism in the United Kingdom, identifying suspects, conducting surveillance and assessing threats.³⁴⁹ MIS works in collaboration with the Metropolitan Police Service Counter Terrorism Command, a specialized counter-terrorism police service with responsibility for disrupting terrorist threats in London, and with four other regional counter-terrorism units to coordinate the arrests of individuals and the disruption of potential terrorist attacks. The National Counter Terrorism Security Office is part of the National Police Chief's Council and provides counter-terrorism security advisers to local police forces to offer advice and guidance on protective security measures.³⁵⁰ The police have a wide range of investigative powers relating to terrorist investigations, enabling them to conduct investigations before any link to terrorism is established and any terrorist act is committed.³⁵¹ Intelligence-gathering by the police, security and intelligence services involving the interception of communications, the acquisition of communications data and the conduct of surveillance operations is regulated in accordance with the provisions of the Regulation of Investigatory Powers Act 2000. The process of any relevant interception of communications and the material that has been intercepted can be excluded from court proceedings to ensure the confidentiality of sources and methods of investigation.³⁵²

If individuals are arrested for terrorism offences or terrorism-related offences, the Crown Prosecution Service will determine whether there is sufficient evidence and whether it is in the public interest to enter a charge.³⁵³ Prior to bringing charges, terrorism offences are subject to additional provisions regarding the commencement of proceedings. No prosecution of the majority of substantive terrorism offences can be undertaken without the permission of the Director of Public Prosecutions, and in circumstances where offences are committed abroad or are connected with the affairs of another country, the consent of

³⁴⁷ Karen Viktoria Akerø-Stueland, Luca Montag and Rebecca Gordon Cage, "Nazi advocacy shielded by freedom of expression in Norway", *Human Rights Pulse*, 13 September 2020.

³⁴⁸ The three men were originally charged under section 185 of the Penal Code, which criminalizes hate speech, for hanging swastika flags adorned with the message "We are back!" at the Peace and Human Rights Centre in Kristiansand, Norway. Their actions were intended to show their support for "the whole of Hitler's national socialist project". The Agder Court of Appeal quashed the initial conviction, as the expression of the men's hate speech was not targeted to a specific person or group of people, therefore did not meet the threshold for hate speech, despite the link to Nazism having been established.

³⁴⁹ Vikram Dodd, "MIS to take over in fight against rise of UK rightwing extremism", *The Guardian*, 28 October 2018.

³⁵⁰ United Kingdom, National Counter Terrorism Security Office, "About us". Available at www.gov.uk/.

³⁵¹ See Part IV and Part V of the Terrorism Act 2000. The powers include the authority to conduct investigations into the commission, preparation and instigation of acts of terrorism, as well as acts that appear to have been done for the purposes of terrorism, and the resources of proscribed organizations; the possibility of making a proscription order; and the authority to conduct investigations into the commission of offences under the Terrorism Act 2000 and Terrorism Act 2006. Under sections 44–47 of the Terrorism Act 2000, the police can stop and search vehicles and individuals, and schedule 7 of the Terrorism Act 2000 enables the questioning of individuals at ports and airports, the stopping of a vehicle or person, the detaining of an individual and the requiring of passenger information.

³⁵² United Kingdom, Regulation of Investigatory Powers Act 2000, sect. 17.

³⁵³ United Kingdom, Crown Prosecution Service, "Terrorism". Available at www.cps.gov.uk/.

the Attorney General is also required.³⁵⁴ If a decision is taken to prosecute, the case will be handled by the Special Crime and Counter Terrorism Division of the Crown Prosecution Service, which also assumes responsibility for prosecuting racially and religiously aggravated criminal offences.³⁵⁵

In addition to investigating and prosecuting terrorism offenses, the Government also works to avert extremist violence through its Prevent programme.³⁵⁶ The programme was introduced in 2011 with a view to stopping people from becoming terrorists or supporting terrorism³⁵⁷ and comprises a range of services provided by local authorities and the police, including presentations at schools regarding beliefs, cultural activities on the topic of extremism, the facilitation of forums to air grievances, and sporting activities.³⁵⁸ A key part of the Prevent strategy is Channel,³⁵⁹ a multi-agency panel responsible for identifying and providing support to individuals at risk of being drawn into terrorism.³⁶⁰ Schools, health-care providers and local government institutions are also under a statutory duty to pay “due regard to the need to prevent people from being drawn into terrorism”³⁶¹ and are expected to make appropriate referrals to Channel where necessary.³⁶² Reflecting the recent increased threat of right-wing extremism, 18 per cent of individuals (1,312) dealt with through the Prevent programme in the period from April 2017 to March 2018 had connections with far-right extremism³⁶³ and 43 per cent of Channel referrals in the period from April 2019 to March 2020 involved cases of far-right radicalization.³⁶⁴ It is also notable that the number of referrals of far-right extremists under the age of 20 doubled between 2016 and 2020.³⁶⁵

3.5.2 United Kingdom: legislation to counter the phenomenon

The legislative framework for countering extremism and terrorism in the United Kingdom is complex and has evolved considerably since the adoption of the Terrorism Act 2000, which consolidated many of the emergency provisions that had been enacted in response to political violence in Northern Ireland.³⁶⁶ The Government has defined extremism in its Prevent strategy as “vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs [..., including] calls for the death of members of our armed

³⁵⁴ Section 117 of the Terrorism Act 2000.

³⁵⁵ United Kingdom, Crown Prosecution Service, “Special Crime and Counter Terrorism Division (SCCTD)”. Available at www.cps.gov.uk/.

³⁵⁶ The growing risk posed by far-right violent extremism was explicitly referenced in the 2018 counter-terrorism strategy of the United Kingdom, which has four strands: prevent, pursue, protect and prepare. See United Kingdom, *CONTEST: The United Kingdom’s Strategy for Countering Terrorism*.

³⁵⁷ United Kingdom, Prevent Strategy (London, Her Majesty’s Stationery Office, 2011), p. 24.

³⁵⁸ *Ibid.*, p. 28.

³⁵⁹ Channel operates in England and Wales; in Scotland, a similar Prevent multi-agency panel is responsible for these activities (United Kingdom, Home Office, “Channel and Prevent Multi-Agency Panel (PMAP) guidance”, 22 February 2020).

³⁶⁰ United Kingdom, Channel Duty Guidance: *Protecting People Vulnerable to Being Drawn into Terrorism* (London, Her Majesty’s Stationery Office, 2020), p. 6.

³⁶¹ United Kingdom, Counter-Terrorism and Security Act 2015, sect. 26 (1).

³⁶² United Kingdom, Home Office, “Statutory guidance: revised prevent duty guidance for England and Wales”, 1 April 2021.

³⁶³ Jamie Grierson, “Prevent referrals over rightwing extremism rise by over a third”, *The Guardian*, 13 December 2018.

³⁶⁴ Jamie Grierson and Dan Sabbagh, “Largest number of Prevent referrals related to far-right extremism”, *The Guardian*, 26 November 2020.

³⁶⁵ The Soufan Center, “IntelBrief: taking stock of the terrorism landscape in the United Kingdom”, 16 September 2021.

³⁶⁶ Since enacting the Terrorism Act 2000, the Government has passed a further eight statutes criminalizing terrorism-related conduct, which have introduced a range of additional offences, as well as police and sentencing powers: the Anti-terrorism, Crime and Security Act 2001; the Prevention of Terrorism Act 2005 (repealed); the Terrorism Act 2006; the Counter-Terrorism Act 2008; the Terrorism Prevention and Investigation Measures Act 2011; the Counter-Terrorism and Security Act 2015; the Counter-Terrorism and Border Security Act 2019; the Counter-Terrorism and Sentencing Act 2021. This does not include legislation that is specifically relevant to Northern Ireland, for example, the Terrorism (Northern Ireland) Act 2006. There are three legal jurisdictions in the United Kingdom, namely, England and Wales, Scotland and Northern Ireland. It is beyond the scope of the present manual to outline the legal responses to violent extremism in all three jurisdictions; the manual therefore focuses on legislation in England and Wales, where most of the offences involving far-right violent extremists have been prosecuted.

forces.”³⁶⁷ Terrorism is defined under section 1 of the Terrorism Act 2000 as “the use or threat of action”, where it satisfies the following conditions:

- (a) The action involves either serious violence against a person, serious damage to property, endangers a person’s life (other than the person committing the action), creates a serious risk to the health and safety of the public (or a section of the public) or is designed seriously to interfere with or disrupt an electronic system;
- (b) The use or threat is designed to influence the government or an international governmental organization or to intimidate the public or a section of the public; and
- (c) The use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.

Therefore, any seriously violent act committed, or threat of seriously violent action made, by an individual associated with the far-right that is designed to intimidate the public and intended to advance an ideological or racial cause is likely to be sufficient to be considered an act of terrorism. Moreover, the use of explosives or firearms in furtherance of such causes obviates the requirement for the second limb of the test to be satisfied.

Perpetrators of acts of terrorism may be charged with offences under ordinary criminal law (for example, murder, arson or explosives-related offences) or under special terrorism offences, which are in large part established under the Terrorism Act 2000 and the Terrorism Act 2006. These include, for example, the collection or possession of information for terrorist purposes, the publication of statements encouraging terrorism and the preparation of terrorist acts. In some cases, individuals may be prosecuted for offences not outlined in terrorism legislation, but which are nevertheless determined to have had a “terrorist connection”. These offences, set out in Schedules 1 and 17A of the Sentencing Act 2020 (the latter of which was inserted by the Counter-Terrorism and Sentencing Act 2021), are those in relation to which a court may determine a “terrorist connection”, and include the offences of murder, manslaughter and possessing explosives with the intent to endanger life or property.³⁶⁸ If an individual is found guilty of an offence and a terrorist connection is proved beyond a reasonable doubt, then special custodial sentences can be imposed to prevent the automatic release of offenders at the halfway point of their sentences.³⁶⁹ The right of terrorist offenders to be released automatically at the halfway point of their sentences was abolished by the Terrorist Offenders (Restriction on Early Release) Act 2020. Any application for release must be at the two-thirds mark of a determinate sentence upon passing a risk assessment by the Parole Board. The procedure under the Terrorist Offenders (Restriction on Early Release) Act 2020 has been abolished in respect of “dangerous terrorist prisoners” as defined in the Counter-Terrorism and Sentencing Act 2021. Accordingly, “dangerous terrorist prisoners” do not have the option to apply for parole.³⁷⁰

At the end of 2020, 42 of the 209 individuals in custody for terrorism-related offences in the United Kingdom held far-right violent extremist ideologies.³⁷¹ A range of criminal offences have been applied to prosecute alleged offenders and those convicted of terrorism-related acts inspired by far-right extremist

³⁶⁷ United Kingdom, Home Office, “Revised prevent duty guidance”.

³⁶⁸ United Kingdom, Counter-Terrorism and Sentencing Act 2021, Schedule 2. Available at www.legislation.gov.uk/.

³⁶⁹ United Kingdom, Crown Prosecution Service, “Terrorism”.

³⁷⁰ This new legislation is yet to be tested.

³⁷¹ These figures include those in custody until trial or sentencing, but exclude individuals held in custody in relation to terrorism offences in Northern Ireland (United Kingdom Home Office, “Operation of police powers under the Terrorism Act 2000 and subsequent legislation: arrests, outcomes, and stop and search Great Britain, year ending December 2020”, 4 March 2021). This is two fewer than the in previous year, when 44 out of 183 prisoners in custody held extreme right-wing views; quarterly statistics for the period March 21 to June 21 were to be released in September 2021). United Kingdom, Home Office, *Operation of Police Powers under the Terrorism Act 2000 and Subsequent Legislation: Arrests, Outcomes, and Stop and Search – Great Britain, Financial Year Ending March 2020*, Report, No. 15 (London, Her Majesty’s Stationery Office, 2020), p. 18.

ideology. The most frequently prosecuted substantive terrorism offence concerns the “preparation for terrorist acts” under section 5 of the Terrorism Act 2006, although it has had comparatively little application with respect to individuals associated with far-right extremism, as opposed to those connected with terrorists inspired by ideologies associated with groups such as Al-Qaida and Da’esh.³⁷² This offence prohibits engaging in any conduct in preparation for committing or assisting another to commit an act of terrorism. The wording “any conduct” allows for broad interpretation with regard to the activities that can be considered as meeting the requirements of the offence.

Also relevant to the criminal convictions of terrorists inspired by far-right violent extremism are the offences of encouragement of terrorism³⁷³ and dissemination of terrorist publications.³⁷⁴ The former prohibits the intentional or reckless publication of a statement likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement to commit, prepare or instigate acts of terrorism. The use of the word “likely” and the alternatives of “some or all” and “direct or indirect” lowers the threshold requirements for a prosecution and broaden the applicability of the offence. The offence regarding dissemination criminalizes the distribution of terrorist publications or their possession with a view to dissemination, when an individual intends for such distribution to directly or indirectly encourage the commission, preparation or instigation of acts of terrorism, or is reckless in that regard.

