

Incitement to Terrorism: A Matter of Prevention or Repression?

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Abstract

Dr. Bibi van Ginkel analyses the relevant research and policy question related to the criminalisation of incitement to terrorism. Several international legal documents have been adopted that deal with the criminalisation of incitement to terrorism. Yet, the exact scope of the term 'incitement' is not clear. Does it only include 'public provocation', or do the 'justification' or 'glorification' of terrorist acts also fall within the scope of the term? The criminalisation of 'incitement to terrorism' results in a limitation of the freedom of expression. The question is whether this limitation is within the limits of the human rights regimes. The principle of legality and legal certainty are pivotal in answering this query. However, the present uncertainty in the exact meaning of the term 'incitement' creates a problem in this respect. But equally important is identifying what problem exactly needs to be addressed when criminalising 'incitement'. Where to draw the line? Which opinions are still allowed to be voiced in the public debate on the grievances within society? Which opinions are out of line to the extent that they can be considered a severe danger to society deserving prosecution? Hence, before going into the details of criminalisation of incitement and the limits posed by human rights regimes, this paper will first concentrate on the scope of the act of incitement, by analysing the process of radicalisation and the narratives used by terrorists. It also analyses the particular role played by the Internet in this process.

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1. Introduction

In May 2005, the Council of Europe adopted the Convention on the Prevention of Terrorism, which requires state parties to criminalise ‘public provocation to commit a terrorist offence’.¹ In September 2005, catalysed by the London bombings of July 2005, the United Nations (UN) Security Council (SC) adopted Resolution 1624,² calling on states to prohibit by law incitement to commit a terrorist act or acts. It also calls on states to prevent incitement and deny safe haven or entry to inciters. In the resolution’s preamble, reference is also made to repudiate attempts at the justification or glorification (*‘apologie’*) of terrorist acts that may incite further violent action. Meanwhile, the Counter-Terrorism Committee of the UN SC, through the adoption of SC Resolution 1963 (2010),³ has now also been commissioned to monitor the implementation of legislation on criminalising incitement to terrorism, as called for in SC Resolution 1624 (2005). Both the Council of Europe Convention and the SC Resolution inspired the European Union (EU) to amend a Framework Decision on Combating Terrorism to include an order to criminalise public provocation.⁴

These international initiatives spurred from the belief that public provocation to commit a terrorist act creates the danger that such an offence may be committed. Furthermore, it was believed that the public expression of praise, support or justification for terrorism might create ‘an environment and psychological climate conducive to criminal activity’.⁵ Although, the threat of Islamic violent extremism has dominated the debate in the last decade, the focus on incitement to terrorism concerns all forms of violent extremism, whether for separatist motives, extreme left or right wing motives, anti-abortion motives, or any other motives. The perceived seriousness of such a crime and its expected destabilising effect on society contribute to the rationale behind the definition of a separate crime, instead of using the more generic criminal offence of incitement to violence. These reasons are similar to the rationale behind the definition of a separate criminal offence for terrorist acts.

Clearly connected to this is the prohibition of recruitment for terrorist purposes, as laid down in article 6 of the Council of Europe Convention on the Prevention of Terrorism.⁶ Recruitment is also seen as a gateway to the actual committing of terrorist acts, and in that respect it falls in the category of preparatory acts. Incitement to terrorism and recruitment are, however, separate criminal offences. The focus in this paper is only on incitement to terrorism, although some references to recruitment are made, especially in the paragraph that deals with the role of Internet. Unrestricted and cheap technology and the word-wide reach of the Internet after all, are seen to provide the vehicle to spread inflammatory and provocative rhetoric and videos with a particular violent message, that are sometimes used for recruitment purposes, and can also, as such, qualify as incitement to terrorism.

The international initiatives to deal with incitement to terrorism correspond with the recent emphasis on preventing terrorism, instead of only concentrating on responding to terrorist acts. Within legislation, the trend thus shifts to addressing preparatory phases of the commission of political violence. However, the question that can be raised in this respect is whether dealing with incitement, as a problem that precedes the actual committing of terrorism, should have a repressive character by criminalising the act, or whether other methods of dealing with this problem can be more effective. Clearly, criminalising incitement to terrorism implies a limitation on the freedom of expression. This policy choice therefore runs the risk of limiting the democratic participation of different groups, which can be a fore post of excluding these groups, and thus can become a risk factor for radicalisation. With regard to the question of effectiveness, it is hence forth important to prevent the measure

¹ *Council of Europe Convention on the Prevention of Terrorism*, adopted on 16 May 2005, ETS No. 196, art. 5 (2), entered into force on 1 June 2007.

² United Nations Security Council Resolution 1624, S/RES/1624 (2005), adopted on 14 September 2005.

³ UN Security Council Resolution 1963, S/RES/1963 (2010), adopted on 20 December 2010.

⁴ EU Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating Terrorism, Official Journal of the European Union, L 330/21.

⁵ Mordechai Kremnitzer and Khalid Ghanayim, ‘Incitement, Not Sedition’, in: David Kretzmer and Francine Hazan (eds), *Freedom of Speech and Incitement against Democracy*, 2000, pp. 147 and 197.

⁶ *Ibid.*

from becoming self-defeating. On the other hand, it is also essential to set clear limits to certain behaviour and speech when it demonstrably creates an imminent and likely risk that a terrorist act might be committed.

The question of whether the problem should be dealt with in a repressive manner is even more relevant since the legality of the prohibition of incitement to terrorism can be questioned. A lack of legal certainty on the exact meaning and scope of the crime, as well as the way in which such a prohibition might infringe on the freedom of expression have imposed serious doubts. This legal uncertainty relates to *inter alia* the lack of an internationally accepted definition of terrorism, which is –if one wants to criminalise incitement to terrorism– an essential element to delimitate the scope of the crime. The international instruments themselves are equivocal in the way that they delimit the scope of the measures, and thus define incitement to terrorism. There are even differences in the terms used. Some refer to *apologie*; others use the term direct or indirect provocation. Reference is even made to justification or glorification of terrorism. It is also not completely clear what kind of narratives should fall under the scope of either of the terms. By using the definitional elements of the target conduct, the content of speech, the public or non-public character of the speech, the *mens rea* aspect, and the causal link, the scope of the different international instruments will be analysed.

In this report, the scope of the act of incitement as well as of *apologie*, public provocation, justification or glorification will be dealt with in relation to the narratives used by terrorists. After all, the key question is: which opinions on the grievances within society are still allowed to be voiced in the public debate, and which opinions are out of line to the extent that they can be considered a severe danger to society, deserving prosecution? Hence, before going into the details of criminalisation of incitement and the limits posed by human rights regimes, this paper will first concentrate on the scope of the act of incitement, by analysing the process of radicalisation and the narratives used by terrorists. Furthermore, the Internet will be analysed as an instrument used by terrorists. Subsequently, instruments to counter incitement will be studied, followed by an elaboration on the (international) legal framework on incitement to terrorism. This will be accompanied by an analysis of the elements in the definition, and also relating it to the protection of the freedom of speech. Next, a number of examples of state practice will be examined in order to illustrate the differences in implementation in national legislation. Finally, the question will be posed whether it is possible to criminalise incitement without infringing on the freedom of expression. And, if so, what safeguards should be built into this legislation and what alternative, more effective instruments might be available to deal with this problem? Annexed to this paper is an overview of the information given by member states in the various reports submitted by them to the Counter-Terrorism Committee on the implementation of Resolution 1624 and hence on the criminalisation of incitement.

2. Counter-Terrorism and the Risk of Incitement

In the UN Report of the High-Level Panel on Threats, Challenges and Change, adopted in December 2004, the Panel states that modern terrorism encompasses “armed non-State networks with global reach and sophisticated capacity which pose a threat to the membership of the United Nations.”⁷ Clearly, the success of terrorism depends partly on the underlying ideology, which is shared by a larger community and presents itself as a legitimate answer to different forms of grievances. To counter this threat, international organisations, states and agencies have developed different instruments. These are labelled as counter-terrorism, counter-radicalisation, de-radicalisation, rehabilitation, and different forms of preventive programmes that deal with conditions conducive to the spread of terrorism. Since all these measures are intended to successfully contribute to counter-terrorism, they need to be well targeted, tailor-made and proportional in order to be effective and to

⁷ Report of the High-Level Panel on Threats, Challenges and Change, *A more secure world; Our shared responsibility*, adopted by the General Assembly on 2 December 2004, UN Doc. A/59/565, par. 146.

balance out any side-effects that could be counterproductive. Obviously, the measures should also be in accordance with the rule of law, and thus respect human rights.

When dealing with the problem of incitement, one is dealing with actions that fall into a pre-stage of terrorism. These actions are believed to contribute to supporting a climate in which terrorism finds its support base and legitimisation, or contribute to recruitment. These actions can sometimes be a sign of radicalisation up to a point of violent extremism. Although there is no fixed definition of (the reach of) the term of ‘incitement’, one finds a variety of examples in both literature and policy documents. These actions can consist of public provocation to commit terrorism or public praise for terrorist acts, dehumanisation of the victims of terrorist attacks, or mere understanding for the underlying reasons for terrorist acts. The means used for these messages are public statements, public demonstrations, political comments, spreading of pamphlets, radio and TV broadcasting, and social media. It is clear, however, that the use of the Internet for dissemination purposes is especially perceived as an important factor.

Although the mere possession of this kind of material does not necessarily mean that someone will radicalise up to the point of violent extremism, it has been argued that “propaganda has long been the hand-maiden to violence: inciting, justifying and naturalizing it; ploughing the ground for violence by softening our psychological defences to it and desensitizing us to its brutalizing effects.”⁸

Before going into the exact scope of ‘incitement to terrorism’ for the purposes of criminalising it, it is important to place the risk of incitement in a broader context. What kinds of messages fall under the scope of ‘incitement to terrorism’? What makes them terroristic? To answer these questions, it is necessary first to elaborate on the process of radicalisation, the narratives used by terrorists and the difference between beliefs and action in relation to the issue of incitement. The underlying question here is whether it is clear which categories of the different narratives are supposed to fall under the scope of incitement.

A lot of research has been conducted on the process of radicalisation. In a special edited volume, entitled ‘Countering Violent Extremist Narratives’, published by the Dutch National Coordinator for Counterterrorism in July 2010, the process of radicalisation has been analysed and categorised into different layers. The explanation of the different layers is especially focused on the narratives used by the Global Jihad. However, in abstract terms, the steps described are illustrative of any process of violent radicalisation, whether it concerns animal rights movements, separatist movements, left- or right-wing movements, anti-abortion movements, etc. It also shows that there are different types of supportive environments. For example, supportive environments might host individuals showing sympathy for and supporting the underlying grievance that the terrorists claim to act upon, the means used by the terrorists, and/or even showing a willingness to passively or verbally support the terrorist activities, or to use violence themselves. Leuprecht, Hataley, Moskalkenko and McCauley state, “understanding this narrative – who joins in what parts of the narrative, and why – is necessary to begin constructing and targeting effective counter-narratives.”⁹ But clearly this is also important when trying to assess the effects and the risks of such narratives on the receiving side and when trying to find ways to fight incitement to terrorism.

According to the same authors, narratives used by terrorist can be categorised in four “distinct, though not mutually exclusive layers”: political narratives, moral narratives, religious narratives and the social, heroic narrative. The authors use the Global Jihad narrative, to illustrate the four levels:

1. Islam is under attack by Western crusaders led by the United States;
2. Jihadis, whom the West refers to as terrorists, are defending against this attack;
3. The actions they take in defence of Islam are proportional, just and religiously sanctified; and therefore;
4. It is the duty of good Muslims to support these actions.¹⁰

⁸ Ben Saul, ‘Speaking of Terror: Criminalising Incitement to Violence’, in: *UNSW Law Journal*, Vol. 28 (3), p. 868.