Both offences include a “reasonable person” standard as to whether actions constitute encouragement, and sections 1 (3) and 2 (4) provide that “glorification” of the commission or preparation of acts of terrorism amounts to “indirectly encouraging” such acts, although it is noted in those sections that this only applies when members of the public might “reasonably be expected to infer that what is being glorified is being glorified as conduct that should be emulated by them in existing circumstances. Also crucial is that both offences can be committed online and have been part of the armoury at the disposal of authorities seeking to disrupt the spread of extreme far-right propaganda intended to radicalize others via the Internet. Since 2020, four individuals connected to the extreme far right have been convicted of the offence of encouraging terrorism. The same individuals were also convicted of dissemination-related offences.³⁷⁵

In most cases, these individuals were also convicted of offences under sections 57 and 58 of the Terrorism Act 2000, which criminalize the collection, possession or recording of information likely to be useful to a person committing or preparing an act of terrorism.³⁷⁶ Both of these offences carry maximum sentences of 15 years, following the amendments introduced in the Counter-Terrorism and Border Security Act 2019. More than a third of the principal offences for which all individuals were charged under terrorism legislation in the periods 2018–2019 and 2019–2020 fell under the remit of the provisions of section 58 of the Terrorism Act 2000.³⁷⁷ This offence is the most prosecuted terrorism offence in the United Kingdom and has been applied extensively to the activities of far-right terrorists.³⁷⁸

The offence set out in section 58 has recently been amended to criminalize the viewing or accessing of a document or record containing information likely to be useful to a person committing or preparing an

³⁷² “Preparation for terrorist acts” was the principal offence for which individuals were charged under terrorism legislation in 190 instances between 2007 and 2020.

³⁷³ United Kingdom, Terrorism Act 2006, sect. 1.

³⁷⁴ *Ibid.*, sect. 2.

³⁷⁵ United Kingdom, Counter Terrorism Policing, “Newcastle man sentenced to 4 years for terrorism offences”, 23 December 2020, and “South Shields man sentenced for terrorism and firearms offences”, 21 May 2021.

³⁷⁶ There is a defence of “reasonable excuse” set out in section 58, paragraph (3A), of the Terrorism Act 2000.

³⁷⁷ United Kingdom, Home Office, “Operation of police powers under the Terrorism Act 2000: financial year ending March 2020: annual data tables”, 11 June 2020, table A-A.05a.

³⁷⁸ Blackburn, “Counterterrorism legislation and far-right terrorism in Australia and the United Kingdom”, p. 81.

act of terrorism via the Internet.³⁷⁹ The original formulation of the Bill of 2019 included proposed amendments that required material to be viewed online on three or more occasions, in order to protect those who might accidentally visit sites containing such material. However, the offence now requires only a single viewing, in order to avoid evidential difficulties for the prosecution.³⁸⁰

3.5.3 United Kingdom: the response

Terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief may be prosecuted as racially, religiously or homophobically aggravated offences, or offences that are motivated by hostility towards other protected characteristics. The Crime and Disorder Act 1998 created the separate offences of racially or religiously aggravated assaults, criminal damage, public order offences and harassment. It also includes racially or religiously aggravated disorderly behaviour, which can be committed in public or private, where an offender uses threatening words or behaviour or exhibits disorderly behaviour within hearing or sight of the victim, causing distress, alarm or harassment. There is no requirement for any physical assault for this offence to be considered as committed. Notably, such offences are liable to increases in sentencing where the offender has demonstrated hostility to the victim based on the victim's membership or presumed membership of a racial or religious group.³⁸¹ Primary evidence from which it can be deduced that the requirements of this offence have been satisfied include membership of a far-right violent extremist group and the display of insignias.

Non-violent racially or religiously aggravated criminal offences are outlined in the Public Order Act 1986, which contains a number of provisions relevant to prosecutions involving far-right offenders, including the incitement of racial hatred by using threatening, abusive or insulting words or behaviour (sect. 18) and the publishing or distributing of written material with the intent of stirring up racial (sect. 19) and religious hatred (sect. 29C). It is noticeable that far-right activists tend to be repeat offenders in relation to these types of offences and that the offences have been committed in reaction to terrorist attacks inspired by ideologies expressed by entities such as Al-Qaida and Da'esh, reflecting the reciprocal nature of far-right criminality in the United Kingdom.

The Government of the United Kingdom has abandoned attempts to increase legislative powers aimed at disrupting extremist activity. An Extremism Bill was announced in 2015 that had proposed introducing extremism disruption orders to prevent individuals from radicalizing others online, banning orders aimed at reducing the capabilities of extremist organizations that did not meet proscription threshold requirements, and closure orders entitling the police and local authorities to shut down premises used to support extremism.³⁸² Instead, the Government has implemented the Counter-Extremism Strategy, which has highlighted concerns over extreme right-wing activity in the United Kingdom,³⁸³ and established the Commission for Countering Extremism, which has commissioned research into far-right organizations and the online promotion of their objectives.³⁸⁴ Commentators have regarded these developments as an acknowledgement by the Government that existing legislative measures targeting

³⁷⁹ United Kingdom, Counter Terrorism and Border Security Act 2019.

³⁸⁰ Lucia Zedner, "Countering terrorism or criminalizing curiosity? The troubled history of UK responses to right-wing and other extremism", *Common Law World Review*, vol. 50, No. 1 (February 2021), pp. 4, 13–16. This development has been criticized as amounting to overcriminalization, particularly in the light of its provenance as a strict liability offence that also carries a maximum sentence of 15 years' imprisonment. A defence of reasonable excuse that allows for the possession of material for the purposes of journalism or academic research has also been criticized for its narrow scope and its shifting of the burden of proof from the prosecution to the defendant.

³⁸¹ Sections 28–31 of the Crime and Disorder Act 1998, amended by the Anti-Terrorism, Crime and Security Act 2001.

³⁸² Joanna Dawson and Samantha Godec, *Counter-Extremism Policy: An Overview*, Briefing Paper, No. 7238, (London, House of Commons Library, 2017), p. 21.

³⁸³ United Kingdom, Counter-Extremism Strategy (London, Her Majesty's Stationery Office, 2015).

³⁸⁴ United Kingdom, "Commission for Countering Extremism". Available at www.gov.uk/government/organisations/commission-for-countering-extremism.

extremism are sufficient and do not require further expansion.³⁸⁵ Alternatively, the Government may consider that future reviews and recommendations by the Commission may more easily pave the way for strengthening existing executive measures to counter terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, or for introducing new ones. Indeed, a recent Commission report has recommended the development of a new legal framework to counter “hateful extremism”, containing administrative powers, including the power to ban groups and to impose conditions on individuals, with breaches being subject to criminal sanctions.³⁸⁶

With regard to executive measures to counter terrorism, the Terrorism Prevention and Investigation Measures Act 2011 enables the Secretary of State for the Home Department (also known as the Home Secretary) to impose terrorism prevention and investigation measures on individuals if it is reasonably believed that they have been involved in terrorism-related activity.³⁸⁷ The maximum period of such a measure is five years³⁸⁸ and the measures that can be imposed include restrictions on travel, exclusion from certain areas, restrictions on the holding of bank accounts and the transfer of money, and prohibitions on applying for firearms and gun licences. They cannot, however, prohibit access to computers and other communications devices, although they may impose restrictions on their use.³⁸⁹

In addition to these measures, the State can impose restrictions by proscribing organizations as terrorist entities.³⁹⁰ The current procedures entitle the Home Secretary to proscribe an organization if he or she believes that it is “concerned in terrorism”.³⁹¹ Explanatory guidance on the criteria employed by the Home Secretary to exercise his or her discretion reveal that the criteria include the threat that the organization poses to the United Kingdom, the nature and scale of its activities, the extent of its presence in the United Kingdom and the need to support international partners.³⁹² In December 2016, following the glorification of the far-right extremist who had murdered Jo Cox, Member of Parliament,³⁹³ the group National Action was proscribed by the Home Secretary under the Terrorism Act 2000.³⁹⁴ As a result, it became the first far-right extremist group to be banned in the United Kingdom since 1940 and the first to be proscribed for being “concerned in terrorism”.³⁹⁵ This resulted in later prosecutions of individuals in connection with their membership of the group.³⁹⁶ By 2018, 27 individuals had been arrested on suspicion of being members of the group, 15 of whom were charged with terrorism offences.³⁹⁷ Since National Action was proscribed in 2016, proscription orders have been made for other far-right violent extremist

³⁸⁵ Zedner, “Countering terrorism or criminalizing curiosity?”, p. 9.

³⁸⁶ United Kingdom, Commission for Countering Extremism, *Operating with Impunity: Hateful Extremism – The Need for a Legal Framework* (London, Her Majesty’s Stationery Office, 2021), p. 64.

³⁸⁷ United Kingdom, Terrorism Prevention and Investigation Measures Act 2011, sects. 2–3. The system of terrorism prevention and investigation measures replaced a former control order system following successful human rights challenges against some of the obligations imposed upon individuals under the earlier process. In the case *Secretary of State for the Home Department v. JJ and others*, for example, the House of Lords ruled that an order requiring an 18-hour curfew, the wearing of electronic tags and the restriction of movement beyond 72 square kilometres and prohibiting meeting with other unauthorized persons breached article 5 (Right to liberty and security) of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

³⁸⁸ Sect. 5 of the Terrorism Prevention and Investigation Measures Act 2011, amended by sect. 35, para. (3) (b) of the Counter-Terrorism and Sentencing Act 2021.

³⁸⁹ Schedule 2 of the Terrorism Prevention and Investigation Measures Act 2011.

³⁹⁰ United Kingdom, Northern Ireland (Emergency Provisions) Act 1973, sect. 19; see Schedule 2 for list of proscribed organizations.

³⁹¹ Section 3 (4) of the Terrorism Act 2000.

³⁹² Explanatory Memorandum to the Terrorism Act 2000 (Proscribed Organizations) (Amendment Order) 2011, 2011 No. 108.

³⁹³ Ian Cobain and Matthew Taylor, “Far-right terrorist Thomas Mair jailed for life for Jo Cox murder”, *The Guardian*, 23 November 2016.

³⁹⁴ Section 3 (3) (a) of the Terrorism Act 2000.

³⁹⁵ United Kingdom, Home Office and the Rt. Hon. Amber Rudd, “National Action becomes first extreme right-wing group to be banned in UK”, press release, 16 December 2016.

³⁹⁶ BBC News, “National Action trial: members of neo-Nazi group jailed”, 18 December 2018.

³⁹⁷ United Kingdom, *CONTEST: The United Kingdom’s Strategy for Countering Terrorism*.

organizations, including NS131 (2017), Scottish Dawn (2017), System Resistance Network (2020), the Sonnenkrieg Division (2021) and the Feuerkrieg Division (2021), The Base (2021) and the Atomwaffen Division (2021).

Individuals can be prosecuted for a range of offences as a result of any continued association with an organization, once it has been proscribed. Membership, or purported membership, of a proscribed organization is criminalized under section 11 of the Terrorism Act 2000, with a defence available for individuals who became members prior to proscription and have not taken part in activities of the group. The offence set out in section 11 has frequently been invoked for the prosecution of far-right extremism, and under section 26 of the Counter-Terrorism and Sentencing Act 2021, the maximum penalty for membership of a proscribed organization was increased from 10 to 14 years. In a variety of cases in the United Kingdom, defendants have claimed that they quit a group at the time of proscription but continued to associate, communicate and share their extremist ideology as part of an ostensibly new organization. For this reason, NS131 and Scottish Dawn were proscribed as aliases of National Action in 2017. Given that a proscription order does not prevent individuals who receive such orders from associating and communicating with new offshoot groups, the law can only catch up by banning offshoots of the original banned group.³⁹⁸

A less straightforward group of offences are detailed under section 12 of the Terrorism Act 2000, which includes the inviting of support for a proscribed organization, including financial support, as well as the expression of opinions or beliefs while being reckless as to whether others might be encouraged to support such an organization (sect. 12 (1A)), and arranging meetings. Under section 13, it is an offence to wear clothing or display an article in a way that arouses “reasonable suspicion” that a person “is a member or supporter of a proscribed organization”. The wording of this section suggests that, even if a person is neither a member nor a supporter of such an organization, the person may have committed an offence by raising a “reasonable suspicion”. Since the proscription of National Action, 15 individuals have been convicted of offences under section 11 in connection with their membership of the organization.³⁹⁹ In April 2021, a former police officer was the latest to be jailed for his association with National Action, receiving a sentence of three years’ and four months’ imprisonment.⁴⁰⁰

The legislation of the United Kingdom also includes various offences regarding the commission of offences in foreign countries.⁴⁰¹ Amid concerns over British citizens travelling to engage in fighting in Iraq and the Syrian Arab Republic, the Counter-Terrorism and Security Act 2015 introduced measures to prevent the return from abroad of individuals suspected of leaving the United Kingdom to engage in terrorism abroad⁴⁰² and to control the return from abroad of individuals suspected of having conducted terrorist-related activity.⁴⁰³ The Counter-Terrorism and Border Security Act 2019 added to these measures by enabling the Home Secretary to designate a prohibited area abroad, making it an offence to enter into or remain in that area. The test for designating a prohibited area involves an assessment of whether such designation is necessary in order to protect the public from a risk of terrorism.⁴⁰⁴ There is no

³⁹⁸ Some counter-terrorist prosecutors are calling on the Government of the United Kingdom to create proportionate sanctions to prevent members of a proscribed terrorist group from communicating or associating with other groups while banning orders are in force.

³⁹⁹ Jonathan Hall, Q.C., *The Terrorism Acts in 2019: Report of the Independent Reviewer of Terrorism Legislation on the Operation of the Terrorism Acts 2000 and 2006* (United Kingdom, Home Office, March 2021), p. 38.

⁴⁰⁰ United Kingdom, Crown Prosecution Service, “Former police officer jailed for National Action members”, 30 April 2021.

⁴⁰¹ See sects. 58B–58C and 63A–63D of the Terrorism Act 2000.

⁴⁰² United Kingdom, Counter-Terrorism and Security Act 2015, sect. 1.

⁴⁰³ *Ibid.*, sect. 2.

⁴⁰⁴ United Kingdom, Home Office, Counter-Terrorism and Border Security 2019: factsheets, “Policy paper: designated area offence factsheet”, updated 15 September 2020.

indication that any of these powers have been used in connection with far-right violent extremists or that areas to which they are known to have travelled have been designated as prohibited.⁴⁰⁵

As regards responses to counter the financing of terrorism, the counter-terrorism legal framework of the United Kingdom contains a range of provisions targeting the financing of terrorism and extremism, including the offences of fundraising, using money and money-laundering for the purposes of terrorism.⁴⁰⁶ In considering the relevance of these measures to far-right violent extremists and organizations in the United Kingdom, there are limited data on their financial and fundraising activities from which a meaningful analysis can be drawn. Evidence has suggested that finances for attacks are likely to be minimal and accrued through licit rather than illicit sources.⁴⁰⁷ However, in a rare example of a successful prosecution for the counter-terrorist financing offences in the Terrorism Act 2000, a far-right violent extremist was convicted of two counts of terrorist fundraising in June 2021 in connection with his use of social media platforms to raise money for terrorist purposes.⁴⁰⁸

3.5.4 United Kingdom: analysis of the response

Events such as the murder of Jo Cox, Member of Parliament, and the emergence of National Action in 2016 compelled the Government of the United Kingdom to reassess the threat to national security posed by far-right violent extremism and acknowledge its growth since 2014, when it was regarded as presenting a very low risk. The Government handed responsibility for investigating right-wing terrorism to MI5. It has also reacted by pursuing an aggressive policy on proscription, introducing new measures criminalizing the viewing of online material and increasing maximum sentences and other sanctions for terrorism offences.⁴⁰⁹

On the whole, however, the Government's response to the recent upturn in far-right violent extremism has not resulted in any consequential reimagining of counter-terrorism legislation or the scope of the definition of terrorism. The country's Independent Reviewer of Terrorism Legislation recently observed that the current definition of terrorism is "quite wide enough" and capable of applying to both right-wing terrorist organizations and lone actors, including those on the fringes of the far-right ideological spectrum.⁴¹⁰ Similarly, although not initially designed to address terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, the existing counter-terrorism legislation contains a collection of measures that are equally relevant for tackling the phenomenon.

⁴⁰⁵ Blackburn, "Counterterrorism legislation and 'far-right' terrorism in Australia and the United Kingdom", p. 89.

⁴⁰⁶ Sections 15–18 of the Terrorism Act 2000. If convicted of one of these offences, the court can make a forfeiture order for any money or property that was used, was intended to be used and/or was reasonably suspected to be used for the purposes of terrorism (sect. 23 of the Terrorism Act 2000 (as amended by the Counter-Terrorism Act 2008)). Similar provisions exist under the Anti-terrorism, Crime and Security Act 2001, regardless of whether any criminal proceedings have been brought in relation to such property.

⁴⁰⁷ For example, earned income, savings and donations, using crowdfunding, peer-to-peer transactions and large gifts from wealthy donors (Tom Keating, Florence Keen and Kayla Izenman, "Fundraising for right-wing extremist movements: how they raise funds and how to counter it", *The RUSI Journal*, vol. 164, No. 2 (May 2019), p. 15, 18).

⁴⁰⁸ United Kingdom, Counter Terrorism Policing, "Bath man found guilty of encouraging extreme right wing terrorism", 11 June 2021.

⁴⁰⁹ The Counter-Terrorism and Border Security Act 2019 increases the maximum sentence for offences under section 58 of the Terrorism Act 2000 from 10 to 15 years, and for offences under sections 1–2 of the Terrorism Act 2006 from 7 to 15 years. See also Counter-Terrorism and Sentencing Act 2021, sects. 268A–268C.

⁴¹⁰ Jonathan Hall, Independent Reviewer of Terrorism Legislation, "Three aspects of United Kingdom's law and policy on right-wing terrorism", speech delivered to the Global Counterterrorism Forum, 21 April 2021. The definition has already been deployed against incel-related violence, resulting in the first prosecution of this type in Scotland, in 2020; BBC News, "Weapons haul man jailed for 10 years under Terrorism Act", 12 January 2021.

The approach of the United Kingdom to countering violent extremism has attracted some criticism.⁴¹¹ The Government's Commission for Countering Extremism has criticized existing legislation for not going far enough in tackling what it defines as "hateful extremism".⁴¹² Noting the new threats posed by far-right violent extremism, the Commission has argued that current legislation is insufficient to tackle online violent extremism and has made recommendations for legislative reform. It remains to be seen if any new legislative provisions will be proposed following the publication of this manual. In the meantime, law enforcement authorities continue to actively investigate and prosecute far-right violent extremist suspects for hate crime offences. Although these offences are contained in legislation passed in the 1980s and 1990s, they have proved to be relevant to the kinds of activities in which far-right violent extremists engage to spread their ideology, typically involving the espousing of violent intentions and hate-filled rhetoric online. The offences of inciting racial hatred and distributing material to stir up racial and religious hatred, set out in the Public Order Act 1986, have offered authorities some means of preventing and prosecuting such behaviour. The Counter-Terrorism and Border Security Act 2019, which criminalized the single viewing of online material, points to the adoption of a more hard-line approach to countering the threat that far-right violent extremism now poses to national security in the United Kingdom. Perhaps this is not surprising, given that 20 per cent of all current MIS counter-terrorism investigations and 30 per cent of all late-stage attack plots in the United Kingdom between 2017 and 2021 involved far-right violent extremists.

3.6 United States

3.6.1 United States: actors involved in the response

Following the events of 11 September 2011, reforms in the United States were aimed at coordinating the response to terrorism and violent extremism at the federal level between three entities of the executive branch:⁴¹³ the Department of Justice (DOJ),⁴¹⁴ including the FBI; DHS; and components of the United States Intelligence Community, including the Office of the Director of National Intelligence, which coordinates and manages the collection of intelligence and prevention efforts through various agencies such as the National Counterterrorism Center. The National Security Council coordinates such policy-related efforts for the executive branch at the national level. At the local level, two major inter-agency collaboration networks are involved in the response to ideologically motivated violence at the national level. The FBI Joint Terrorism Task Forces (JTTFs) are multi-agency units that include federal, state and municipal law enforcement agencies that focus on terrorism-related investigative work. Fusion Centers, officially under the supervision of DHS, are local hubs that focus on the sharing of information on terrorism and

⁴¹¹ Lord Anderson of Ipswich, "Extremism and the Law", remarks delivered at Middle Temple Hall, London, 18 March 2019. Available at <https://theorkneynews.scot/wp-content/uploads/2020/11/here-3.pdf>, p. 7; Zedner, "Countering terrorism or criminalizing curiosity?", p. 6.

⁴¹² United Kingdom, Commission for Countering Extremism, *Operating with Impunity*, p. 12.

⁴¹³ Michael B. Kraft and Edward Marks, *U.S. Government Counterterrorism: A Guide to Who Does What* (Boca Raton, Florida, United States, CRC Press, 2012); Yonah Alexander and Michael B. Kraft, eds., *Evolution of U.S. Counterterrorism Policy*, vol. I (Westport, Connecticut, United States, Praeger Security International, 2008).

⁴¹⁴ See Brad Wiegmann, Deputy Assistant Attorney General, Department of Justice, statement before the Subcommittee on Commerce, Justice, Science and Related Agencies of the Committee on Appropriations of the United States Senate at a hearing entitled "Violent extremism and domestic terrorism in America: the role and response of the Department of Justice", 29 April 2021. For more information on the Department of Justice and its offshoots' role in combating domestic violent extremism, see Merrick B. Garland, Attorney General, Department of Justice, statement before the Committee on Appropriations at a hearing entitled "Domestic violent extremism in America", 12 May 2021.

related activities between federal, state and municipal law enforcement agencies. There are roughly 200 JTFs and more than 70 Fusion Centers active all over the United States.⁴¹⁵

As in other Member States with a federal political structure, in the United States, the federal response operates in parallel and, in many cases, in coordination with, state-specific efforts to curb ideological violence through states' prosecutors, law enforcement agencies and legislation. Naturally, the history, demographics, political orientation and social dynamics of the different states generate different responses among them. While the present section focuses mainly on the response at the federal level to racially or ethnically motivated violent extremism, this manual also addresses some components of the response at the state level, primarily in cases where those components interact with efforts at the federal level.

3.6.2 United States: legislation to counter the phenomenon

Several key pieces of contemporary counter-terrorism legislation in the United States were formulated following the attacks of 11 September 2001, including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001. The Act expanded the definition of terrorism (to include domestic actions that are intended to intimidate or coerce a civilian population or to influence government policy by intimidation or coercion),⁴¹⁶ facilitated information-sharing and cooperation among government agencies, expanded the use by law enforcement officials of surveillance and other related capabilities, escalated potential punishments for terrorism-related offences (including various types of material support for designated terrorist groups), introduced new powers to counter the financing of terrorism and changed regulations concerning entry into the country.⁴¹⁷

Even though the Antiterrorism and Effective Death Penalty Act of 1996, later amended, predates the attacks of 11 September 2001, it still plays a vital role in the United States response to terrorism. The Act and the related legislation adopted after 11 September, however, mainly focused on foreign country-based terrorism, although elements of these laws, as well as other United States legislation, may be applicable to domestic terrorism if the terrorism involves certain ties to foreign designated individuals and entities. It is important to emphasize that, despite the focus on foreign terrorism, section 802 of the USA PATRIOT Act expanded the definition of terrorism to cover "domestic terrorism", which is defined in the section as activities that:

- (a) Involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
- (b) Appear to be intended:
 - (i) To intimidate or coerce a civilian population;
 - (ii) To influence the policy of a government by intimidation or coercion; or
 - (iii) To affect the conduct of a government by mass destruction, assassination or kidnapping; and
- (c) Occur primarily within the territorial jurisdiction of the United States.

⁴¹⁵ Mathieu Deflem, "Joint terrorism task forces", in *Counterterrorism: From the Cold War to the War on Terror*, vol. 1, *Combating Modern Terrorism (1968–2011)*, Frank Shanty, ed. (Santa Barbara, California, Praeger Security International/ABC-CLIO, 2012); Shane A. Salvatore, "Fusion center challenges: why fusion centers have failed to meet intelligence sharing expectations", Master's thesis, Naval Postgraduate School, 2018.

⁴¹⁶ See sects. 802–808 of the Act.

⁴¹⁷ United States, USA PATRIOT Act of 2001.

While section 802 does not create a new offence of domestic terrorism, it does expand the type of conduct that the Government can investigate under the category of “terrorism”.