⁹ Christian Leuprecht, Todd Hataley, Sophia Moskalkenko, Clark McCauley, ‘Narrative and Counter-narratives for Global Jihad: Opinion versus Action’, in: Eelco J.A.M. Kessels (Ed.), *Countering Violent Extremist Narratives*, National Coordinator for Counterterrorism, July 2010, pp. 58-70, p. 59-60.

¹⁰ *Ibid.*

Clearly, the four levels can also be used to illustrate narratives from left- or right-wing extremists, anti-abortion extremists, animal rights extremists, or violent separatists. Given the current concern for right-wing violent extremism, it is an interesting exercise to use the same method to analyse their narrative, which relates much more to the narrative of some mainstream political parties, and as such also illustrates the difference between mere speech and violent extremism. The first and second level would then probably deal with the resistance of extreme right groups against, for example, the social-democratic political point of view. This view argues in favour of a multi-cultural society, which is by the extreme right groups perceived to allow for a large-scale influx of Islamic influences that will jeopardize the Christian-Jewish cultural tradition, and which thus needs to be defended. Levels 3 and 4 would subsequently legitimise the violent resistance against the position of the social-democrats, and even propose arguments stating it is a (personal) duty to violently resist. Placing the narratives in these distinct categories already begs the question whether all narratives, if publicly expressed, can qualify as incitement to terrorism, or whether only the third and fourth category qualify as such, leaving the first two to be dealt with in the public arena.

The pyramid of radicalisation also provides a model to analyse the different narratives and their relation to the process of radicalisation.¹¹ Leuprecht et al. explain in their chapter of the edited volume, *Countering Violent Extremist Narratives*, the pyramid consists of different layers. By again referring to the Global Jihad narrative, they explain that the base of the pyramid represents the group that does not accept any segment of the Global Jihad narrative. The next layer above the base consists of those who sympathise with the first step of the jihadist frame: that the West is waging a war on Islam. Next layer in the pyramid represents the Muslims who believe that jihadis are acting in defence of Islam and that their actions are morally and religiously justified. The top of the pyramid consists of those who believe there is an individual duty to support and participate in the defence of Islam through waging a jihad against the West.¹²

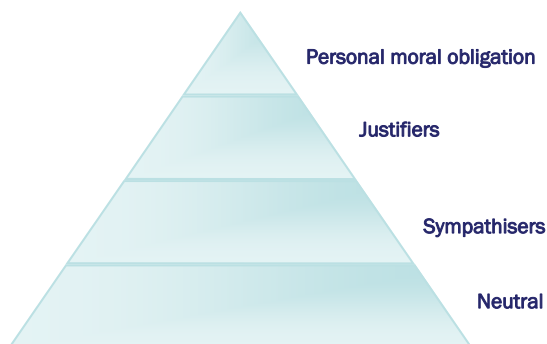


Figure I: The Narrative Pyramid (Source: Christian Leuprecht, Todd Hataley, Sophia Moskalenko, Clark McCauley, 'Narrative and Counter-narratives for Global Jihad: Opinion versus Action', in: Eelco J.A.M. Kessels (Ed.), *Countering Violent Extremist Narratives*, National Coordinator for Counterterrorism, July 2010, p. 60)

For the purposes of counter-terrorism, it is also important to understand the relation between opinion and action. In the same chapter, the authors explain that the process of radicalisation, up to the point of violent extremist action, is not a linear process. Every process of radicalisation is an individual one, and it is therefore not possible to conclude that beliefs and feelings are trustworthy predictors of action. A direct causal relationship between ideology and political violence has never been established.

The different levels between opinion and action can be illustrated in the action pyramid (see Figure II). The base of the pyramid consists of all those that are politically inert, whatever their beliefs or feelings. The next level represents the activists, engaged in legal and nonviolent political action. One step higher on the pyramid, are

¹¹ Ibid., p. 60.

¹² Ibid.

the radicals, engaged in illegal political action that may include violence. And finally, at the top of the pyramid are the terrorists, radicals who utilise violence to achieve their political objectives.

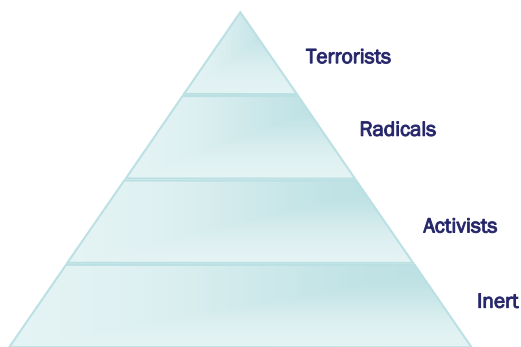


Figure II: The Action Pyramid (Source: Christian Leuprecht, Todd Hataley, Sophia Moskalenko, Clark McCauley, 'Narrative and Counter-narratives for Global Jihad: Opinion versus Action', in: Eelco J.A.M. Kessels (Ed.), *Countering Violent Extremist Narratives*, National Coordinator for Counterterrorism, July 2010, p. 63)

The analysis of the narratives of terrorists and the relation between speech and action shows that there are several levels of support to terrorism. Although the speech in all these levels might be undesirable, it sometimes merely reflects grievances in society and is not intended to trigger, justify or glorify terrorist acts. This is something that should be taken into account when instruments are developed and implemented with the aim of countering these narratives. Furthermore, not all of these narrative levels should be the target of a criminalising counter-measure. The severity of the danger of an actual terrorist attack being committed as a result of the speech is not proportional to the impact a criminalising counter-measure may have on the limitation on the freedom of speech. It is thus of the utmost importance, as will be expanded upon later, that the scope of the offence 'incitement to terrorism' is well delimited. Before going into these issues, the role of the Internet, as an important factor in spreading a radical narrative, will briefly be discussed.

3. Incitement and the Use of the Internet

When arrested, it often comes to the fore that terrorists have in their possession prints, images, digital materials, videos, audiotapes, sermons, books, and pamphlets that are based on fundamentalist religious ideology. An important source for gathering and spreading this material is the Internet, due to its lack of geographic limits, broad reach and relative anonymity. It is only since 9/11 that policymakers have really started to focus on the relationship between the Internet and terrorism, even though political extremists have been using the Internet for a long time.¹³ Particularly, videos of insurgent attacks and statements of terrorist leaders seem to serve as inspiration to a wide group of interested individuals, and are widely distributed via chat rooms, forums and emails – platforms that are also used by radical preachers and self-appointed commentators.¹⁴ Moreover, the Internet is used for information gathering, fundraising, and data mining, as well as secretly communicating and coordinating operations, and exchanging instructive technical tradecraft manuals and guides. In addition, the Internet is used to attract attention to a particular cause or grievance, and to spread propaganda material, for

¹³ Tim Stevens, 'New Media and Counter-Narrative Strategies', in: Eelco J.A.M. Kessels (Ed.), *Countering Violent Extremist Narratives*, National Coordinator for Counterterrorism, July 2010, pp. 112-122, p. 114.

¹⁴ Ibid.

example, based on religious interpretations that legitimise terrorist attacks.¹⁵ The Global Jihad messages are often tailored to exploit vulnerable populations, such as youth. They are linguistically tailored specifically to Western audiences to encourage ideological buy-in.¹⁶ This phenomenon is called 'narrowcasting', that is, designing websites to appeal to a very specific target group, such as children or women.¹⁷

The working group of the UN Counter-Terrorism Implementation Task Force (CTITF) on countering the use of the Internet for terrorist purposes (hereafter CTITF working group), in its report of February 2009, listed cyber-attacks, fundraising, training, recruitment, secret communication, data mining, propaganda and radicalisation as the core concerns.¹⁸ Compared to the more traditional forms of communication, like formal public speeches at meetings or in the media, there are certain specific characteristics of using the Internet as a communication tool. The traditional form of communication uses a 'one-to-many' system of information delivery,¹⁹ a top-down approach used by charismatic leaders to reach and inspire followers.²⁰ However, the Internet in general rather qualifies as an interactive 'many-to-many' exchange system, or a 'bottom-up' tool,²¹ whilst at the same time also containing the possibility to function as a 'one-to-one' medium of communication.²²

Several specific characteristics of the Internet are important to underline in order to get a better picture of how it can play a role in incitement. Firstly, it is the relative anonymity of the Internet and web forums that might trigger more extreme expressions and a selection effect among more radicalised individuals, since the cost of interaction is lower.²³ However, this element has limited effect because of a greater trust deficit. It could thus also serve as an impediment to radicalisation, recruitment, or mobilisation because there is no face-to-face contact.²⁴ Thus, the Internet might not be used for direct terrorist recruitment, but rather for the preceding ideological influencing.²⁵ The anonymity of the person posting a narrative, on the other hand, also complicates the risk assessment by authorities. The social environment factors, that might otherwise help to interpret the particular risk of the message, are mostly absent. Thus, these factors cannot play a role in neutralising the risk assessment. This might result in an overreaction by authorities.

Secondly, the Internet has a relatively wide availability and a resilient infrastructure.²⁶ Nevertheless, it is not accessible to everyone at all times.²⁷ The third characteristic that can be identified is that of increased self-selection which, according to an Expert Meeting Report of the International Peace Institute (IPI), "has the disturbing potential to increase the probability of extremist outliers congregating online and hardening their views in isolation from mainstream users."²⁸ However, as the CTITF working group in its report of 2009 concludes, there is also a blurring effect of the distinction between the role of members of the terrorist group and that of

¹⁵ Liat Shetret, *Use of the Internet for Counter-Terrorist Purposes*, Center on Global Counter-Terrorism Cooperation, Policy Brief, February 2011, pp. 1-10, p. 2.

¹⁶ Ibid.

¹⁷ Summary of the Expert Workshop on Preventing Terrorism: Fighting Incitement and Related Terrorist Activities, Vienna, 19-20 October 2006, Organised by the Organisation of Security and Cooperation in Europe (OSCE), the Council of Europe, the Federal Republic of Germany and the Russian Federation, p. 6.

¹⁸ Counter-Terrorism Implementation Task Force Report of the Working Group on Countering the Use of the Internet for Terrorist Purposes, February 2009, par. 9-18.

¹⁹ Tim Stevens, 'New Media and Counter-Narrative Strategies', in: Eelco J.A.M. Kessels (Ed.), *Countering Violent Extremist Narratives*, National Coordinator for Counterterrorism, July 2010, pp. 112-122, p. 113

²⁰ International Peace Institute, *Combating Incitement of Terrorism and Promoting Intercultural Dialogue*, Expert Meeting Report of October 2010, p. 3.

²¹ Ibid.

²² Tim Stevens, 'New Media and Counter-Narrative Strategies', in: Eelco J.A.M. Kessels (Ed.), *Countering Violent Extremist Narratives*, National Coordinator for Counterterrorism, July 2010, pp. 112-122, p. 113.

²³ International Peace Institute, *Combating Incitement of Terrorism and Promoting Intercultural Dialogue*, Expert Meeting Report of October 2010, p. 3.

²⁴ Ibid.; Counter-Terrorism Implementation Task Force Report of the Working Group on Countering the Use of the Internet for Terrorist Purposes, February 2009, par. 66.

²⁵ Summary of the Expert Workshop on Preventing Terrorism: Fighting Incitement and Related Terrorist Activities, Vienna, 19-20 October 2006, Organised by the OSCE, the Council of Europe, the Federal Republic of Germany and the Russian Federation, p. 6.

²⁶ CTITF Working Group on Use of the Internet for Terrorist Purposes, Riyadh Conference on "Use of the Internet to Counter the Appeal of Extremist Violence", 24-26 January 2011, Conference Summary & Follow-up Recommendations, p. 3.

²⁷ International Peace Institute, *Combating Incitement of Terrorism and Promoting Intercultural Dialogue*, Expert Meeting Report of October 2010, p. 3.