Additional anti-terrorism legislation enacted in the last couple of decades largely concerns transnational terrorism and includes the Real ID Act of 2005, regulating more severe practices for acquiring identification documents in order to prevent the entry of terrorists into the country, and the Enhanced Border Security and Visa Entry Reform Act of 2002, establishing new measures to prevent the entry of terrorists into the country.⁴¹⁸

A substantial part of efforts to prevent or counter racially or ethnically motivated violent extremism in the United States is led by DOJ, which has, since the enactment of the Civil Rights Act of 1968, used criminal statutes to combat domestic terrorism-related criminal activity and vigorously enforced federal hate crime laws. The effort was enhanced following the passage in 2009 of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (which expanded the definition of hate crime to include acts motivated by the victim’s actual or perceived sexual orientation or gender identity, religion, national origin or disability) and amendments that added provisions against violence that leads to the damage of religious property or undermines federally protected rights.⁴¹⁹

The legal response often involves the use of hate crime-related offences and other criminal offences, primarily because no specific crime of domestic terrorism has been established at the federal level.⁴²⁰ DOJ frequently disrupts domestic terrorist plots, using a wide variety of other criminal offences to bring charges, including the offence of providing material support for terrorism, which can apply to both domestic and foreign defendants.⁴²¹ The case involving the murder of nine worshipers in an African-American church in Charleston, South Carolina, reflects the overall approach of relying primarily on non-terrorism offences to prosecute domestic terrorists.⁴²²

The Federal Sentencing Guidelines may also be applied in domestic terrorism cases. The Guidelines provide a significant sentencing enhancement for offences that involve or are intended to promote a “federal crime of terrorism”, often increasing the guideline range to the statutory maximum for such offences.⁴²³ The Guidelines allow for a similar upward departure for other offences that are calculated to influence or affect the conduct of government by intimidation or coercion, to retaliate against government conduct, or to intimidate or coerce a civilian population.⁴²⁴

Many domestic terrorism investigations result in charges for state-level offences, including some state-level terrorism-related provisions. Currently, 26 states in the United States have adopted legislation that

⁴¹⁸ Lauren Prunty, “The Terrorist Expatriation Act: unconstitutional and unnecessary – how the proposed legislation is unconstitutional and redundant”, *Journal of Civil Rights and Economic Development*, vol. 26, No. 4 (2013), p. 1009; Magdalena Krajewska, “Implementing the REAL ID Act: intergovernmental conflict and cooperation in Homeland Security policy”, *Publius: the Journal of Federalism*, vol. 50, No. 3 (May 2020).

⁴¹⁹ Matthew Trout, “Federalizing hate: constitutional and practical limitations to the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009”, *American Criminal Law Review*, vol. 52, No. 1 (2015), p. 131. It should be noted that most states and territories of the United States have hate crime statutes that are enforced by state and local law enforcement authorities in state and local courts. Hate crime laws in states and territories vary widely across jurisdictions.

⁴²⁰ Nathan Carpenter, “The ad hoc federal crime of terrorism: why Congress needs to amend the statute to adequately address domestic extremism”, *St. John’s Law Review*, vol. 92, No. 2 (2018); Jesse J. Norris, “When (and where) can right-wing terrorists be charged with terrorism?”, *Critical Studies on Terrorism*, vol. 13 No. 4, (October 2020). The USA PATRIOT Act provides a definition of domestic terrorism. However, the Act is an administrative statute that enables the utilization of specific surveillance and investigative practices, as well as sanctions against organizations, but it is not applicable for criminal charges (Reuven Young, “Defining terrorism: the evolution of terrorism as a legal concept in international law and its influence on definitions in domestic legislation”, *Boston College International and Comparative Law Review*, vol. 29, No. 1 (2006)).

⁴²¹ See United States Code, Title 18, Part I, chap. 113B, sect. 2339A.

⁴²² United States, Department of Justice, “Federal Jury Sentences Dylann Storm Roof to Death”, press release, 10 January 2017.

⁴²³ See United States Sentencing Commission, *Guidelines Manual*, chap. 3, part A, sect. 3A1.4.

⁴²⁴ See *Ibid.*, Commentary, Application notes, No. 4.

allows for an offender to be charged for terrorism if the crime being prosecuted fits the definition of terrorism included in the state's legislation, although some of the definitions that states employ may fit a broader range of mass violence, beyond what some experts would define as terrorism. Rarely, however, has such legislation been used to respond to the criminal activity of racially or ethnically motivated violent extremists. As at 2019, there had been only seven such cases, two in the State of Georgia and one each in the States of Kentucky, New Jersey, New York, Pennsylvania and West Virginia.⁴²⁵

3.6.3 United States: the response

The growing concerns in the United States about the rise in racially or ethnically motivated violent extremism led multiple components of the executive branch to shift focus to this threat. Both DHS and the FBI acknowledged the growing threat to the United States posed by white supremacist violent extremism.⁴²⁶ Furthermore, in 2021, a report drafted under the Office of the Director of National Intelligence assessed racially or ethnically motivated violent extremists to be one of the most lethal domestic violent extremist threats within the United States.⁴²⁷ Building upon work regarding these growing threats, there have been some substantial new efforts to address racially or ethnically motivated violent extremism and militia violent extremists, including the decision to formulate the National Strategy for Countering Domestic Terrorism, which focuses on several vectors of response.⁴²⁸ To begin with, the National Strategy clarifies the Government's intention to increase efforts to collect and analyse data on racially and ethnically motivated violent extremists and militia violent extremists, viewed as the most critical domestic violent extremist threats to the homeland.⁴²⁹ The National Strategy also stresses the Government's commitment to supporting community and local prevention programmes and partnerships with technology firms to address both offline and online radicalization to violence. In addition, the National Strategy is aimed at increasing the focus on domestic terrorism within law enforcement and intelligence agencies, as well as engaging in educational, training and screening efforts to prevent the infiltration of radical violent elements into the military and law enforcement bodies. Lastly, the National Strategy emphasizes the need to enhance international collaboration, especially considering the growing ties between domestic and foreign racially or ethnically motivated violent extremist groups.⁴³⁰

Substantial funding has been directed in the last few years to non-profit, academic and community programmes and private sector entities that collect and analyse data on racially or ethnically motivated violent extremism which can inform relevant policies.⁴³¹

⁴²⁵ Norris, "When (and where) can right-wing terrorists be charged with terrorism?"

⁴²⁶ United States, DHS, "Department of Homeland Security strategic framework for countering terrorism and targeted violence" (Washington, D.C., 2019). On 4 June 2019, Michael McGarrity, Assistant Director of the FBI Counterterrorism Division, and Calvin Shivers, the Deputy Assistant Director, testified before the Subcommittee on Civil Rights and Civil Liberties of the United States House of Representatives and emphasized the rise in reported hate crimes and related acts of violence linked to white supremacist groups, and the impact of those violent incidents on communities (Michael C. McGarrity, Assistant Director, Counterterrorism Division of the FBI, and Calvin Shivers, Deputy Assistant Director, Criminal Investigative Division of the FBI, written statement submitted as part of testimony before the United States House of Representatives Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties, in a hearing entitled "Confronting white supremacy", Washington, D.C., 4 June 2019). Six weeks later, FBI Director Christopher Wray stated that the majority of the domestic terrorism cases that the FBI had investigated were motivated by some version of white supremacist violence (Matt Zapotosky, "Wray says FBI has recorded about 100 domestic terrorism arrests in fiscal 2019 and many investigations involve white supremacy", *The Washington Post*, 23 July 2019).

⁴²⁷ United States, Office of the Director of National Intelligence, "(U) Domestic violent extremism poses heightened threat in 2021" (Washington, D.C., 2021).

⁴²⁸ Catrina Doosee and Harrington Jake, "The first U.S. national strategy for countering domestic terrorism", Center for Strategic and International Studies, 17 June 2021.

⁴²⁹ United States, FBI and DHS, "Strategic intelligence assessment".

⁴³⁰ United States, National Security Council, "National strategy for countering domestic terrorism" (Washington, D.C., 2021).

⁴³¹ Alexa Gagosz, "7 R.I. nonprofits receive over \$540k from Homeland Security for protection against violent attacks", *The Boston Globe*, 21 July 2021; Nick Miroff, "DHS announces \$77 million in grant funding to combat domestic terrorism and extremism", *The Washington Post*, 25 February 2021.

As noted above, the United States does not have a federal statute that criminalizes domestic terrorism *per se*, nor does the United States presently have a statutory regime to designate or ban strictly domestic organizations. The FBI, local JITFs and, in many cases, municipal law enforcement authorities have increased their focus on domestic violent extremism, mainly racially or ethnically motivated violent extremism and anti-government or anti-authority violent extremism, as the threat from these phenomena has increased.⁴³² The United States Attorney General emphasized that such efforts also include the elevation in status of the Domestic Terrorism Executive Committee, led by DOJ, which aims to facilitate inter-agency collaboration; the cooperation between JITFs and local law enforcement authorities in responding to domestic terrorism; and new policies aimed at maximizing the legal measures available to the Government in trying hate crimes.⁴³³

One of the most challenging aspects of the United States response to racially or ethnically motivated violent extremism is in the area of hate speech, especially on social media. The First Amendment to the United States Constitution generally protects free speech and association against government interference. Freedom of speech, including what can be considered as hate speech, is generally protected by the Constitution. Hence, federal law criminalizes only a narrow range of speech-related activity (e.g. true threats and incitements to violence) typically espoused by racially or ethnically motivated violent extremist actors. Lawsuits attempting to force the removal of content have mostly failed on the grounds that the First Amendment provides protection against State action aiming to regulate social media firms with regard to content permitted on their platforms. Moreover, courts have concluded that, within the Communications Decency Act, section 230 of title 47 of the United States Code provides substantial immunity to providers of interactive computer services, including social media providers, enabling them to host a wide variety of content.⁴³⁴ Hence, the Government's legislative and regulatory response to the proliferation of racially or ethnically motivated violent extremist messaging is restricted to traditionally recognized categories of unprotected speech, such as obscenity, defamation, fraud, incitement, fighting words, child sexual abuse material, true threats and speech integral to criminal conduct.

Nonetheless, the United States Government engages in a comprehensive whole-of-society approach to address the threat of terrorism and violent extremism online, including through terrorism prevention efforts. This includes voluntary partnerships with technology firms and the sharing of information on terrorist trends and tactics, including providing examples of content so that the firms can assess whether the content constitutes a violation of their terms of service and determine whether to take voluntary action. The United States also works to develop new approaches to identify and address terrorism and violent extremism online in international multi-stakeholder forums such as the Global Internet Forum to Counter Terrorism (GIFCT), in partnership with United Nations-affiliated initiative Tech Against Terrorism, and the Christchurch Call to Action. The mission of GIFCT, founded by Facebook, YouTube, Twitter and Microsoft Corporation in 2017, and now reorganized as a non-governmental organization, is to prevent and counter the exploitation of online platforms by terrorists and violent extremists, including racially or ethnically motivated violent extremists. In addition, GIFCT aims to foster technical cooperation between technology firms and Governments, including the United States Government, as well as the European Union and the United Nations.⁴³⁵ The Digital Forums on Terrorism Prevention, which

⁴³² Brad Wiegmann, Deputy Assistant Attorney General, Department of Justice, and Timothy Langan, Assistant Director, Counterterrorism Division of the FBI, statement before the Subcommittee on Civil Rights and Civil Liberties and the Committee on Oversight and Reform of the United States House of Representatives at a hearing entitled "Confronting violent white supremacy (Part VI): examining the Biden administration's counterterrorism strategy", Washington D.C., 29 September 2021.

⁴³³ United States, Department of Justice, "Attorney General Merrick B. Garland remarks: domestic terrorism policy address", 15 June 2021.

⁴³⁴ Valerie C. Brannon, "Free speech and the regulation of social media content", CRS Report, No. R45650, (Washington, D.C., Congressional Research Service, 2019).

⁴³⁵ Ángel Díaz, "Global Internet forum to counter terrorism transparency report raises more questions than answers", Just Security, 25 September 2019.

were initially led by the inter-agency Countering Violent Extremism Task Force and later by the DHS Center for Prevention Programs and Partnerships, also bring together experts from governments, the technology industry and community organizations in order to promote collaborative efforts to curb terrorism and violent extremism online.⁴³⁶

In some cases, members of Congress have engaged in independent efforts to put pressure on social media companies.⁴³⁷ In response to growing criticism, in March and June 2020, Facebook removed hundreds of accounts affiliated with racially or ethnically motivated violent extremist actors and groups.⁴³⁸ It is important to note that many of these groups and individuals have moved from using mainstream social media platforms, such as Instagram, Facebook, Twitter and YouTube, to using alternative platforms that lack restrictions and, in many cases, provide better tools to preserve anonymity and privacy, such as Parler, Gab and Signal.

3.6.4 United States: analysis of the response

Improving the response to racially or ethnically motivated violent extremism in the United States is challenging, given the legislative parameters and informational constraints related to the scope and nature of the phenomenon and evolving tactics. Hence, it is not surprising that this is one of the areas of focus of the National Strategy for Countering Domestic Terrorism. In 2017, for example, more than 87 per cent of the agencies that reported to the United Crime Reporting System (also known as UCR; it was the primary tool used by the United States Government for tracking crime trends in the United States) indicated that no hate crimes had occurred in their districts. This may reflect a situation of severe underreporting.⁴³⁹

Another important challenge is the escalation in environmental factors that may empower violent extremists to further challenge political and law enforcement authorities. There is, therefore, a need for community programmes aimed at facilitating greater trust, tolerance and collaboration between majority and minority populations, in addition to identifying and helping individuals vulnerable to radicalization to violence.

It is also crucial to develop policy tools that will prevent violent backlash against demographic diversification. The United States continues to become more ethnically and religiously diverse, a process that most demographers believe will intensify in the foreseeable future. A number of studies show that the regions experiencing faster diversification (for example, increases in their minority populations) are also those experiencing the highest increases in hate crimes. This suggests that community programmes should focus not only on identifying and helping individuals vulnerable to radicalization to violence but also on facilitating greater trust, tolerance and collaboration between majority and minority populations.

The United States has made substantial progress in improving legal and criminal justice mechanisms to address the threat of domestic violent extremism, especially in terms of increasing the awareness of the threat and the willingness to address its causes and proliferation. As with other security threats,

⁴³⁶ Security Magazine, "DHS policy's Targeted Violence and Terrorism Prevention program (TVTP) hosted 5th Digital Forum on Terrorism Prevention", 5 October 2020.

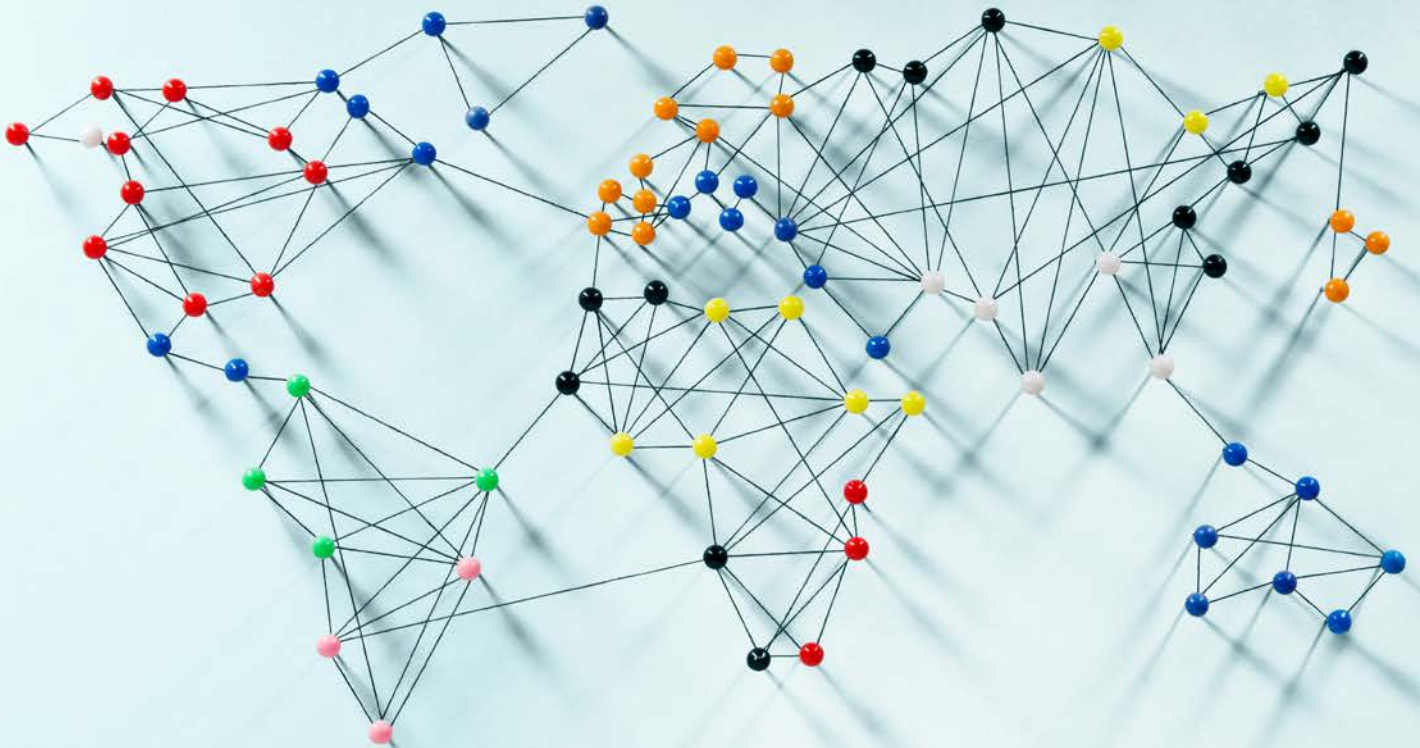
⁴³⁷ For example, in June 2020, three United States senators sent a letter to Facebook's Chief Executive Officer Mark Zuckerberg regarding the platform's "lack of action to prevent white supremacist groups from using the platform as a recruitment and organizational tool" (Alison Durkee, "Democratic Senators demand Facebook answer for its white supremacist problem", *Forbes*, 30 June 2020).

⁴³⁸ Additionally, both the Proud Boys and the American Guard had been banned from Facebook for violating the platform's rules prohibiting hate speech (Matthew Mosk and Mark Osborne, "Facebook takes down Proud Boys, American Guard accounts connected to protests", ABC News, 16 June 2020).

⁴³⁹ Indeed, in 2018, Department of Justice officials admitted that there was significant underreporting about hate crimes. See Michael German and Emmanuel Mauleón, *Fighting Far-Right Violence and Hate Crimes: Resetting Federal Law Enforcement Priorities* (New York, Brennan Center for Justice, New York University School of Law, 2018).

inter-agency collaboration, combined with joint efforts with the private and non-profit sectors, seems the most promising way forward in improving United States resiliency to racially or ethnically motivated violent extremism.

4



CHAPTER 4. Policy recommendations

The following policy recommendations are drawn from the analysis of the threat landscape of terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and the nature and extent of domestic countermeasures in the six Member States examined in this manual. **In considering these recommendations, Member States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law.**⁴⁴⁰

Because the recommendations are the outcome of an analysis of the phenomenon in a selected and limited number of Member States, it is important to acknowledge that they may only have relevance to the phenomenon in those Member States. Their inclusion in the present manual does not represent their endorsement by the Member States. Nevertheless, it is hoped that policymakers and criminal justice practitioners will find the analysis useful and that it will provide insights into the different legal, operational and administrative mechanisms that may reduce the ability of individuals and groups to engage in such attacks. It is also hoped that the recommendations will provide valuable guidance to all Member States in developing domestic responses to the dynamic threat of such attacks.

RECOMMENDATION 1.

Develop, on the basis of lessons learned from existing counter-terrorism practices, robust programmatic responses to terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, informed by periodic reviews of different national threat landscapes

Responses undertaken by Member States will often have an adverse impact on civil liberties, including freedom of expression and association, and therefore must, in accordance with international human rights law, comply with the principles of lawfulness, legitimacy, necessity and proportionality. The analysis of the threat landscape of terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, in the Member States examined in this manual reveals that actors engaged in such attacks exploit nebulous spaces, often online, where they can engage in recruitment, ideological discourse and organizational planning activities. White power music festivals, mixed martial arts clubs and competitions, as well as gun clubs, fairs and exhibitions, are among a number of settings exploited by groups associated with the phenomenon for purposes of mobilization and recruitment.

⁴⁴⁰ UNODC, *Counter-Terrorism Legal Training Curriculum: Module 4 – Human Rights and Criminal Justice Responses to Terrorism*.

Member States wishing to curb the expansion of the phenomenon may engage with local communities in these and other cultural settings. Doing so may require a definition of the threat at the national level and a full understanding of such settings and their connection to the phenomenon. Member States are encouraged to conduct regular assessments of their national threat landscapes relating to terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and to conduct rigorous research and analysis to identify the main movements and groups associated with such attacks. The contemporary operational capabilities and organizational infrastructure of individuals and organizations associated with such attacks, and the settings in which they operate to recruit sympathizers and radicalize them to violence, as well as the rhetoric they use, need to be better understood. These assessments may inform the development of robust national programmatic responses to counter the phenomenon.

Member States are increasingly investing significant resources in deradicalization and disengagement programmes and in initiatives focused on preventing terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and radicalization to violence. In the United Kingdom, the Prevent programme was introduced in 2011 to stop people from becoming terrorists or supporting terrorism. Within the Prevent programme, a multi-agency panel named Channel works to identify and provide support to individuals who are at risk of being drawn into terrorism. Project Exit in Norway is another example of a deradicalization programme developed specifically to counter terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. Project Exit has been successfully adopted as a blueprint for other “Exit” programmes in other Member States, such as Germany. In Australia, the National Counter-Terrorism Plan contains activities specifically aimed at countering violent extremism through intervention programmes such as the Community Action for Preventing Extremism project (formerly known as Exit White Power), established in 2012 by the non-governmental organization All Together Now. Australia has also developed alternatives to prosecution (when possible, with national security requirements) for reintegration and rehabilitation through state-led intervention programmes to counter violent extremism. In the United States, the federal Government supports several localized efforts to address radicalization to violence. Canada has invested 45 million Canadian dollars in its Anti-Racism Strategy 2019–2022. As previously noted, the Budget 2022 of Canada proposes to provide 85 million Canadian dollars over four years, starting in 2022/23, to the Department of Canadian Heritage to support the work under way to launch a new anti-racism strategy and national action plan on combating hate. This funding will support community projects that ensure that Black and racialized Canadians, as well as religious minorities, have access to resources that support their full participation in the Canadian economy, while also raising awareness of issues related to racism and hate in Canada. Similarly, the Government of Germany has pledged more than a billion euros towards the implementation between 2021 and 2024 of programmes and measures designed to counter racism and right-wing extremism.

RECOMMENDATION 2.

Develop national multi-agency approaches to monitoring and responding to security threats posed by terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief

Cooperation and communication between security organizations, the police, criminal justice practitioners and civil society organizations, augmented by multi-agency case conferences, could assist efforts to mitigate security threats and disrupt the activities of those associated with terrorist attacks committed on the basis of

xenophobia, racism and other forms of intolerance, or in the name of religion or belief. In order to efficiently monitor and plan proportionate responses to threats posed by the phenomenon, Member States, within their domestic legal frameworks, are encouraged to establish and support multi-agency law enforcement and intelligence teams comprising officials from relevant law enforcement and counter-terrorism agencies, each with a clear understanding of the operational and ideological characteristics of the threat, the roles of all contributing personnel and the nature of existing national administrative and legal countermeasures.

Member States examined in this manual have developed multi-agency teams to collate evidence and coordinate responses to activities related to terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. In Australia, state and federal police officials and ASIO personnel combine to form joint counter-terrorism teams responsible for investigating and disrupting such activities. In Canada, representatives from CSIS and RCMP assist integrated INSETs responsible for coordinating counter-terrorism responses, including those related to the activities of far-right groups and individuals. In Germany, GETZ acts as a coordination centre to assist the State police and a number of other State agencies in collating intelligence on the phenomenon and to facilitate collaborative responses. Given the limited violent extremist activity in Norway, PST, as opposed to a specific national security agency, is tasked with overseeing counter-terrorism efforts. In the United Kingdom, responsibility for investigating these threats rests with the Security Service (MIS), which works with regional counter-terrorism units to coordinate the arrests of violent extremists and disrupt potential attacks. In the United States, the FBI Joint Terrorism Task Forces bring together various federal, state and local law enforcement and intelligence agencies to investigate and respond to racially or ethnically motivated violent extremist threats.

RECOMMENDATION 3.

Endeavour to provide sufficient resources for law enforcement agencies tasked with investigating and disrupting threats associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief

Approximately 20 per cent of national counter-terrorist police work in the United Kingdom is now concerned with racially or ethnically motivated violent extremism. In Australia, ASIO estimates that 50 per cent of its counter-terrorism work is focused on ideologically motivated violent extremism. In the United States, the FBI has confirmed that the majority of cases of domestic violent extremism that it is investigating involve extremists normally associated with racially or ethnically motivated violent extremism and anti-government or anti-authority violent extremism. Germany is expanding its law enforcement and intelligence capability in order to focus specifically on countering far-right violent extremism. These developments are indicative of increased levels and visibility of violence in these Member States and of the seriousness with which national law enforcement and intelligence agencies are now treating the threat that such violence poses to national security. They also underline the importance of ensuring that, in each Member State, domestic agencies have at their disposal the resources, personnel and financing that they require to respond proportionately to the threat posed by terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, consistent with the rule of law and international human rights law.