²⁸ Ibid.

supporters of the group's ideology. The latter may play key roles in generating unofficial content relating to the organisation or disseminating and assembling the organisation's official content.²⁹

Taking these characteristics into account, it becomes evident that there are different sides to the effects of the Internet on recruitment, radicalisation and incitement. In the abovementioned IPI paper, two important effects in particular are singled out, namely, the 'selection effect', and the 'bridging effect'.³⁰ With regard to the first effect, also sometimes referred to as the 'bonding effect', it is clear that people use the Internet to seek others with similar beliefs. Hence, the Internet is not changing people's views, but rather is used to find other like-minded individuals and groups. One can thus conclude that there is also a role for the receiving party of the narrative. It is only when one decides to receive the message and maybe even follow its 'instructions', that the incitement becomes a real risk. The Internet users can even develop emotional ties to other insiders in a group of like-minded users and discriminate against outsiders or those with different views. This aspect is also described as both 'in-group love' and 'out-group hate'. In contrast, according to the 'bridging effect', people are exposed to other users with diverse perspectives and backgrounds, which may have a transformative effect on their beliefs and practices. In any case, when studying the use of the Internet and its effects on recruitment, one should not confuse 'joining' a forum with recruitment into a terrorist group.

What becomes clear from these trends is that the effect of the Internet on incitement and recruitment to terrorism is ambivalent. It can be used for both good and evil. The CTITF working group paper of 2009 notes, "terrorist groups using the internet have often proven to be their own worst enemies when information about their indiscriminate violence has come to light".³¹ When contemplating the best ways to deal with incitement to terrorism, this is something to keep in mind. Freedom of expression and the free use of the Internet could also have an empowering effect, facilitating participation and even democratisation, as has been demonstrated in the Arab Spring.

4. International Legal Framework

The various international legal instruments adopted to counter incitement to terrorism, in general, note in their explanatory sections that public provocation to commit a terrorist crime causes a danger that such an offence may be committed. They often further claim that the public expression of praise, support or justification of terrorism might create "an environment and psychological climate conducive to criminal activity".³² These instruments seem to search for a response to this problem in the criminalisation of the act. However, although the problem has been identified, it has not really been scrutinized with the purpose of answering the question of whether criminalising is the only, or the most appropriate, policy to deal with this problem.

However, the previous section showed that the narratives communicated on the Internet might have very ambivalent effects – to the extent that, in some situations, it might be better to let the Internet neutralise the narratives itself, demystifying heroism and falsifying certain claims. This could be a process that initiates on its own, but it could also be something that is used through the issuing of counter-narratives. In any case, it might demand a different approach than criminalisation of the act.

There is clearly more to counter-terrorism than only using repressive penal law instruments, which by their nature always pose a measure of last resort. Especially in relation to the problem of violent radicalisation, a lot of research has been conducted that has informed the development of numerous programmes for counter-

²⁹ Counter-Terrorism Implementation Task Force Report of the Working Group on Countering the Use of the Internet for Terrorist Purposes, February 2009, par. 42.

³⁰ International Peace Institute, *Combating Incitement of Terrorism and Promoting Intercultural Dialogue*, Expert Meeting Report of October 2010, p. 3.

³¹ Counter-Terrorism Implementation Task Force Report of the Working Group on Countering the Use of the Internet for Terrorist Purposes, February 2009, par. 86.

³² Mordechai Kremnitzer and Khalid Ghanayim, 'Incitement, Not Sedition', in: David Kretzmer and Francine Hazan (eds), *Freedom of Speech and Incitement against Democracy*, 2000, pp. 147 and 197.

radicalisation, de-radicalisation and rehabilitation of terrorists. Before entering into the debate on the proportionality of criminalising incitement, it is thus important to realise that there are other potential measures to counter incitement to terrorism. It is also important to assess the counter-effects of repressing incitement, which might trigger unwanted radicalisation or exclusion. From the reports of member states to the UN Counter-Terrorism Committee (CTC), it also becomes clear that states have dealt with the problem of incitement in different ways (see also the Annex to this paper).³³ Some have incorporated provisions into their penal system to specifically deal with incitement to terrorism; others use generic anti-incitement clauses in their legislation or refer to the ancillary provisions to crimes that may be used to deal with incitement. The 'softer' approaches to dealing with the problem include the promotion of dialogue and increased attention for rehabilitation or de-radicalisation programs.

To avoid potential counter-effects surpassing the original purpose of the measure, it is sometimes better not to adopt the specific measure at all. In a policy brief of the Center on Global Counter-Terrorism Cooperation, Liat Shetret argues that it is sometimes better not to remove or ban websites on which extreme ideas are communicated.³⁴ Although removal or prohibition might have a seemingly positive effect in the short term, in the long term it is very likely that the websites will reappear under another name. Moreover, the removal or the prohibition fails to counter the message itself, and furthermore might raise human rights concerns.³⁵

Counter-narratives can be very effective in the battle of ideas. They can, for example, succeed in mobilising and empowering moderate leaders to counter radical ideologies online by spreading positive and pluralist messages. They can be used to weaken cult personalities, challenge extremist doctrine, dispel the terrorist lifestyle, and offer a street-smart, locally developed and communicated answer.³⁶ When tailored, they can challenge the different stages of radicalisation set out in the previous sections.

The CTITF Working Group Report of 2011 emphasises that a counter-narrative was more likely to succeed if it was aggressive rather than defensive, especially since extremists often misrepresent and misinterpret events and facts. The web provides an opportunity for an aggressive exploitation of such mistakes.³⁷ The policy brief of the Center on Global Counter-Terrorism Cooperation stresses that the Internet can be used to challenge specific dimensions of the terrorist narrative and offer content-tailored counterarguments to narratives endorsing and promoting the use of violence.³⁸ It pointed to the fact that "some narratives exploit the religion of Islam for inspiration and contain very specific messaging and repetitive themes that together shape and reinforce a narrow worldview and, in some cases, legitimize and justify the use of violence."³⁹ The CTITF Working Group Report of 2011 additionally underlined that a successful counter-narrative requires a thorough familiarity with on-going debates. "If extremist movements are constantly evolving, then counter-strategies aimed at an internet audience will need to do the same, showing flexibility and an ability to adapt to changing events."⁴⁰ It has furthermore been submitted that a successful counter narrative should not necessarily be limited to renouncing violence. Rather, counter narratives should also point out that violence does not achieve the desired outcomes, while demonstrating an understanding for the political and social conditions that face target audiences.⁴¹ "A counter-narrative, like the narrative it is trying to oppose, should offer a beginning, middle and end and a purpose and be constructed as a social approach that educates and empowers communities. It should specifically appeal to those

³³ International Peace Institute, *Combating Incitement of Terrorism and Promoting Intercultural Dialogue*, Expert Meeting Report of October 2010, p. 2.

³⁴ Liat Shetret, *Use of the Internet for Counter-Terrorist Purposes*, Center on Global Counter-Terrorism Cooperation, Policy Brief, February 2011, pp. 1-10, p.

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³⁵ Ibid.

³⁶ Liat Shetret, *Use of the Internet for Counter-Terrorist Purposes*, Center on Global Counter-Terrorism Cooperation, Policy Brief, February 2011, pp. 5-7.

³⁷ CTITF Working Group on Use of the Internet for Terrorist Purposes, Riyadh Conference on "Use of the Internet to Counter the Appeal of Extremist Violence", 24-26 January 2011, Conference Summary & Follow-up Recommendations, p. 4.

³⁸ Liat Shetret, *Use of the Internet for Counter-Terrorist Purposes*, Center on Global Counter-Terrorism Cooperation, Policy Brief, February 2011, p. 6.

³⁹ Ibid.

⁴⁰ CTITF Working Group on Use of the Internet for Terrorist Purposes, Riyadh Conference on "Use of the Internet to Counter the Appeal of Extremist Violence", 24-26 January 2011, Conference Summary & Follow-up Recommendations, p. 4.

⁴¹ Ibid.

who are currently feeling alienated and marginalized.”⁴² The credibility of the messenger is very important in this respect. It should be someone who is culturally and linguistically relevant and native to a local community.⁴³

Clearly, a lot of research has been done and is still being conducted on the variety of preventive tools to counter the violent extremist narratives of terrorists. What becomes evident from a quick inventory of these different instruments, is the need for well-targeted, tailor-made and proportionate measures. Generalisation of the problem and its potential consequences, thus, does not lead to an effective measure. These requirements can easily be translated into legal principles that need to be taken into account when drafting legislation: the principles of necessity, legality and legal certainty, and proportionality. These principles have a merit in and of themselves in every legislative process. But they also set, through their incorporation into the international human rights framework, a more specific limitation to each legislative process. This is especially pertinent when the result of that process might be limiting one of the fundamental rights protected by the human rights framework.

4.1 General international legal framework

Freedom of expression and speech are core principles of democratic societies. These principles are therefore well protected against arbitrary government interference. “Only under very specific circumstances is an utterance in and of itself a crime. Rather, the criminal justice system in a democracy is generally structured to deal with acts of crime *ex post facto*. Intent and motivation are not normally punishable; they only factor into the degree of punishment.”⁴⁴ However, recently we have witnessed a shift towards criminalising acts that fall within the preparatory phases of the commission of crimes, including terrorism. This shift is in line with the more prominent focus on preventive measures. This is a legitimate and understandable shift, as long as it falls within the limitations set by the rule of law.

As stated, criminalising incitement to terrorism limits the freedom of expression. This is not the same as stating that it violates this right, but rather merely indicates that special scrutiny is warranted to prevent the infringement on this. The international human rights framework in no way restricts governments in absolute terms from limiting the freedom of expression by prosecuting incitement to terrorism, whether or not the actual criminal act does, in fact, take place. It does, however, set certain limits on this restriction.

International law has focused especially on setting rules to prohibit war propaganda by states, which is perceived as the ideological dimension of international conflict. This prohibition has been extended to non-state actors through the International Covenant on Civil and Political Rights (ICCPR), by requiring states to prohibit war propaganda by individuals.⁴⁵ The ICCPR in article 20 (2) also requires states to prohibit advocacy of national, racial, or religious hatred that constitutes incitement to violence. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) article 4 (a) in turn, requires states to criminalise incitement to racial violence. Although both ICCPR and ICERD concern the responsibility of states to regulate individual conduct, the question is whether they are of great use with respect to incitement to terrorist acts.⁴⁶

In the next paragraphs, the human rights framework, which sets limits to the infringements on the freedom of speech and expression, will be elaborated upon. In addition, the general principles of legality and certainty – key requirements that need to be adhered to when criminalising any act – will also be examined in this respect. Subsequently, the different elements that relate to the act of incitement to terrorism will be analysed, relating to the scope of the act. Next, the different implemented international instruments will be discussed, followed by several examples of state practice with regard to criminalising incitement to terrorism.

⁴² Liat Shetret, *Use of the Internet for Counter-Terrorist Purposes*, Center on Global Counter-Terrorism Cooperation, Policy Brief, February 2011, p. 7.

⁴³ Ibid.

⁴⁴ Christian Leuprecht, Todd Hataley, Sophia Moskalenko, Clark McCauley, ‘Narrative and Counter-narratives for Global Jihad: Opinion versus Action’, in: Eelco J.A.M. Kessels (Ed.), *Countering Violent Extremist Narratives*, National Coordinator for Counterterrorism, July 2010, pp. 58-70, p. 67.

⁴⁵ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at p. 651.

⁴⁶ Ibid., p. 652.

A report issued by the United Nations Office on Drugs and Crime (UNODC) emphasised that, “a law that prohibits supporting or encouraging terrorism, without further specification, would risk violating the rule of law principles of legality and certainty (...). Even persons skilled in the legal culture of a country would have difficulty knowing in advance what conduct would be considered supporting or encouraging terrorism, even assuming that the term ‘terrorism’ were clearly defined as preparation for or the commission or attempted commission of specified of violent offences.”⁴⁷ Heeding these words, it is thus of the utmost importance to get a solid understanding of what conduct is intended to be criminalised.

4.2 Human rights framework

Freedom of expression is perceived as one of the essential foundations of a democratic society by both the Human Rights Committee monitoring the ICCPR and the European Court of Human Rights (ECtHR).⁴⁸ It thus comes as no surprise that any infringement on this right is only allowed under strict conditions. The right and the possibility to limit its exercise are laid down in similar language in article 19 of the ICCPR and article 10 of the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR). In article 19 ICCPR, paragraph 1 contains the right to hold opinions, whereas paragraph 2 deals with the right to freedom of expression. Paragraph 3 contains the possibility to make an exception to the right of freedom of expression, and place certain restrictions if provided by law and necessary for the respect of the rights or reputations of others, for the protection of national security or of public order, or public health or morals. Article 10 ECHR, paragraph 1 equally guarantees the right to freedom of expression and to hold opinions and, in paragraph 2, notes that the exercise of this right comes with duties and responsibilities. As such, it can be subject to “such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”⁴⁹

The right to freedom of expression is thus not an absolute right, but is subject to limitation under strict conditions. However, as the abovementioned report of the UNODC states, “Every legal system must ensure that even the most inflammatory agitator is protected by the principles of legality and certainty and the guarantees of the ICCPR. Arriving at a determination that a communication causes a future danger that a violent terrorist offence will be committed involves a speculative evaluation of the understanding, maturity and receptiveness of the audience, the persuasiveness of the speaker, and the influence of external variables. However, an anti-incitement law need not involve the uncertainty of predicting future violent consequences.”⁵⁰ These principles of legality and certainty should thus be respected in any case; also when conditions are formulated to set limits to the freedom of expression.

The question is whether article 20 (paragraph 2) ICCPR and article 4 (a) of the ICERD are helpful in interpreting the scope of criminalising incitement to terrorism, as a limiting condition on the right to freedom of expression. Article 20 (paragraph 2) ICCPR, and article 4 (a) of the ICERD concern the responsibility of states to regulate individual conduct, with respect to the prohibition of war propaganda. The ICCPR article 20 (2) requires states to prohibit advocacy of national, racial, or religious hatred that constitutes incitement to violence, while the ICERD, article 4 (a) requires them to criminalise incitement to racial violence. General Comment 11 (1983) of the independent experts making up the Human Rights Committee emphasises that, “[f]or article 20 to become fully effective there ought to be a law making it clear that propaganda and advocacy as described there are

⁴⁷ United Nations Office on Drugs and Crime, ‘Preventing Terrorist Acts: A Criminal Justice Strategy integrating Rule of Law Standards in Implementation of United Nations Anti-Terrorism Instruments’, Technical Assistance Working Paper, Terrorism Prevention Branch, 2006, par. 30.

⁴⁸ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at. pp. 657-659.

⁴⁹ Article 10 (2) of the European Convention on Human Rights.

⁵⁰ United Nations Office on Drugs and Crime, ‘Preventing Terrorist Acts: A Criminal Justice Strategy integrating Rule of Law Standards in Implementation of United Nations Anti-Terrorism Instruments’, Technical Assistance Working Paper, Terrorism Prevention Branch, 2006, par. 49.

contrary to public policy and providing for an appropriate sanction in case of violation.”⁵¹ The rule of law as expressed in international instruments thus recognises that incitement to crime and violence may be prohibited by criminal sanctions. Examples are incitement to commit a drug-related crime and incitement to commit genocide.⁵² UNODC report argues that, since terrorist propaganda incites discrimination, hostility and violence by advocating hatred on national, racial or religious grounds, penalising such incitement would be a direct means of implementing the ICCPR, even when the harm being incited does not occur.⁵³

As suitable as article 20 (2) ICCPR might appear, Yael Ronen warns against the use of article 20 ICCPR as analogous to criminalisation of incitement to terrorism. He argues this, firstly, because article 20 ICCPR does not require the attachment of criminal responsibility to the prohibition, and secondly, because both ICCPR article 20 (2) and ICERD article 4 (a) are only concerned with a very specific type of violence.⁵⁴ This type of violence is fuelled by national, racial or religious hatred. Moreover, ICCPR article 20 is an elaboration of the permissible restrictions on expression, as regulated by ICCPR article 19. Also article 4 (a) of the ICERD, is not a criminal law instrument, even though it requires a criminal prohibition on incitement.⁵⁵ According to Ronen, one can better compare the criminalisation of incitement to terrorism to the international crime of incitement to genocide, formulated under the Genocide Convention and also incorporated in the Statute of the International Criminal Tribunal of Yugoslavia (ICTY) and the International Criminal Tribunal of Rwanda (ICTR) and in similar terms in the Statute of the International Criminal Court (ICC).⁵⁶

Hence, although not completely without any comparison in international law, it is still not fully clear which acts of incitement are allowed to be criminalised, taking into account the requirements on the limitations of the freedom to expression. The UNODC report reminds us that, “Acts of counselling, persuading or inflaming a listener, reader, or viewer to commit immediate physical violence are the most easily recognizable cases of punishable incitement. But what conduct should be considered as harmless, or at least protected, manifestations of religious beliefs or expressions of opinion, and what constitutes punishable incitement?”⁵⁷

During an expert meeting on preventing terrorism, organised by the Organisation on Security and Cooperation in Europe (OSCE), the Federal Republic of Germany, the Russian Federation and the Council of Europe, the criminalisation of incitement to terrorism was discussed. In the meeting’s summary, it is suggested that domestic courts as well as the ECtHR can be instrumental in defining the conditions for its effective implementation, which must necessarily rely on the principles of legality, necessity and proportionality, found both in the regional and international human rights instruments.⁵⁸ The ECtHR has indeed, in a number of cases, defined what can and what cannot be done in name of the ECHR, and has set the conditions for a legitimate restriction of freedom of expression.⁵⁹ Yet, the criminalisation of incitement to terrorism first and foremost has to be in accordance with the principle of legality and legal certainty. In this respect, it is important to point to the Johannes Principles on National Security, Freedom of Expression and Access to Information. These non-binding but authoritative principles were adopted in 1995 by a group of experts in international law, national security and human rights, convened by Article 19, the International Centre Against Censorship, and the University of Witwatersrand. They are based on international and regional legal standards, evolving state practice and general principles of law.

⁵¹ CCPR General Comment no. 11: Prohibition of propaganda for war and inciting national, racial or religious hatred (Art. 20): 29 July 1983, par. 2.

⁵² United Nations Office on Drugs and Crime, ‘Preventing Terrorist Acts: A Criminal Justice Strategy integrating Rule of Law Standards in Implementation of United Nations Anti-Terrorism Instruments’, Technical Assistance Working Paper, Terrorism Prevention Branch, 2006, par. 38.

⁵³ *Ibid.*, par. 39.

⁵⁴ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at p. 652.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ United Nations Office on Drugs and Crime, ‘Preventing Terrorist Acts: A Criminal Justice Strategy integrating Rule of Law Standards in Implementation of United Nations Anti-Terrorism Instruments’, Technical Assistance Working Paper, Terrorism Prevention Branch, 2006, par. 43.

⁵⁸ Summary of the Expert Workshop on Preventing Terrorism: Fighting Incitement and Related Terrorist Activities, Vienna, 19-20 October 2006, Organised by the OSCE, the Council of Europe, the Federal Republic of Germany and the Russian Federation, pp. 3-4.

⁵⁹ Daphne Barak-Erez and David Scharia, ‘Freedom of Speech, Support for Terrorism, and the Challenge of Global Constitutional Law’, in: *Harvard National Security Journal*, Vol. 2, 2011, pp. 1-30, p. 9: The legitimacy of anti-incitement norms, properly applied, also has been recognized by the ECtHR in its case law discussing article 10 ECHR. In particular, the following cases are relevant: *Zana v Turkey* (App. No. 18954/91 Eur. Ct. H.R., (1997)); *Kaptan v. Switzerland* (App. No. 55641/91 Eur. Ct. H.R. (2001); and *Leroy v. France* (App. No. 36109/03, Eur. Ct. H.R. (2008).

These principles affirm that speech should be criminalised on national security grounds only where it is *intended* to incite *imminent* violence, is *likely* to incite such violence, and there is a *direct and immediate connection* between the speech and the likelihood or occurrence of such violence. Whether these elements are indeed part of the existing definitions used in the international instruments will be analysed in the section on international legal instruments. The next segment will first elaborate on these and other elements that play a role in defining the scope of the criminal offence of incitement to terrorism.

5. Criminalising What? The Scope of the Criminal Offence

When criminalising incitement to terrorism, it is necessary to have a precise understanding of what kind of conduct falls within the scope of the criminal offence. This requirement follows from the principle of legality and legal certainty. The way in which international instruments deal with the criminalisation of incitement to terrorism, by contrast, seems to create legal uncertainty as to the exact meaning of the scope of the criminal offence. Is it the intention to only criminalise incitement to terrorism, or should it also deal with public provocation, glorification or *apologie*, denigration of victims, or general support for terrorism as a vehicle of change? And which of the following statements should fall under the scope of such an offence?: ‘Osama was a great man’; ‘9/11 Was a success’; ‘America had it coming’; ‘We must resist the occupiers’; ‘Suicide bombing is justified as a last resort’; ‘Necessity is the mother of law’; ‘The attack at Utoya is the result of the despicable multi-cultural society’; ‘Breivik is a hero for putting a stop to the support of the social democrats and their multi-cultural agenda.’

Whether terrorism and the incitement to terrorism are motivated by radical Islamist ideology, or extreme left- or right-wing or separatist motivations, is of no concern to the question where to draw the line when it comes to limiting the freedom of expression. Clearly, the line should be drawn in the same way for all types of terrorism, but it should be very clear where it is drawn. A reference to the different categories of narratives, as was mentioned in the paragraph on ‘Counter-Terrorism and the risk of incitement’, might be helpful for the purpose of delimiting which categories do and do not fall within the scope of the measure. There are a few elements to the act of incitement to terrorism that assist in determining the exact scope of the offence. These elements relate to the target conduct, the content of speech, the public or non-public character of the act, the *mens rea* aspect (the intent of the act) and the imminence and likelihood of the actual act to be committed.⁶⁰

5.1 Target conduct

One of the first elements deserving attention deals with the target conduct. When criminalising incitement to terrorism, it is necessary to at least be clear on what conduct qualifies as terrorism. International law still does not provide a generally accepted definition of terrorism;⁶¹ however, several conventions and other documents have been adopted that either define a specific aspect of terrorism or provide a general definition, albeit without being legally binding. When criminalising incitement to terrorism, it is thus important that reference is made to a clearly defined act of terrorism, in for instance a series of other conventions, in order to limit the scope of the offence. In a 2008 report of the UN Secretary General on the protection of human rights while countering terrorism, it has been noted that the adoption of overly vague or broad definitions of the term ‘terrorism’ in domestic legislation could lead to criminalisation of conduct that does not constitute terrorism as such. Furthermore, it emphasises that there exists a danger of such definitions being used as an impediment to the legitimate non-violent and peaceful exercise of fundamental rights and freedoms. These include group rights, such as labour rights and

⁶⁰ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at pp. 660-669.

⁶¹ See for example, B. Saul, *Defining terrorism in international law*, Oxford University Press, 2006.

minority rights, or the expression and capacities of political opposition.⁶² If these overly broad definitions form the basis of the criminalisation of incitement to terrorism, one runs the risk of not only violating the principle of legality but also violating the principle of proportionality. This risk is actualized when the limitation on the freedom of expression is not necessary in the pursuit of a legitimate counter-terrorism objective and the impact of the counter-terrorism measure on rights and freedoms are not proportional to the nature of the objective.⁶³ In order to prevent all this, it is thus essential that when criminalising ‘incitement to terrorism’, the term ‘terrorism’ is also well defined.