RECOMMENDATION 4.

Monitor the effectiveness of surveillance and intelligence-gathering in countering the threat of terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief

Some Member States examined in this manual have developed extensive intelligence-gathering and police powers for assisting investigations into terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. Some have substantially increased the search and surveillance capabilities of their law enforcement agencies in recent years, in particular since 2001, in response to challenges faced in investigating serious crimes, including terrorist offences relating to violent extremist acts carried out by actors inspired by or operationally connected to entities such as Al-Qaida and Da'esh. Typical measures include the powers to search premises without providing notice to the suspect, employ covert audio and video surveillance, and arrest and detain suspects without charge for questioning. Further threat reduction measures include law enforcement powers to intercept and disrupt communications and destroy equipment. These types of surveillance and investigative powers have been successfully used to disrupt such terrorist attacks in several of the examined Member States. It should be noted that surveillance and intelligence-gathering measures are likely to have an adverse impact on human rights, including the right to privacy, as well as the freedoms of religion, thought, expression, assembly and association. These measures should therefore be subject to strong oversight mechanisms, including judicial mechanisms, to ensure compliance with international human rights law.⁴⁴¹

RECOMMENDATION 5.

Establish national legislative frameworks that provide options for the prosecution of individuals and organizations associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, for criminal offences involving the commission, planning, and preparation of acts of violence

There are several noticeable commonalities and distinctions between the six Member States examined in this manual in terms of the applicability of their legislative frameworks to criminalize the violent activities and intended violent activities of individuals and groups associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.

⁴⁴¹ UNODC, *Counter-Terrorism Legal Training Curriculum: Module 4 – Human Rights and Criminal Justice Responses to Terrorism*, sect. 3.7; see, in particular, pp. 94–95.

The definitions of terrorism⁴⁴² used in the Member States examined in this manual generally share three characteristics, although there are exceptions:

- (a) The prosecution is required to prove that the terrorist acts attempted, prepared and/or perpetrated were intended to cause death or serious harm to individuals or serious damage to property, with some variations in regard to the latter. Germany is distinct in this respect, as it is concerned with the act of “forming terrorist organizations”, although its Criminal Code contains an additional offence of preparing a serious act of violence endangering the State. It is also notable that the definitions in Australia, Canada and the United Kingdom have a slightly wider ambit, such that it is equally sufficient for the prosecution to prove the existence of threats to act;
- (b) The prosecution must prove that the activity (or threatened activity) was conducted with the intent of intimidating or influencing governing bodies, the public or a section of the public. In the United Kingdom, however, this requirement is obviated in situations where the accused has employed firearms or explosives;
- (c) The prosecution must prove that the act was conducted, or the threat was made, with the intent of advancing a political, religious or ideological cause. This is the case in Australia, Canada and the United Kingdom, although in the United Kingdom the scope of potential motivations is widened to include racial causes. The definitions of terrorism in Germany and Norway are even more broad, as they do not compel the prosecution to prove intent to advance any of these causes.

All of the definitions of terrorism examined can therefore cover violent and planned violent activities of individuals and organizations associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.

In several Member States, however, authorities may decide that it is more appropriate to pursue charges for other criminal offences (for example, homicide, arson or property offences) against actors involved in such attacks rather than for terrorist-related offences outlined in domestic criminal and penal codes. In these situations, where the evidence proves that the accused committed a criminal offence that had a terrorist connection, this fact may be taken into consideration by the court as an aggravating factor for the purposes of sentencing.

In terms of associated terrorist offences, several Member States have developed a range of offences regarding terrorist activity and terrorist organizations that can apply to terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. In Australia, these include the offences of engaging in a terrorist act, providing or receiving training connected with terrorist acts, possessing items connected with terrorist acts and collecting or making documents likely to facilitate terrorist acts. In Australia, it is also a criminal offence to commit acts in preparation for terrorist activities, such as planning activities. In addition, Australian criminal law contains offences relating to membership of, support for, and recruitment and training involving, a terrorist organization.

Canada also has a number of criminal offences addressing a connection to a terrorist activity, a terrorist group, or sometimes both. Such offences include knowingly participating in the activities of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist

⁴⁴² Contrasting the experiences of several Member States, it should be noted that there is no universally accepted definition of terrorism. In the absence of a universally accepted definition of terrorism, States have the prerogative, in accordance with their international law obligations, to define “terrorism” and potentially designate individuals or groups as “terrorist” under their national legislation. See, for example, section III.A., on the enduring problem of definition, in the Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ni Aoláin (A/76/261), paras. 16–19.

activity, knowingly facilitating a terrorist activity, knowingly instructing others to carry out a terrorist activity and making property available knowing that it will be used by or will benefit a terrorist group.

Norway criminalizes terrorist acts, aggravated terrorist acts, terrorist conspiracy and terrorist threats, as well as preparatory acts of terrorism. In addition, its Penal Code contains offences concerned with inciting terrorist activity and recruiting and training for terrorist purposes, all of which have potential application to far-right violent extremism.

Among the Member States examined in this manual, the United States alone distinguishes between domestic and international terrorism. In that country, federal law provides a definition of domestic terrorism, which expands the range of conduct that the Government can investigate under the category of terrorism, although it does not create a specific criminal offence of domestic terrorism. As a result, DOJ prosecutes individuals whose conduct involves domestic terrorism or a threat thereof using a range of criminal statutes, including those relating to weapons; the use or possession of explosives; threats, hoaxes and riots; proscribing attacks on federal officials or facilities; and hate crimes, among many others. In addition, several federal statutes address conduct that may be associated with terrorism, without regard to whether the offence itself involves domestic or international terrorism. These include, among others, statutes relating to aircraft sabotage, weapons of mass destruction, arson and bombing attacks on federal property, and causing injury or death to a federal official. Furthermore, it is a crime to provide material support or resources to another while knowing or intending that such support or resources will be used in preparation for or carrying out certain terrorism-related offences.

Moreover, in the United States, some cases of domestic terrorism do not involve violations of federal law but are prosecuted by state and local authorities under state law. Other cases may involve violations of both federal law and state law, and the charge brought by the state, in some circumstances, may be the most effective way to prosecute an individual.

Lastly, terrorism legislation in the United Kingdom provides for offences concerned with the collection and possession of information for terrorism purposes, the encouragement of terrorism, the dissemination of terrorist publications, preparation for terrorist acts and membership of a terrorist organization. The offences concerned with encouragement, dissemination and membership have had particular application to individuals in the United Kingdom associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief.

RECOMMENDATION 6.

Explore national legislative frameworks that appropriately criminalize violent activity and incitement to violence,⁴⁴³ including acts motivated by hatred and hate speech, and ensure that systems are in place for the collation of data on such crimes

The six Member States analysed in this manual have developed a variety of both criminal and civil measures capable of countering hate-related activity (that is, activity motivated by hostility or prejudice based

⁴⁴³ For a discussion on the potential implications for human rights of the use of the definition of “violent extremism”, including the “lack of semantic and conceptual clarity surrounding [it]”, see the Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, on human rights impact of policies and practices aimed at preventing and countering violent extremism (A/HRC/43/46), para. 12. On incitement, see Counter-Terrorism Committee Executive Directorate, “Global survey of the implementation of Security Council resolution 1624 (2005) by Member States” (2021).

on race, religion, ideology or ethnicity), including, in some Member States, criminal or regulatory laws to address hate speech.

All Member States examined in this manual treat hate-based motivation as an aggravating factor to be taken into consideration for sentencing purposes in relation to criminal offences. In Australia, this is not provided for in Commonwealth law but rather in various pieces of state legislation relevant to sentencing. Comparable provisions exist in criminal codes and nationally applicable legislation in Canada, Germany, Norway, the United Kingdom and the United States. These provisions offer both a symbolic deterrent effect against, as well as a practical mechanism for addressing, terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, in particular with regard to violent criminal offences that are underscored by motivations prejudiced by xenophobia, intolerance and religious and racial hatred.

In each of the Member States examined, there was general consistency regarding the guarantee of the right to freedom of expression. Distinctions emerged, however, in relation to the way in which Member States legislated to address hate-related activity, which many Member States determined to be outside the ambit of legitimate discourse. Australia has a mixture of Commonwealth, state and territorial legislative provisions on hate crime. Canada, Germany, Norway and the United Kingdom each have a diversity of legislative provisions on hate crime that penalize or criminalize a range of hate-motivated criminal conduct that, depending on the circumstances, may also amount to terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. There are also hate speech offences involving the incitement of hatred on grounds of race or religion and the dissemination of material inciting hatred, which have been relevant for prosecutions and convictions of individuals associated with terrorist attacks. Germany and the United Kingdom both have an extensive range of measures criminalizing hate speech and hate crime activity, including violent activity. Although the United States generally does not criminalize hate speech, it does have hate crime legislation that may be appropriate in cases where individuals engage in domestic terrorism that is motivated by bias against a race, religion, ethnicity or other specified factors.

Bearing in mind the need to comply with international human rights law (see the discussion about privacy rights under recommendation 4), Member States may benefit from conducting analyses of legislation on hate crime in other Member States. Reviewing the effectiveness of different legislation for disrupting acts of terrorism motivated by xenophobia, racism and other forms of intolerance, or carried out in the name of religion or belief, could offer insights into what measures should be adopted and which measures have been applied to effectively counter such threats in other Member States. Inconsistencies in approach between Member States with regard to what is or is not criminalized as a hate crime could lead communications and social media companies to experience difficulties in assessing whether commentary attributed to the ideology of actors who carry out terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, should be regarded as legitimate or extremist and motivated by hatred.

Furthermore, Member States may also benefit from ensuring that they have in place rigorous data collection systems capable of capturing the motivations behind an offence and whether it was, for example, aggravated by racial, xenophobic, or gender-related hatred. This will facilitate processes for assessing the extent of hate crime activity, the impact of national legislative responses to it and the need for the introduction of additional measures to counter it. New forms of data collection could also augment the development of mechanisms for sharing information about terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, between law enforcement agencies, criminal justice practitioners and agencies dedicated to countering violent extremism in Member States. Lastly, through the use of more accurate data collection systems, suitable intervention programmes can be designed to engage with offenders and minimize potential reoffending.

RECOMMENDATION 7.

Develop an enhanced understanding of how activities relating to terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, are financed, and of the measures that are effective in countering legal and illegal sources of funding, including networks, for such attacks

Analysis of financial data indicates that groups associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief adopt various methods to raise, use, transfer and store funds to facilitate activities such as attacks and recruitment, and to facilitate their operational development and sustainability.

In each Member State, relevant legislative provisions on anti-money-laundering and countering the financing of terrorism, in various forms, typically include reporting obligations for financial institutions and certain businesses and professionals to identify suspicious activity. These legislative provisions help to counter the funding of terrorism, among other types of illicit financing, and to permit the seizure and forfeiture of assets relating to terrorism. Accordingly, tools used to counter money-laundering and the financing of terrorism play a significant role in developing information on the actors associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and their fundraising activities, travels and networks.

Financial intelligence units play an important role in countering money-laundering and the financing of terrorism and in developing a deeper understanding of the actors involved, in order to support broader national and multinational objectives. Financial intelligence units conduct strategic analysis of networks associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and their financiers, provide lead-generating information to law enforcement authorities and prosecutors, and, where permitted by national law, can provide financial intelligence in support of sanctions and nominations for designation. The Egmont Group of Financial Intelligence Units produced a report in July 2021 on the financing of extreme right-wing terrorism. In the report, the Egmont Group Information Exchange Working Group identified best practices and challenges faced by financial intelligence units when addressing the threat of such attacks. A 2021 report by the Financial Action Task Force also provides insights into the financial activities of actors that finance ethnically or racially motivated terrorism, such as the use of crowdfunding, donations, membership fees, commercial activities and criminal enterprises. The Financial Action Task Force has also developed a set of risk indicators to support competent authorities and reporting entities in the detection of activities relating to such attacks. The set includes indicators relevant to customer behaviour (such as the customer's reluctance to comply with "know your customer" procedures), the customer's economic profile (such as the customer's history of purchasing of extremist-related merchandise or the suspicious origin of the customer's wealth) and geographic risks (such as travel to locations where paramilitary training is available). Recent policy developments and awareness-raising efforts related to this threat encourage private sector actors to be cautious and establish measures to conduct due diligence and mitigate risk in relation to suspicious customers. However, while this could have a disruptive effect on the fundraising capacities that lead to such attacks, it could also lead to a situation of crime displacement, in which extremist groups use financial methods that are less traceable and harder for financial intelligence units and law enforcement agencies to monitor.