5.2 Content of speech

Once the target conduct has been defined, it is important to get a clear picture of the content of speech that should fall within the scope of the offence. Should the criminalisation only deal with incitement to terrorism, or do *apologie* or direct or indirect public provocation also fall within its scope? How about glorification, praise, or support for terrorism as a vehicle of change, the denigration of victims, or hate mongering? Clearly, there are a variety of shades of conduct that the term may encompass.⁶⁴ *Apologie* has sometimes been defined as “condoning, justifying or glorifying terrorism after the fact or in the abstract.”⁶⁵ But in other documents, *apologie* is defined as: the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of a terrorist offence, where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed.⁶⁶

When only referring to incitement to terrorism, one can assume that the offence at least encompasses a direct call to engage in a terrorist act. But does it also include other forms of speech that vocalise a more indirect support for terrorism? Ronen argues, “the weight exerted by the inciters on the incitees lies not in the issuance of direct orders, but in sowing and nurturing in their audience the ideological foundation from which the willingness to act then emerges.”⁶⁷ He stressed that this is not done by direct calls for action in the early stages, but through “persistent, pervasive vilification and disparagement of the target”.⁶⁸ For this reason, Ronen argues that the criminalisation of incitement must therefore encompass more than direct calls, such as justification and glorification of terrorist acts. On this point, he is in disagreement with the opinion of the UN Secretary General, who in his report argues that incitement must be separated from glorification.⁶⁹ The Secretary General acknowledged that statements of glorification may applaud past acts and might offend the sensitivities of individual persons and society, particularly the victims of terrorist acts. But he nevertheless stresses that it is important that vague terms of uncertain scope, such as ‘glorifying’ or ‘promoting’ terrorism, are not used when restricting the freedom of expression.⁷⁰ In any case, it is important to clearly delimit the content of speech that falls under the scope of the criminal offence.

5.3 Public versus non-public speech

Although one can question whether only public or also non-public speech should fall under the scope of the criminalised offence, most legal documents make a reference to the public character of the speech. This leaves non-public incitement to be dealt with under the general concepts of criminal responsibility. But how truly public or private is certain speech? Should the statements made in a Madrassa, for instance, be qualified as public or private speech? Ronen argues that, to qualify as incitement, the speech should be directed at a non-specific

⁶² Report of the Secretary-General, *The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*, UN Doc. A/63/337, 28 August 2008, par. 53.

⁶³ *Ibid.*, par. 54.

⁶⁴ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, p. 663.

⁶⁵ Ben Saul, ‘Speaking of terror: Criminalising incitement to violence’, in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, p. 881.

⁶⁶ Council of Europe Convention on the Prevention of Terrorism, CETS No. 196, adopted on 16 May 2005.

⁶⁷ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, p. 663.

⁶⁸ *Ibid.*

⁶⁹ Report of the Secretary-General, *The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*, UN Doc. A/63/337, 28 August 2008, par. 61.

⁷⁰ *Ibid.*

audience rather than a private communication to an individual or a specifically defined group.⁷¹ According to this line of argument, however, any speech on a specific blog or closed forum should thus fall outside the definition, if the users are known to the one posting an opinion. If such communication nevertheless results in a criminal offence – in other words, when the target conduct requirement is satisfied – it could then constitute instigation. To determine whether specific speech qualifies as public or private, the totality of circumstances, such as the number of members of the public involved and the openness and accessibility of the place or speech, should be taken into account.⁷²

With regard to the possession or circulation of inflammatory documents, the question of the public character could, yet again, be an issue. The UNODC, in its report on preventing terrorist acts, stipulates that distinguishing possession of hate-crime propaganda for innocent purposes and possession for the purpose of provoking hostility and violence will be a complicating factor in drafting a statute against possession of such materials.⁷³ This relates to subjective intent, which will be analysed next.

5.4 Mens rea

The *mens rea* element in any definition of a criminal offence deals with the intent to commit the criminal act. With regard to incitement to terrorism, one deals with a double intent. That is, it involves both the intent to commit incitement to terrorism and the specific intent of terrorism itself, namely, to spread fear, intimidate a population and to compel a government. The intent to incite terrorism thus requires the knowledge of the impact of the speech and the purposeful committing of the act with the intent to provoke terrorism. Ronen stresses that the more remote the speech is from the terrorist act, the greater the role of the *mens rea* requirement should be to prevent abuse of the prohibition.⁷⁴ This element should thus carefully be addressed in the description of the criminal offence.

5.5 Causal link

One of the crucial elements in determining the scope of the act of incitement to terrorism depends on the imminence and the likelihood of the actual act being committed. In other words, what is the causal link between the speech and the actual terrorist act? Does the actual terrorist act have to take place to be able to prosecute incitement to terrorism, or is incitement to terrorism an inchoate offence, and thus not dependent on the actual committing of the terrorist act? Most documents dictate that a risk must exist that a terrorist act would be committed, without specifying the exact scope of this element. This is rather vague, and could also allow for criminalising speech that causes only an abstract and remote risk of violence.⁷⁵ Until an act of terrorism is actually perpetrated, one can have different views on the possibility or probability that a demagogue succeeds in his efforts to influence an audience.⁷⁶ Although the subjective intent requirement ensures that no innocent speaker risks being punished for unpredictable reactions by the audience, the national legislator or jurisprudence will nevertheless have to define what probability of harm constitutes the risk that one or more such offences may be committed. This is necessary to avoid arbitrary and unpredictable application, and also follows from the principle of legality and legal certainty.⁷⁷ Ronen also agrees that, without potential harm, there is no justification for a criminal prohibition.⁷⁸ He links the probability requirement to two parameters, namely, the type of speech that

⁷¹ Yaël Ronen, 'Incitement to Terrorist Acts under International Law', in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, p. 666.

⁷² *Ibid.*, p. 667.

⁷³ United Nations Office on Drugs and Crime, 'Preventing Terrorist Acts: A Criminal Justice Strategy integrating Rule of Law Standards in Implementation of United Nations Anti-Terrorism Instruments', Technical Assistance Working Paper, Terrorism Prevention Branch, 2006, par. 48.

⁷⁴ Yaël Ronen, 'Incitement to Terrorist Acts under International Law', in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at pp. 668-669.

⁷⁵ International Commission of Jurists, Briefing Paper: Amendment to the Framework Decision on Combating Terrorism – Provocation to Commit a Terrorist Offence, p.5.

⁷⁶ United Nations Office on Drugs and Crime, 'Preventing Terrorist Acts: A Criminal Justice Strategy integrating Rule of Law Standards in Implementation of United Nations Anti-Terrorism Instruments', Technical Assistance Working Paper, Terrorism Prevention Branch, 2006, par. 45.

⁷⁷ *Ibid.*

⁷⁸ Yaël Ronen, 'Incitement to Terrorist Acts under International Law', in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, p. 667.

may be prohibited and the gravity of the offence.⁷⁹ Ronen, in this respect, disagrees with the UN Secretary General, who proposed that the freedom of expression may be restricted if it is “directly causally responsible for increasing the actual likelihood of a terrorist act occurring”. Or, for a criminal prohibition, that it is “likely to result in criminal action.”⁸⁰ Ronen is of the opinion that, given “the insidious nature of incitement, it is questionable whether the first of these standards is appropriate.”⁸¹ In his opinion, it ignores the role of incitement in creating the environment which nurtures particular acts of terrorism rather than in promoting specific acts.⁸² When, however, the threshold still relates to the provocation causing a risk that a terrorist offence may be committed, the jurisprudence of the ECtHR points to another requirement. Although it does not set a rigid probability test, it does require that, in considering the significance and the credible nature of the danger, the author and the addressee of the message, as well as the context in which the offence is committed, should be taken into account.⁸³ Yet, this threshold also has been criticised for lacking a sufficiently proximate connection between the advocacy and the eventuality of the crime. This causal link was clearly formulated in the leading case of *Brandenburg v. Ohio*, in which the US Supreme Court found that the First Amendment to the US Constitution did not “permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.”⁸⁴ The requirements of imminence and likelihood, or probability of crime, thus ensure that the freedom of expression or speech will not prematurely be restricted.⁸⁵ A similar requirement follows from the Johannesburg principles. The principles state expression that is a threat to national security should be criminalised only when it is intended to incite imminent violence, it is likely to incite such violence, and there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.⁸⁶

6. International Measures to Counter Incitement

The elements of the act of incitement to terrorism, explored in the previous section, are dealt with in one way or the other in the international measures adopted on the issue of incitement to terrorism. Next, the way in which the criminalisation of this issue is addressed in the Council of Europe Convention on the Prevention of Terrorism, the EU Framework Decision 2008/919/JHA on Combating Terrorism, and the UN SC Resolution 1624 (2005) will be analysed.

6.1 Council of Europe Convention on the Prevention of Terrorism

In May 2005, the Council of Europe adopted the Convention on the Suppression of Terrorism, which in article 5 requires State Parties to criminalise ‘public provocation to commit a terrorist offence, which is defined as follows:

“For the purpose of this Convention, ‘provocation to commit a terrorist offence’, means the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of a terrorist offence, where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed.”⁸⁷

⁷⁹ Ibid., p. 667.

⁸⁰ Ibid., p. 667; Report of the Secretary-General, *The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*, UN Doc. A/63/337, 28 August 2008, par. 62.

⁸¹ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, p. 667.

⁸² Ibid.

⁸³ Ibid., p. 668.

⁸⁴ US Supreme Court, *Brandenburg v. Ohio*, 395 US 444 (1969).

⁸⁵ Ben Saul, ‘Speaking of terror: Criminalising incitement to violence’, in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at 884.

⁸⁶ The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Article 19, November 1996.

⁸⁷ In June 2007, the Convention entered into force. There are currently 29 State Parties to the Treaty. Last checked at 24 August 2011.

According to article 1 of this Convention, a terrorist offence should be understood to mean "any of the offences within the scope of and as defined in one of the treaties listed in the Appendix." This reference covers the element of the target conduct.

Although the Convention clearly only deals with public speech, one can debate the scope of the content of speech as it is covered by this Convention. Is it limited to direct provocation, or does indirect provocation also fall within the scope of this formulation? This has been the topic of debate and negotiations in the period prior to the adoption of the Convention. It becomes clear from the Explanatory Report to the Council of Europe Convention on the Prevention of Terrorism that "the dissemination of messages praising the perpetrator of an attack, the denigration of victims, calls for funding for terrorist organization or similar behaviour" could constitute indirect provocation to terrorist violence and, as such, falls within the scope of the offence.⁸⁸ Hence, one can discern that the generic formulation used in article 5 does not preclude the indirect commission of the act.⁸⁹ According to the Explanatory Report, there are only two conditions that need to be met: first, there needs to be specific intent to incite and secondly, the result of such acts must be to "cause a danger that such an offence might be committed". The report furthermore explains that when considering whether such danger is caused, "the nature of the author and of the addressee of the message, as well as the context in which the offence is committed shall be taken into account in the sense established by the case-law of the European Court of Human Rights."⁹⁰ This interpretation, which also includes indirect provocation, was also shared in the abovementioned Expert Workshop on Preventing Terrorism, where it was qualified as one of the most innovative elements of the Convention. It was, however, pointed out during that meeting that the intervention of national courts will be needed to interpret this offence, in order to delimitate punishable conduct from the legitimate exercise of freedom of speech.⁹¹ This seems to be a rather strange proposal: If one accepts from the start that the term itself is not clear enough and thus further interpretation is required, one is in fact acknowledging that the principle of legality is not respected.

Clearly, much will thus depend on the interpretation of what causes a danger in order to determine the causal link. Joanne Mariner criticises the overly broad scope of the offence, pointing to the clear erosion of the incitement standard, since there is no need for the message to directly encourage terrorism. She points out, "rather than having to be 'likely' to result in criminal action, it is enough that the message may 'cause a danger' of such action."⁹² In the report commissioned by the UNODC, it is pointed out that the fact that indirect provocation also falls within the scope of the offence is important. It thereby encompasses ideological, religious and intellectual indoctrination justifying violence, but without an explicit appeal to commit a specific attack on an identified target.⁹³ However, the same report also acknowledges that stipulating that the message causes a danger that an offence may be committed is using a word of common meaning often utilised in legislation without explanation or definition. Whereas in most laws, the grammatical object of the verb is an observable physical consequence (e.g. a death, injury or property loss), the Council of Europe Convention uses the word 'causes' in a less tangible way, which may create rule of law issues in its application.⁹⁴ According to the text of the Convention and the Explanatory Note, it thus seems that there is no unambiguous way in which the scope of the offence can be interpreted. A great deal depends on the interpretation of the scope by national courts, or ultimately the ECtHR.