RECOMMENDATION 8.

Develop an understanding and awareness of the applicability and effectiveness of national administrative powers that can be employed to constrain the activities and mobility of individuals engaged in terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief

Some Member States examined in this manual have at their disposal a range of executive powers that can be used by authorities to constrain the activities and mobility of individuals associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. It is noted that the application of administrative measures may have an adverse impact on the fundamental rights of individuals, such as their rights to education, health services and a family life.⁴⁴⁴ Such measures should also be subject to oversight mechanisms to ensure compliance with human rights.

In Australia, AFP can seek ministerial consent to apply for control orders capable of placing restrictions on the liberty and freedom of movement of individuals, for example, by imposing curfews for up to 12 hours a day and requiring individuals to wear a tracking device and/or to regularly report to the police. In the United Kingdom, the Home Secretary can impose terrorism prevention and investigation measures on individuals if it is reasonably believed that they have been involved in “terrorism-related activity”. In such cases, the measures that can be imposed include restrictions on travel, exclusion from certain areas, restrictions on the holding of bank accounts and the transfer of money, and prohibitions on applying for firearms and gun licences. These types of measures have not been applied to a significant degree to individuals associated with such attacks.

RECOMMENDATION 9.

Develop robust mechanisms for proscribing or designating individuals and organizations engaged in or providing support for terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, and consider whether measures are in place to regularly monitor the efficacy of their application to such attacks

Member States have different approaches towards proscribing, banning, listing and designating organizations involved in terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief. As with other recommendations in this manual, the proscription or designation of individuals and organizations must be undertaken in compliance with international human rights law, bearing in mind that such proscription or designation may adversely

⁴⁴⁴ Office of the United Nations High Commissioner for Human Rights, *Human Rights, Terrorism and Counter-terrorism*, Fact Sheet No. 32 (Geneva, July 2008) pp. 47–48.

affect fundamental rights, including the rights to due process, judicial review and an effective remedy, and application of the principles of non-discrimination and proportionality.⁴⁴⁵

In Canada, 10 groups associated with ideologically motivated violent extremism have been listed under the terrorist listing provisions in its Criminal Code because they have met the statutory criteria for being listed as terrorist entities. Once listed, an entity is automatically defined as a terrorist group. The listing of an entity under the provisions in the Criminal Code does not automatically result in the entities being considered illegal. Furthermore, neither membership in a listed entity, nor association with it, constitutes a criminal offence.

In Australia, two groups associated with ideologically motivated violent extremism have been proscribed. Elsewhere, Germany has utilized banning orders to ban 16 far-right violent extremist organizations, and the United Kingdom has proscribed eight far-right groups, resulting in a string of convictions of individuals in connection with their membership.

Norway has not adopted legislative measures entitling it to proscribe domestic extremist groups. In the United States, there is also no legislation that empowers authorities to ban purely domestic extremist groups. Instead, the Department of State has the power to designate an organization as a foreign terrorist organization, and the Department of State and the Department of the Treasury can designate an individual or entity as a “specially designated global terrorist”. Both measures enable financial sanctions to be put in place, enabling financial institutions to retain possession of the funds of a designated organization and allowing for the assets of a specially designated global terrorist to be blocked. In certain circumstances, the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, can designate a person who provides financial, technological or other material support to a specially designated global terrorist.⁴⁴⁶

The variations between Member States in the processes for proscribing, listing, banning and designating organizations, and their application to entities associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, may be a consequence of different national assessments as to whether the banning of organizations is an effective tool for countering such attacks. Many such attacks are typically committed by lone actors with little or no connection or affiliation to groups. In addition, the proscription of an agent associated with such attacks may render the activities of the individuals associated with an entity more difficult to monitor and detect. Furthermore, Member States may take the view that the shifting and fragmented landscape of the phenomenon, composed of continually splintering and merging entities, renders proscription and designation only a short-term solution with limited impact.

On the other hand, classifying actors who carry out terrorist attacks on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, as terrorist entities can complement efforts to disrupt their dissemination of online material and fundraising activities. Online technology companies may remove the online content of proscribed individuals or groups more easily and disrupt their ability to raise funds online. Moreover, the fundraising activities of proscribed organizations may be regarded as terrorist financing activities, thereby facilitating the investigation by national financial crime agencies of any relevant suspicious financial transactions. Furthermore, the proscription of an organization associated with such attacks facilitates the prosecution of individuals for offences related to their

⁴⁴⁵ Working Group on Protecting and Promoting Human Rights, the Rule of Law and Supporting Victims of Terrorism of the United Nations Global Counter-Terrorism Coordination Compact, “Basic human rights reference guide: proscription of organizations in the context of countering terrorism” (New York, June 2021).

⁴⁴⁶ With respect to those who provide support to specially designated global terrorists, Executive Order No. 13244 refers to “persons”, which is defined generally to encompass individuals or entities (see United States, Executive Order No. 13224, sect. 1 (d) (i); 31 CFR, sect. 594.201 (a) (4) (i)).

connection with the organization (for example, membership of, or rendering material support or assistance to, a listed entity), as it obviates any need for the prosecution to rely on expert evidence as to the nature of the organization. If the prosecution seeks to charge an individual for an offence relating to his or her connection with an extremist organization that is not proscribed, it may have to adduce evidence as to the nature of the organization in order to establish that the organization should be considered a terrorist organization. In such circumstances, it can be a challenge for the prosecution to locate suitably qualified experts with sufficient knowledge of the nature of the organization in question and to persuade the court that the evidence the expert submits should be admissible as opinion based on expertise.

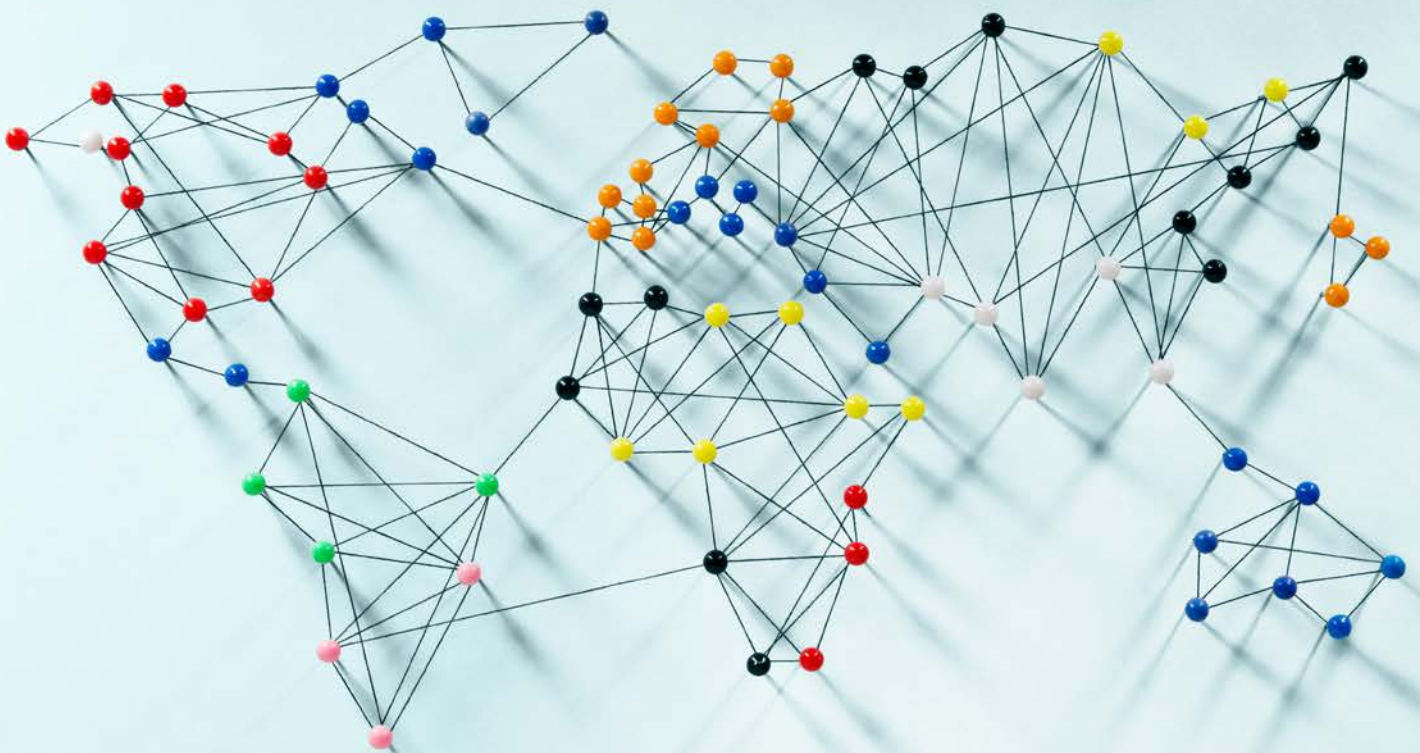
RECOMMENDATION 10.

Apply existing legislation addressing foreign terrorist fighters to individuals associated with terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief

Analysis of the threat landscape of terrorist attacks committed on the basis of xenophobia, racism and other forms of intolerance, or in the name of religion or belief, in the six Member States examined in this manual confirms that a number of individuals associated with such attacks have travelled abroad to commit them. The Member States examined in this manual have measures in place designed to prevent individuals from travelling abroad to engage in terrorist activities.

The Counter-Terrorism and Security Act 2015 of the United Kingdom introduced measures to prevent the return from abroad of individuals suspected of leaving the United Kingdom to engage in terrorism abroad and to control the return from abroad of individuals suspected of conducting terrorist-related activity. New provisions in the Criminal Code of Australia criminalize engaging in hostile activity in a foreign country, as well as entering into a foreign country with the intention of engaging in a hostile activity in that or any other country. They also criminalize engaging in conduct preparatory to either offence. The Criminal Code of Canada imposes criminal liability on those who leave or attempt to leave Canada to commit certain terrorism offences abroad. Relevant offences include leaving or attempting to leave the country to facilitate terrorist activity, leaving or attempting to leave the country to knowingly participate in or contribute to the activities of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity, and leaving or attempting to leave the country to commit an indictable offence for the benefit of or in association with a terrorist group. Furthermore, authorities can apply to the court for a terrorism peace bond or a recognizance with conditions, to be issued to prevent, respectively, a terrorism offence or a terrorist activity, which, if granted, can impose conditions on individuals returning from conflicts abroad, including a prohibition on the possession of firearms and the requirements to surrender a passport or remain at a specific location. Similarly, in the United Kingdom, the Home Secretary can impose terrorism prevention and investigation measures on individuals for up to five years if it is reasonably believed that they have been involved in “terrorism-related activity”. Measures include restrictions on travel, exclusion from certain areas, restrictions on the holding of bank accounts and the transfer of money and prohibitions on applying for firearms and gun licences.

Annexes



Annex I

Legislation by country

Australia

Criminal Code; available at

www.legislation.gov.au/Details/C2021C00532

The Criminal Code of Australia, set out in the Criminal Code Act 1995, codifies offences against the law of the Commonwealth, including all federal terrorism offences.

Canada

The Criminal Code of Canada, which contains provisions on terrorism, hate crime and hate propaganda, is available in English and French at the following Internet addresses:

<https://laws-lois.justice.gc.ca/eng/acts/c-46/index.html> (English)

<https://laws-lois.justice.gc.ca/fra/lois/c-46/index.html> (French)

Germany

1. Criminal Code (*Strafgesetzbuch (StGB)*, version of June 2019); available at www.gesetze-im-internet.de/englisch_stgb/index.html.
2. German laws; available at www.gesetze-im-internet.de/index.html (in German).
3. Act on the Military Counter-Intelligence Service (*Gesetz über den militärischen Abschirmdienst ("MAD-Gesetz")*); available at www.gesetze-im-internet.de/madg/ (in German).
4. Network Enforcement Act (*Netzwerkdurchsetzungsgesetz (NetzDG)*); available in German and English at www.bmjv.de/DE/Themen/FokusThemen/NetzDG/NetzDG_EN_node.html.

Norway

Penal Code (chap. 18, on terrorist acts and terrorism-related acts); available at

https://lovdata.no/dokument/NLE/lov/2005-05-20-28/KAPITTEL_2-3#KAPITTEL_2-3.