⁸⁸ Explanatory Report to the Council of Europe Convention on the Prevention of Terrorism, par. 95.

⁸⁹ *Ibid.*, par. 96.

⁹⁰ *Ibid.*, par. 99 and 100.

⁹¹ Summary of the Expert Workshop on Preventing Terrorism; Fighting incitement and related terrorist activities, Vienna, 19-20 October 2006, Organised by the OSCE, German Government, the Russian Federation and the Council of Europe, p. 3.

⁹² Joanne Mariner, *Terrorism and Speech*, online publication at FindLaw Writ's – Legal Commentary, Monday January 28, 2008, <http://writ.news.findlaw.com/mariner/20080128.html>; See also Counter-Terrorism Implementation Task Force Report of the Working Group on Countering the Use of the Internet for Terrorist Purposes, February 2009, par. 45.

⁹³ United Nations Office on Drugs and Crime, 'Preventing Terrorist Acts: A Criminal Justice Strategy integrating Rule of Law Standards in Implementation of United Nations Anti-Terrorism Instruments', Technical Assistance Working Paper, Terrorism Prevention Branch, 2006, par. 45.

⁹⁴ *Ibid.*, par. 46.

Of all the different elements, intent, on the other hand, seems clearly defined in the scope of the offence. The UNODC report explains that, by making a subjective intent to incite the commission of a terrorist offence an element of the offence, many possible objections with regard to freedom of expression and the value of intellectual principles are eliminated.⁹⁵ It also stipulates that the necessary subjective intent can be inferred from objective factual circumstances.⁹⁶

6.2 European Union Framework Decision on Combating Terrorism

In 2008, the example of the Council of Europe Convention was followed by an amendment of the EU Framework Decision on Combating Terrorism, ordering member states to criminalise public provocation to commit a terrorist offence. The European Union also took inspiration from the adoption of SC Resolution 1624 (2005).⁹⁷ Article 3 (1) (a) defines the scope:

“public provocation to commit a terrorist offence shall mean the distribution, or otherwise making available, of a message to the public, with the intent to incite the commission of one of the offences listed in Article 1 (1) (a) to (h), where such conduct, whether or not directly advocating terrorist offences, causes a danger that one or more such offences may be committed.”⁹⁸

Yaël Ronen points out that the reference in the Framework Decision to the term ‘terrorist offences’ has a broader meaning than in the Council of Europe Convention. The Framework Decision does not refer to the international treaties but instead enumerates various acts that constitute terrorist offences.⁹⁹ To the International Commission of Jurists (ICJ), this underlines precisely one of their critiques. The ICJ is of the opinion that the wide definition of terrorism in the Framework Decision will make the offence of provocation unacceptably wide and indeterminate. The ICJ argues that the definition of terrorism differs from the Council of Europe Convention, which, although it also does not define terrorism, at least refers to the specific treaties. Contrastingly, the definition of terrorism in the Framework Decision is cast in very broad terms and extends to listed acts ranging from attacks on life and physical integrity to extensive destruction of property, infrastructures or information systems, where such acts seriously damage any country or any international organisation, and aim to seriously intimidate a population or unduly compel a government or international organisation to do or to abstain from a certain act. The ICJ therefore concludes, “the breadth and uncertainty of this definition conflicts with the principle of legality.”¹⁰⁰

The critique on the scope of the offence as well as the causal link as formulated in the Framework Decision also extends to the content of speech that falls within the range. Similar to the critiques issued on the Council of Europe Convention, this definition also allows for the criminalisation of indirect provocation to terrorist offences. Thus, it not only includes those acts that directly incite the commission of such acts, or are likely to result in criminal action, but also includes those acts that cause a danger that such an act is committed. The ICJ warned that the requirement that speech should cause a danger of an offence could allow for criminalisation of speech that causes only an abstract and remote risk of violence. The test leaves some doubt as to the necessary level and the imminence of the risk for the offence of provocation to be committed. The ICJ also pointed out that where the criminal law extends to cover speech that only indirectly incites or risks inciting terrorist acts, these broadly defined offences of indirect incitement can criminalise much that is legitimate political debate. Furthermore, it notes that political speech is “accorded particular protection because of its value in assisting the

⁹⁵ *Ibid.*, par. 45.

⁹⁶ *Ibid.*

⁹⁷ See the Preamble of the EU Council Decision, *op cit.*, par. 8.

⁹⁸ EU Council Decision, 2008/919/JHA of 28 November 2008, amending Framework Decision 2002/475/JHA combating terrorism, *Official Journal of the European Communities (OJ)* L 330/21, 9 December 2008.

⁹⁹ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at p. 662.

¹⁰⁰ International Commission of Jurists, Briefing paper: Amendment to the Framework Decision on Combating Terrorism- Provocation to Commit a Terrorist Offence: Commentary issued in response to the European Commission’s proposal for an Amendment of the Framework Decision of 2002, p. 4.

public in developing informed opinions on issues of public interest, and the protection of expression extends to views which are uncomfortable to government, or which offend, shock or disturb.”¹⁰¹

6.3 UN Security Council Resolution 1624

On 14 September 2005 during its Summit, the SC adopted Resolution 1624. This resolution was strongly sponsored by the United Kingdom that earlier that year fell victim to the bombings in London. From the analysis of the deliberations prior to the adoption of the resolution, Ronen concludes that the adoption of the resolution was a spontaneous reaction rather than the product of profound discussion.¹⁰² He acknowledges that it is not clear that the international and domestic legal measures against incitement or public provocation are based on any empirical information as to the role of incitement in resulting in terrorism. Nor do they sufficiently demonstrate whether prohibiting incitement is a rational and effective response to terrorism.¹⁰³

The adopted resolution has a non-binding status, which means that signatory states are not compelled to implement the resolution.¹⁰⁴ However, through the monitoring task appointed to the Counter-Terrorism Committee¹⁰⁵ and the Counter-Terrorism Executive Directorate (CTED),¹⁰⁶ the implementation of the resolution has become a topic of dialogue between member states and the experts of these organs. These dialogues are conducted through the reports that states are required to send, which elaborate on the implementation of other UN counter-terrorism instruments. Especially with the adoption of SC Resolutions 1963 (2010),¹⁰⁷ the non-binding status of the original resolution seems to be morphing into a more coercive status. States are invited to report on their progress on criminalising incitement to terrorism and receive advice on how they can most efficiently do so. Through the postings of these reports on the website of the Counter-Terrorism Committee, the peer pressure in relation to implementing this resolution increases. Annexed to this study is an overview of the information given by member states in the various reports submitted by them to the Counter-Terrorism Committee on the implementation of Resolution 1624 and hence on the criminalisation of incitement.

In the operative paragraphs of SC Resolution 1624, member states are called upon to prohibit by law incitement to commit a terrorist act or acts.¹⁰⁸ Not mentioned in the operative paragraphs are justification and glorification, although in the preamble of the resolution, the SC “repudiates attempts at the justification or glorification (*apologie*) of terrorist acts that may incite further terrorist acts.”¹⁰⁹ Interestingly, in another operative paragraph, the SC refers to the motivations from which incitement might spur, namely, extremism and intolerance. It furthermore calls on states to prevent the subversion of educational, cultural, and religious institutions by terrorists and their supporters.¹¹⁰

By only referring to incitement in the operative paragraphs, the resolution does not seem to go as far as the Council of Europe Convention. After all, the reference to justification or glorification is only made in the preamble, and the SC merely repudiates those acts. Nonetheless, it refrains from defining incitement, so it is unclear whether the term extends to indirect incitement, private incitement, or even *apologie* for terrorism.¹¹¹ Hence, Mariner fears that, although the resolution uses the term incitement rather than indirect incitement, its references to justification and glorification suggest a broad understanding of the term.¹¹² Ronen, on the other hand, argues in favour of a broader interpretation of the term incitement. The determination of the scope of

¹⁰¹ Ibid.

¹⁰² Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at p. 653.

¹⁰³ Ibid., pp. 653-654.

¹⁰⁴ See for instance Bibi van Ginkel, *The Practice of the United Nations in Combating Terrorism from 1946 to 2008; Questions of Legality and Legitimacy*, Antwerp/Oxford/Portland: Intersentia, 2010, pp. 254-255.

¹⁰⁵ UN Security Council Resolution 1624 (2005), S/RES/1624 (2005), adopted on 14 September 2005, par. 5.

¹⁰⁶ UN Security Council Resolution 1963 (2010), S/RES/1963 (2010), adopted on 20 December 2010, par. 5.

¹⁰⁷ UN Security Council Resolution 1963 (2010), S/RES/1963 (2010), adopted on 20 December 2010.

¹⁰⁸ UN Security Council Resolution 1624 (2005), S/RES/1624 (2005), adopted on 14 September 2005, par. 1.

¹⁰⁹ Ibid., preamble.

¹¹⁰ Ibid., par. 3.

¹¹¹ Ben Saul, ‘Speaking of terror: Criminalising incitement to violence’, in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 870.

¹¹² Joanne Mariner, *Terrorism and Speech*, online publication at FindLaw Writ’s – Legal Commentary, Monday January 28, 2008, <http://writ.news.findlaw.com/mariner/20080128.html>.

speech that may be prohibited, in his opinion, should take account of the type of target conduct that is at issue, and the type of advocacy that can lead to it. He points out that “the weight exerted by the inciters on the incitees lies not in the issuance of direct orders, but in sowing and nurturing in their audience the ideological foundation from which the willingness to act then emerges.”¹¹³ Hence, he concludes that, in order to effectively prevent this process, the prohibition must encompass more than direct calls.¹¹⁴ The Secretary General, in his 2008 report, agreed with the concerns expressed by Ronen when he stated, “incitement to terrorism is a strategy commonly used by terrorist organizations to further their cause and provoke violent action.”¹¹⁵ The Secretary General also stressed that incitement to terrorism, as the SC in Resolution 1624 identified, can be qualified as “conduct which is contrary to the purposes and principles of the UN.”¹¹⁶ Nevertheless, he argues that incitement should be separated from glorification: “If the first may be legally prohibited, the second may not.”¹¹⁷ Allowing states to criminally prosecute indirect provocation might be violating the international protections of freedom of expression.¹¹⁸

The lack of definition has also been criticised in light of the absence of a definition of terrorism by the SC, allowing governments to unilaterally and subjectively define the scope of criminal liability.¹¹⁹ The Secretary General, in his 2008 report on the protection of human rights while countering terrorism, also notes that the adoption of any overly vague or broad definition of the term ‘terrorism’ in domestic legislation could lead to criminalisation of conduct that does not constitute terrorism as such.¹²⁰ Non-definition of incitement may similarly encourage states to excessively restrict free expression of, for instance, political opposition and potentially restrict other fundamental rights, such as labour rights and minority rights.¹²¹ Thus, one runs the risk of violating the principle of legality. Ronen also acknowledges the lack of a definition, and points out that the mere reference to ‘terrorist acts’ rather than to ‘terrorist offences’ might suggest a broader category. However, he argues, the reference in Resolution 1624 to SC Resolution 1566, which formulates a definition of terrorism, may narrow down the scope of the offence.¹²² However, it should be stated that, when adopting Resolution 1566, the SC did not intend to formally define terrorism. Rather, it merely links to the terrorist offences as defined in other treaties.¹²³ Furthermore, the SC fails to declare the definition of Resolution 1566 to be applicable to all other resolutions in which reference to terrorism is made, in order to limit the scope of those resolutions.¹²⁴ The text of Resolution 1624, furthermore, does not seem to indicate that the reference made to Resolution 1566 is intended to narrow down the scope of incitement to terrorism.

Resolution 1624 calls on states to criminalise incitement to terrorism, irrespective of whether or not an actual terrorist act takes place. It is thus intended to be an inchoate offence. However, a certain level of risk of potential harm should be identified; otherwise, there would be no justification for punishment. The resolution itself is not clear on the threshold of this probability and the causal link needed. Since the unjustified limitation of freedom of expression would otherwise be the result of criminalisation of incitement to terrorism, a certain level of clarity is needed. In this respect, as mentioned above, the Secretary General proposed that expression may be restricted if it is “directly causally responsible for increasing the actual likelihood of a terrorist act occurring”, or,

¹¹³ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at pp. 663-666.

¹¹⁴ *Ibid.*

¹¹⁵ Report of the Secretary-General, *The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*, UN Doc. A/63/337, 28 August 2008, par. 60.

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*, par. 61.

¹¹⁸ *Ibid.*, par. 62.

¹¹⁹ Ben Saul, ‘Speaking of terror: Criminalising incitement to violence’, in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 870.

¹²⁰ Report of the Secretary-General, *The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*, UN Doc. A/63/337, 28 August 2008, par. 53.

¹²¹ Ben Saul, ‘Speaking of terror: Criminalising incitement to violence’, in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 870; Report of the Secretary-General, *The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*, UN Doc. A/63/337, 28 August 2008, par. 53.

¹²² Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at p. 661-663.

¹²³ UN Security Council Resolution 1566 (2004), S/RES/1566 (2004), adopted 8 October 2004.

¹²⁴ Bibi van Ginkel, *The Practice of the United Nations in Combating Terrorism from 1946 to 2008: Questions of Legality and Legitimacy*, Antwerp/Oxford/Portland: Intersentia, 2010, p. 259.

for a criminal prohibition, that it is “likely to result in criminal action”.¹²⁵ This point is criticised by Ronen, who believes that the role of incitement in creating the environment that nurtures terrorism calls for a more forward approach.¹²⁶

Incitement as described in Resolution 1624 should be understood as speech directed at a non-specific audience. The interpretation is in line with previous references to the term in other resolutions, where the SC always referred to speech in the mass media. When determining whether a specific speech was public or private, one should take into account the totality of circumstances, such as the number of members of the public involved and the openness and accessibility of the place or speech.¹²⁷

Lastly, it is also worth mentioning that the preamble of Resolution 1624 refers to the right of freedom of expression as reflected in article 19 of the Universal Declaration of Human Rights, as well as the same right as laid down in article 19 of the International Covenant on Civil and Political Rights. In the preamble, the SC also pointed out that any restrictions on the exercise of this right shall only be such as are provided by law and are necessary on the grounds set out in paragraph 3 of article 19 of the ICCPR. The Secretary General, in his 2008 Report, also stressed that when a counter-terrorism measure seeks to impose a limitation on a right or freedom, this limitation must be necessary in the pursuit of a legitimate counter-terrorism objective and the impact of the counter-terrorism measure on rights or freedoms must be strictly proportional to the nature of that objective. An additional safeguard can be found in the reference to the requirement ‘necessary in a democratic society’, which requires states to demonstrate that the limitations do not impair the democratic functioning of society.¹²⁸ The exercise of the right to freedom of expression carries with it special duties and responsibilities, and the Covenant also provides for restrictions related to the interests of other persons. Although aware of these facts, the Secretary General nevertheless points out that those restrictions may not be used to jeopardise the right itself. He continues to stipulate that, therefore, the principles of legality, necessity and proportionality should be fully observed in determining the scope of restrictions imposed on the exercise of the freedom of expression.¹²⁹

In the preamble of the resolution, reference is made to the necessity of respecting the human rights safeguards when limiting the right to freedom of expression by criminalising incitement to terrorism. Despite this, the member states, in their reports to the CTC on the implementation of Resolution 1624, do not include an assessment of the states’ practice in the light of the international human rights standards.¹³⁰ In operative paragraph 10 of Resolution 1963 (2010), the SC reminds states that “effective counter-terrorism measures and respect for human rights are complementary and mutually reinforcing”, It also encourages CTED to further develop its activities in this area, to ensure that all human rights issues relevant to the implementation of Resolution 1624 are addressed consistently and even-handedly. Hopefully, these statements can change the way in which states report on the implementation, and henceforth start a dialogue on the respect for human rights in the context of these issues.

7. State Practice

The above has shown that the international instruments are not unequivocal in the way they delimit the scope of the term ‘incitement of terrorism’ for the purpose of criminalisation. When assessing certain national legislative systems, it becomes clear that there are, indeed, major differences in the way this is dealt with in the various

¹²⁵ Report of the Secretary-General, The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, UN Doc. A/63/337, 28 August 2008, par. 61.

¹²⁶ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at p. 668.

¹²⁷ *Ibid.*, p. 667.

¹²⁸ Report of the Secretary-General, The Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, UN Doc. A/63/337, 28 August 2008, par. 54.

¹²⁹ *Ibid.*, par. 58.

¹³⁰ Yaël Ronen, ‘Incitement to Terrorist Acts under International Law’, in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at p. 656.

legislations. Annexed to this study is an overview of the way UN member states have reported back on the implementation of Resolution 1624, and have dealt with the criminalisation of incitement to terrorism. In the following paragraph, some of these legislations will be assessed to illustrate this point. The number of convictions and the effectiveness of this legislation, however, fall outside the scope of this study; although further analysis of these aspects would surely contribute to a better understanding of the issue. The legislations of Israel, Spain and France on incitement predate the 9/11 attacks, whereas the legislations of the UK, Australia, and the US are new, or at least amended significantly after the adoption of Resolution 1624.

The legislation of Israel originally dates from 1948, when the Prevention of Terrorism Ordinance was adopted. According to this legislation, the government is authorised to declare a group a terrorist organisation, and make membership and support of such a group a criminal offence. Expression of support of violent measures used by a terrorist organisation is also considered an offence. The scope of incitement also includes words of praise, sympathy or encouragement for acts of violence calculated to cause death or injury to a person or support for threats of such acts of violence. Although the legislation seems very broad, the interpretation by the judiciary has mostly been very narrow and balanced in its views.¹³¹

Both in the Spanish legislation and French legislation, the crime of incitement to terrorism extends to the act of justification or glorification of terrorism. The offences are considered to be inchoate offences, thus independent of whether the act actually has been committed. The acts should be committed in the public domain or through public communication.¹³² In Spain, the prosecution of these kinds of acts is rather common; it only rarely takes place in France.¹³³

In the United Kingdom, new policy guidelines were announced after the London bombings of 2005. Although these policy guidelines related to deportation, the unacceptable behaviour by non-UK citizens in the UK or abroad listed in these guidelines included expressing views which: 1. foment, justify or glorify terrorist violence in furtherance of particular beliefs; 2. seek to provoke others to terrorist acts; 3. foment other serious criminal activity or seek to provoke others to serious criminal acts; or 4. foster hatred which might lead to inter-community violence in the UK.¹³⁴

Partly to implement the Council of Europe Convention, the British Prime Minister (PM) also proposed a new offence of condoning or glorifying terrorism, whether committed in the UK or abroad. This proposal would broaden the scope of the existing legislation that only prohibited incitement to terrorism, but not the broader offence of condoning or glorifying terrorism. Due to a lot of criticism, the final Terrorism Bill contained a somewhat more limited scope than the original proposal. Ultimately it only dealt with the encouragement of terrorism, which, according to Ben Saul, still remains wider than the existing law of criminal incitement.¹³⁵ Barak-Erez and Scharia explain that the prohibition on encouragement of terrorism applies to a statement that is 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 or other inducement to them to the commission, preparation or instigation of acts of terrorism or Convention offences.¹³⁶ They add that a statement can be regarded as indirectly encouraging the commission of

¹³¹ See also Daphne Barak-Erez and David Scharia, 'Freedom of Speech, Support for Terrorism, and the Challenge of Global Constitutional Law', in: *Harvard National Security Journal*, Vol. 2, 2011, pp. 1-30, at p. 12-14; also on the two important court cases that have further delimited the application of the legislation: the *Jabareen* case (CA 8613/96 *Jabareen v. State of Israel* 54 (5) PD 193 [2000] (Isr.)) and the *Benjamin Kahana* case (CA 1789/98 *State of Israel v. Benjamin Kahana* 54 (5) PD 145 [2000] (Isr.)).

¹³² *Ibid.*, p. 7-8.

¹³³ Joanne Mariner, *Terrorism and Speech*, online publication at FindLaw Writ's – Legal Commentary, Monday January 28, 2008, <http://writ.news.findlaw.com/mariner/20080128.html>.

¹³⁴ UK Home Secretary, 'Tackling Terrorism-Behaviours unacceptable in the UK', (Press Release 124/2005, 24 August 2005, http://www.ind.homeoffice.gov.uk/ind/en/home/news/press_releases/tackling_terrorism.html at 4 November 2005.); See also Ben Saul, 'Speaking of terror: Criminalising incitement to violence', in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 870.

¹³⁵ Ben Saul, 'Speaking of terror: Criminalising incitement to violence', in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 871.

¹³⁶ The 1963 *Tokyo Convention on Offences and Certain Other Acts committed on Board Aircraft*, (UKTS 126 (1969), Cmnd. 4230, entered into force 4 Dec. 1969; the 1970 *Hague Convention for the Suppression of Unlawful Seizure of Aircraft*, UKTS 39 (1972), Cmnd. 4965; (1971) ILM 133, entered into force 14 Oct. 1971; the 1971 *Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation*, UKTS 10 (1971), Cmnd. 5524, entered into force 26 Jan. 1973; and its 1988 *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation*, 27 ILM 627 (1988); the 1973 *UN Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents*, Misc. 19 (1975), Cmnd. 6176, entered into force 20 Feb. 1977; the 1979 *UN Convention Against the Taking of Hostages*, (1979) 18 ILM 1456, entered into force 4 June

such acts if it glorifies the commission or preparation whether in the past, in the future or generally of such acts or offences.¹³⁷ It should moreover be a statement from which those members of the public could reasonably be expected to infer that what is being glorified is conduct that should be emulated by them in existing circumstances.¹³⁸ The speech made by the UK PM after the London bombings sheds some light on which actions seemed intended to be included in the scope of the offence. The PM condemned the evil ideology and barbaric ideas that terrorists sought to impose on others: “They demand the elimination of Israel; the withdrawal of all westerners from Muslim countries, irrespective of the wishes of people and Government; the establishment of effectively Taliban states and Sharia law in the Arab world en route to one Caliphate of all Muslim nations.”¹³⁹ By referring to a category of speech that one would otherwise describe as coming from the ‘sympathisers’ (see section on Counter-terrorism and the risk of incitement), it would indeed be a very broad interpretation if this kind of speech would fall within the scope of incitement. Moreover, the effectiveness of such a broad interpretation can seriously be questioned.