United Kingdom of Great Britain and Northern Ireland

1. Anti-Terrorism, Crime and Security Act 2001; available at www.legislation.gov.uk/ukpga/2001/24/contents.
2. Counter-Terrorism and Border Security Act 2019; available at www.legislation.gov.uk/ukpga/2019/3/contents.
3. Counter-Terrorism Act 2008; available at www.legislation.gov.uk/ukpga/2008/28/contents.
4. Crime and Disorder Act 1998; available at www.legislation.gov.uk/ukpga/1998/37/contents.
5. Counter-Terrorism and Security Act 2015; available at www.legislation.gov.uk/ukpga/2015/6/contents.
6. Counter-Terrorism and Sentencing Act 2021; available at www.legislation.gov.uk/ukpga/2021/11/contents.
7. Public Order Act 1986; available at www.legislation.gov.uk/ukpga/1986/64/contents.
8. Regulation of Investigatory Powers Act 2000; available at www.legislation.gov.uk/ukpga/2000/23/contents.
9. Sentencing Act 2020; available at www.legislation.gov.uk/ukpga/2020/17/contents.
10. Terrorism Act 2000; available at www.legislation.gov.uk/ukpga/2000/11/contents.
11. Terrorism Act 2006; available at www.legislation.gov.uk/ukpga/2006/11/contents.
12. Terrorism Prevention and Investigation Measures Act 2011; available at www.legislation.gov.uk/ukpga/2011/23/contents.

United States of America

1. United States Code; available at <https://uscode.house.gov>.

All federal statutes, including those commonly invoked in connection with domestic terrorism and racially or ethnically motivated violent extremist activity, are in the United States Code.

2. The Federal Bureau of Investigation and the Department of Homeland Security, in consultation with the Director of National Intelligence, have developed standard definitions of terminology related to domestic terrorism and uniform methodologies for tracking domestic terrorism incidents. Related information is available at

www.fbi.gov/file-repository/fbi-dhs-domestic-terrorism-definitions-terminology-methodology.pdf/view.

Annex II

National agencies

Australia

Commonwealth Director of Public Prosecutions

An independent government agency established to prosecute offences against the Commonwealth, including all federal terrorism offences. Information about the Commonwealth Director of Public Prosecutions is available at

www.cdpp.gov.au/.

Canada

1. Department of Justice

Responsible for the development of any proposed amendments to the Criminal Code of Canada, which includes the terrorism provisions of the Criminal Code. Information about the Department of Justice is available, in English and French, at

<https://canada.justice.gc.ca/eng/index.html> (English) and <https://canada.justice.gc.ca/fr/index.html> (French).

2. Public Prosecution Service

A national and independent prosecuting authority whose main objective is to prosecute federal offences and that provides legal advice and assistance to law enforcement authorities. Information about the Public Prosecution Service is available, in English and French, at

www.ppsc-sppc.gc.ca/eng/ (English) and

www.ppsc-sppc.gc.ca/fr/ (French).

Germany

1. Federal Criminal Police Office

The Federal Criminal Police Office (Bundeskriminalamt (BKA)) is the federal investigative police agency of Germany responsible for developing police information and communications, as well as for criminal police work. Information on the Office is available at

www.bka.de/EN/Home/home_node.html.

2. Federal Intelligence Service

The Federal Intelligence Service (Bundesnachrichtendienst (BND)) compiles political, economic and military foreign intelligence. Information on the Service is available at

www.bnd.bund.de/DE/Startseite/startseite_node.html.

3. Federal Police

The Federal Police (Bundespolizei) help to maintain internal security in of Germany and are responsible for a wide range of law enforcement tasks. The Federal Police are involved in fighting terrorism and carry out law enforcement tasks such as border protection, railway policing, and maritime and aviation security. Information on the Federal Police is available at

www.bundespolizei.de/Web/DE/_Home/home_node.html.

4. Federal Office for Military Counter-Intelligence

A military counter-intelligence service, the Federal Office for Military Counter-Intelligence (Bundesamt für militärischen Abschirmdienst (BAMAD)) is one of three federal intelligence services in Germany. BAMAD performs the tasks of a federal agency for the protection of the constitution. Information on BAMAD is available at

www.bundeswehr.de/de/organisation/weitere-bmvg-dienststellen/mad-bundesamt-fuer-den-militaerischen-abschirmdienst.

5. Federal Office for the Protection of the Constitution

A domestic intelligence service, the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz (BfV)) is one of three intelligence services in Germany. It ensures the protection of the liberal democratic basic order. Information on the Federal Office is available at

www.verfassungsschutz.de/EN/home/home_node.html.

6. Joint Centre for Countering Extremism and Terrorism

The Joint Centre for Countering Extremism and Terrorism (Gemeinsames Extremismus- und Terrorismusabwehrzentrum (GETZ)) brings together representatives from 40 police and intelligence services to take joint action within their particular areas of competence and authority. In briefings and working groups, representatives exchange ideas on developments and trends relating to various phenomena. Information on GETZ is available at

www.bka.de/DE/UnsereAufgaben/Kooperationen/GETZ/getz_node.html.

7. Joint Counter-Terrorism Centre

The Joint Counter-Terrorism Centre (Gemeinsames Terrorismusabwehrzentrum (GTAZ)) aims to ensure the quick exchange of information between all relevant actors. Forty authorities from the police and intelligence services work together through the Centre to exchange information on the latest developments in the field of terrorism. Information on the Centre is available at

www.bka.de/DE/UnsereAufgaben/Kooperationen/GTAZ/gtaz_node.html.

8. Federal Public Prosecutor General

The Federal Public Prosecutor General (Generalbundesanwalt (GBA)) protects the democratic order by prosecuting terrorist criminal acts. The focus of the terrorism department is on far-right terrorism, far-left terrorism and Islamist-motivated terrorism. Information on the Federal Public Prosecutor General is available at

www.generalbundesanwalt.de/DE/Home/home_node.html.

Norway

1. Norwegian Police Service

The Norwegian Police Service is the national civilian police agency of Norway. Prevention is the primary strategy of the Norwegian police, particularly when it comes to radicalization and violent extremism. All 12 police districts have a local point of contact for matters relating to radicalization that works closely with the municipal authorities and other relevant partners, handling enquiries and concerns about radicalization and coordinating specific cases to ensure there is cooperation and an exchange of information between the police and other local stakeholders. Information about the Norwegian Police Service is available at

www.politiet.no/en/.

2. Norwegian Police Security Service

The Norwegian Police Security Service is responsible for preventing and investigating criminal acts against national security, including terrorism. With regard to preventing radicalization and violent extremism, the Service offers advisory and guidance services to the police, the Norwegian Correctional Service and other stakeholders focused on prevention. Information about the Norwegian Police Security Service is available at

www.pst.no (in Norwegian).

3. Norwegian Correctional Service

The Directorate of the Norwegian Correctional Service is responsible for the penal system in Norway, ensuring the proper execution of remand and prison sentences. The Norwegian Correctional Service has implemented several preventive measures against radicalization in prisons, such as a mentoring scheme and designated counter-radicalization coordinators and contacts within the service. It works closely with the police, the Police Security Service and local municipalities. Information about the Norwegian Correctional Service is available at

www.kriminalomsorgen.no/?cat=536003.

4. Regional centres for violence, traumatic stress and suicide prevention

The regional centres for violence, traumatic stress and suicide prevention provide expertise on radicalization and violent extremism in their regions. They hold the responsibility for the recently established national guidance and resource function in efforts against radicalization and violent extremism, in order to support front-line workers. The main focus of the guidance function is on relevant government services and directorates. It may also provide advice to private citizens on whom they can contact locally if they have concerns regarding radicalization. The centres help to develop coordination and cross-sectoral cooperation. They coordinate, support and reinforce established routines and guidelines and provide guidance on the duties of the different services in relation to prevention, confidentiality and the provision of information.

United Kingdom of Great Britain and Northern Ireland

1. Commission for Countering Extremism

The Commission for Countering Extremism is an advisory body that advises the Government on policy matters concerning extremism and the need for legislation to introduce new powers. Information about the Commission is available at

www.gov.uk/government/organisations/commission-for-countering-extremism.

2. Security Service (also known as MI5)

The Security Service, also known as MI5, is the domestic counter-intelligence and security agency of the United Kingdom. Information about MI5 is available at

www.mi5.gov.uk/.

3. National Counter Terrorism Security Office

The National Counter Terrorism Security Office provides advice and guidance to government and industry on counter terrorism protective security matters. Information about the Office is available at

www.gov.uk/government/organisations/national-counter-terrorism-security-office/about.

4. Special Crime and Counter Terrorism Division

A division within the Crown Prosecution Service, the Special Crime and Counter Terrorism Division is responsible for prosecuting terrorism-related offences in England and Wales. It also prosecutes cases involving incitement to racial and religious hatred and stirring up hatred based on sexual orientation. Information about the Division is available at

www.cps.gov.uk/special-crime-and-counter-terrorism-division-scctd.

United States of America

In the United States, numerous state and federal agencies use a variety of powers to counter racially or ethnically motivated violent extremism and domestic terrorism. The following is a list of the main federal agencies involved in countering racially or ethnically motivated violent extremism and domestic terrorism, including brief descriptions of their role in that regard.

1. Department of Homeland Security

Among the roles and responsibilities of the Department of Homeland Security (DHS) is preventing terrorist attacks in the United States, including by providing strategic analysis of the landscape of domestic violent extremism. Within DHS is the Center for Prevention Programs and Partnerships, which supports the Department's commitment to enhancing the collective ability to prevent all forms of terrorism and targeted violence, including racially or ethnically motivated violent extremism. The Center works to build trusted partnerships across all levels of government and through a whole-of-society approach, including by collaborating with and bringing together religious communities, civic organizations, health practitioners, law enforcement authorities and industries, as well as international partners. The Center provides the technical, financial and educational assistance required to establish and expand local prevention frameworks around the country. Information on DHS is available at www.dhs.gov. See also www.dhs.gov/topic/preventing-terrorism. Information on the Center for Prevention Programs and Partnerships is available at

www.dhs.gov/CP3.

2. Department of Justice

The mission of the Department of Justice is to enforce the law and defend the interests of the United States in accordance with the law, ensure public safety against foreign and domestic threats, provide federal leadership in preventing and controlling crime, seek just punishment for those guilty of unlawful behaviour and ensure fair and impartial administration of justice. This includes efforts utilizing a whole-of-department approach, including the FBI and the National Security, Civil Rights, Criminal and Tax

Divisions, to combat domestic violent extremism and terrorism. Information on the Department of Justice is available at

www.justice.gov.

3. Department of State

The Department of State plays an integral role in the United States Government's efforts to counter racially or ethnically motivated violent extremism, which begin at the country's borders and extend internationally. The Department of State uses a broad range of tools to counter the threat posed by racially or ethnically motivated violent extremism internationally, in particular increasingly transnational racially or ethnically motivated violent extremist networks both online and offline. The range of tools includes measures to detect and prevent terrorist travel, diplomatic engagement and information-sharing, public diplomacy, engagement with the technology sector, the use of terrorist sanctions, and leveraging foreign assistance resources. The Department has sanctions programmes dedicated to counter-terrorism: the designation of foreign terrorist organizations and specially designated global terrorists and the designation of State sponsors of terrorism. The Department is responsible for implementing strategies, policies, operations and foreign assistance programmes to detect, disrupt, isolate and dismantle the financial networks that support terrorism and terrorist groups. Information on the Department of State is available at

www.state.gov.

4. Department of the Treasury

Through its Office of Terrorism and Financial Intelligence, the Department of Treasury works to dismantle the financial networks supporting terrorist groups and enhance transparency in United States and international financial systems so that terrorist and other criminal actors cannot hide their financial activity. The Financial Crimes Enforcement Network (FinCEN), a bureau of the Department of the Treasury, works to safeguard the financial system from illicit use, combat money-laundering and related crimes, including terrorism, and promote national security, through the strategic use of finance-related powers and the collection, analysis and dissemination of financial intelligence. Under the Bank Secrecy Act, FinCEN receives transactional and other information from, inter alia, financial and non-financial institutions. This information helps FinCEN generate financial intelligence for use in detecting potential terrorist threats and other financial crime. FinCEN continually analyses the information to support a broad range of stakeholders, including law enforcement authorities, to detect potential terrorist threats and combat financial crime. The Department's Office of Foreign Assets Control administers and enforces United States sanctions, including those targeting terrorist groups and their supporters. The Office of Terrorist Financing and Financial Crimes is responsible for formulating and coordinating comprehensive policies and strategies to counter money-laundering, the financing of terrorism and the financing of proliferation, while the Office of Intelligence and Analysis provides intelligence and analytic support for the efforts of the Office of Terrorism and Financial Intelligence and links that Office to the United States intelligence community. Information on the Department of the Treasury is available at

<https://home.treasury.gov>.



UNODC

United Nations Office on Drugs and Crime