The Australian legislation was amended at the end of 2005, inspired by the British initiative and the adoption of SC Resolution 1624. As the original legislation already included incitement to terrorism, the new Bill seemed intended to extend the law to cover indirect incitement or even *apologie*.¹⁴⁰ The final decision on whether to prosecute rests with the prosecutor. According to the Australian Attorney-General, the causal link relates to the likelihood of someone being encouraged to carry out a terrorist act, without there being an absolute necessity that such an act is actually committed.¹⁴¹ It is even possible that an offence that falls under the scope of this Bill is committed when a person recklessly urges others to commit violence, without any specific intent to cause violence.¹⁴² The limitation on the freedom of expression lacks protection, partly due to the absence of an Australian framework on human rights.¹⁴³ In the Australian system, speech is only protected as an

1983; the 1980 IAEA Convention on the Physical Protection of Nuclear Material, Misc. 27 (1980), (1979) 18 ILM 1419, entered into force 8 Feb. 1987; the 1988 IMO International Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and its Protocol on the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, (1988) 3 IJECCL 317; the Convention on the Marking of Plastic Explosives for the Purpose of Detection of 1 March 1991, entered into force 21 June 1998, UN Doc. S/22393, Annex; the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997, Doc. A/Res/52/164, entered into force 23 May 2001; the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999, Doc. A/Res/54/109, entered into force 10 April 2002; the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the General Assembly of the United Nations on 15 April 2005, Doc. A/RES/59/290, entered into force 7 July 2007; the Amendment to the Convention on the Physical Protection of Nuclear Material, 2005, adopted at the Diplomatic Conference of the IAEA on 8 July 2005 (Vienna), not yet in force; the 2005 Protocol to the Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted on 14 October 2005, not yet in force; the 2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, adopted on 14 October 2005, not yet in force. At the regional level: the 1971 OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, 10 ILM 225, 1971, entered into force 16 October 1973; the 1977 European Convention on the Suppression of Terrorism, ETS No. 90, UKTS 93 (1977), entered into force 4 Aug. 1978; the SAARC (South Asian Association for Regional Cooperation) Regional Convention on the Suppression of Terrorism, signed at Kathmandu on 4 November 1987, entered into force on 22 August 1988; Treaty on Cooperation among States Members of the Commonwealth of Independent States in Combating Terrorism of 4 June 1999 (Minsk), entered into force on 3 October 2000; Arab Convention on the Suppression of Terrorism of 22 April 1998 (Cairo), entered into force on 7 May 1999; Convention of the Organisation of the Islamic Conference on Combating International Terrorism of 1 July 1999 (Ouagadougou), entered into force on 7 November 2002; OAU Convention on the Prevention and Combating of Terrorism of 14 July 1999 (Algiers), entered into force on 6 December 2002; the Shanghai Convention on Combating Terrorism, Separatism and Extremism, adopted on 15 June 2001 (Shanghai), entered into force on 29 March 2003; the Inter-American Convention against Terrorism, Doc. A-66, adopted at the 32nd regular session of the OAS General Assembly on 3 June 2002, entered into force on 10 July 2003; the Amending Protocol to the European Convention on the Suppression of Terrorism, adopted on 15 May 2003 (Strasbourg), ETS No. 190, not yet in force; the Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism, adopted on 6 January 2004 (Islamabad), entered into force on 12 January 2006; the Protocol to the OAU Convention on Prevention and Combating of Terrorism, adopted on 8 July 2004 (Addis Ababa), not yet in force; the European Convention on the Prevention against Terrorism, adopted on 16 May 2005 (Warsaw), CETS No. 196, entered into force on 1 June 2007; the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, adopted on 16 May 2005 (Warsaw), CETS No. 198, entered into force 1 May 2008.

¹³⁷ Ibid.

¹³⁸ Daphne Barak-Erez and David Scharia, ‘Freedom of Speech, Support for Terrorism, and the Challenge of Global Constitutional Law’, in: *Harvard National Security Journal*, Vol. 2, 2011, pp. 1-30, at p. 8.

¹³⁹ Tony Blair, ‘Our third term will be our best yet’, speech delivered at the national policy forum, London, 16 July 2005). See also Ben Saul, ‘Speaking of terror: Criminalising incitement to violence’, in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 871.

¹⁴⁰ Ben Saul, ‘Speaking of terror: Criminalising incitement to violence’, in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 881.

¹⁴¹ Ibid., p. 881.

¹⁴² Ibid., p. 874.

¹⁴³ Ibid., p. 882.

incident of protecting the constitutional system, whereas American constitutional law values and protects speech as an end in itself, even where it is unrelated to politics.¹⁴⁴

In the United States (US) legal system, freedom of expression is highly protected. According to American jurisprudence, the First Amendment to the US Constitution does not permit content-based or viewpoint-based limitation on the freedom of speech.¹⁴⁵ In the leading case of *Brandenburg v. Ohio*,¹⁴⁶ the US Supreme Court found that the First Amendment to the US Constitution did not “permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.”¹⁴⁷ What follows from this leading case is a two-pronged requirement in relation to the causal link between the speech and the committing of the crime, namely, the imminence and the likelihood (or probability) of crime. With this test, one can ensure that free speech is not prematurely restricted.¹⁴⁸

However, although the fight against terrorism, according to American jurisprudence, cannot provide a *carte blanche* to restrict freedom of speech, the American legislature has found indirect ways to limit free speech.¹⁴⁹ One way is by using immigration law, which offers weaker protection to the freedom of speech of non-citizens. Aliens can be deported if, for instance, they endorse or espouse terrorist activity.¹⁵⁰ Another route has been to convict speakers for conspiracy, or another similar offense, especially when their inciting words led to specific action.¹⁵¹ The Material Support Act has been instrumental in this respect, according to which it is an offence to provide material support to a terrorist organisation. This has been interpreted to include any act that facilitates the delivery of the message,¹⁵² without analysing the content of the message but by identifying the speaker who supplies the terrorist organisation with a channel of communication.¹⁵³ The interpretation of the Material Support Act was even more broadly interpreted by the US Supreme Court in the *Holder v. Humanitarian Law Project* case of June 2010.¹⁵⁴ In this case, the US Supreme Court decided that a criminal prohibition on advocacy performed in coordination with, or at the direction of, a foreign terrorist organisation is not unconstitutional. The Court regarded advocating for and coordinating with foreign terrorist organisations as forms of providing material support to such organisations. Barak-Erez and Scharia conclude that, “the Humanitarian Law Projects decision has the potential to limit freedom of speech far beyond content-based prohibitions of the sort prevalent in Europe. It opens the door for prohibiting any speech related to a terrorist organization, no matter how peaceful it is, as long as it is expressed in coordination with or under the direction of a terrorist organization.”¹⁵⁵

Notwithstanding the importance the US legal system seems to assign to the freedom of speech, the legislature has thus seemed to have found several indirect ways to restrict said freedom. This approach, in certain respect, goes far beyond the European one. This is especially considering that a conviction by the Material Support Act is based on an executive designation of an organisation as terrorist, based on its actions, and on the fact-finding regarding the question of whether the defendant provided this organisation with services or goods. Theoretically, the designation of an organisation is subject to judicial review. However, the legal challenge to the

¹⁴⁴ Ibid., p.884.

¹⁴⁵ Daphne Barak-Erez and David Scharia, ‘Freedom of Speech, Support for Terrorism, and the Challenge of Global Constitutional Law’, in: *Harvard National Security Journal*, Vol. 2, 2011, pp. 1-30, at p. 14.

¹⁴⁶ US Supreme Court, *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

¹⁴⁷ See also Daphne Barak-Erez and David Scharia, ‘Freedom of Speech, Support for Terrorism, and the Challenge of Global Constitutional Law’, in: *Harvard National Security Journal*, Vol. 2, 2011, pp. 1-30, at p. 15.

¹⁴⁸ Ben Saul, ‘Speaking of terror: Criminalising incitement to violence’, in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 884.

¹⁴⁹ Daphne Barak-Erez and David Scharia, ‘Freedom of Speech, Support for Terrorism, and the Challenge of Global Constitutional Law’, in: *Harvard National Security Journal*, Vol. 2, 2011, pp. 1-30, at p. 16.

¹⁵⁰ Ibid.

¹⁵¹ Ibid, p. 17.

¹⁵² Ibid, p. 17. See also *Iqbal* case (April 23 2009, US District Court, Southern District of New York): convicted of violating the criminal prohibition against providing material support to a terrorist organization by helping to broadcast Hezbollah’s TV station Al-Manar.

¹⁵³ Ibid., p. 18.

¹⁵⁴ US Supreme Court, *Holder v. Humanitarian Law Project*, 130 S. Ct. 2705 (2010).

¹⁵⁵ Daphne Barak-Erez and David Scharia, ‘Freedom of Speech, Support for Terrorism, and the Challenge of Global Constitutional Law’, in: *Harvard National Security Journal*, Vol. 2, 2011, pp. 1-30, at p. 19.

designation has to be made by the designated organisation itself within thirty days. Since the content of the speech is not assessed by the court in a case on the provision of material support, no additional balancing test and limitations, such as those included in the Council of Europe Convention, are involved.¹⁵⁶

8. Concluding Remarks

The counter-terrorism policies adopted by states and international organisations have evolved over the years. After years of concentrating mostly on hard-core security measures with a more repressive character, a shift can be discerned towards a more preventive agenda. The prevention agenda includes the analyses of factors that lead to people's choices for violent action. It entails understanding and addressing people's grievances and complaints that, if ignored, may lead to anger, frustration, and eventually violence. This, in itself, is a good development, since prevention is better than cure. More worrying, however, is the fact that the penal system is shifting towards criminalising acts that are considered to be part of the preparation phase of terrorism, thereby mixing prevention and repression in a possible counter-productive manner. This indeed seems to be the case with the criminalisation of incitement to terrorism.

Governments, as well as international organisations have expressed their concern for the environment that publicly praises, supports or justifies terrorism, and which might function as the propaganda machinery behind the terrorists and their networks. The narratives used in these environments might trigger others to join, or even incite them to commit terrorist acts. Specific concerns are expressed in relation to the role of the Internet in this process.

During this last decade, more and more research has been conducted into the narratives used by terrorists. A distinction can be made between the political, the moral, the religious, and the social heroic narrative. The process of radicalisation, moreover, shows different stages of support for violent extremism, and distinguishes a category of sympathisers, justifiers and finally a category of those who find they have a personal moral obligation to commit terrorism. Some of the levels of support of terrorism as vocalised might be undesirable, but do not go beyond the point of reflecting grievances in society. Although it could be very effective to target this category with counter-narratives and other preventive policies, these individuals should not be the focus when using punitive measures. This is simply because the severity of the danger of an actual terrorist attack being committed as a result of this category of speech is not proportional in to the impact on the limitation of the freedom of speech. In fact, it might even be counter-productive, and denies the empowering effect that participation in the debate can have in democratic societies and in societies in search for more open debate and inclusion of minority positions in the political debate. Exclusion from this process might result in estrangement, and could become a risk factor for radicalisation, whereas the opposite –inclusion and participation- might be an answer to this problem.

How can governments then effectively counter the problem of the vocal support network of terrorism? Is criminalising incitement to terrorism an adequate measure to deal with (part of) this problem? After all, this would amount to using a very repressive measure for preventive purposes. From the experiences with different counter-terrorism measures and the research conducted in this field, one can deduce important lessons learned in the area of counter-radicalisation, de-radicalisation and the use of counter-narratives. A clear recommendation is the need for well-targeted, tailor-made and proportionate measures. A one-size-fits-all approach clearly will not be effective.

The most prominent recommendations for the development and implementation of effective counter-narratives and other counter-terrorism measures are very similar to the legal principles that have to be respected

¹⁵⁶ *Ibid.*, at p. 28.

when drafting and implementing new legislation. These are the principles of necessity, legality and legal certainty, and proportionality. The international human rights framework, moreover, dictates specific requirements in case a limitation of one of the principle rights occurs – the freedom of speech in the case of incitement to terrorism. The international human rights documents do not prohibit the restriction of the freedom of expression per se. On the contrary, they stress that the freedom of speech comes with duties and responsibilities. A restriction on the freedom of expression can thus be allowed if provided by law and necessary in a democratic society in the interest of, for instance, national security.

Given that there is no absolute legal impediment to a limitation of the freedom of expression by criminalising incitement to terrorism, it boils down to the respect for the legal principles and the restrictions set by the human rights framework to determine whether any such limitation is legal. Whether there is a necessity and whether the measure is effective, on the other hand, depends on an assessment of the risks versus the limitation of speech, as well as on a thorough assessment of the possible side-effects and an evaluation of the alternative measures that could be adopted to face the problem. The outcomes of these assessments are, however, nevertheless valued differently. Saul, for instance, argues that although the right to free speech is not absolute and may be limited to prevent serious harms; it cannot be restricted because of mere speculation that it leads to terrorism. In his opinion, only incitement that has a direct and close connection to the commission of a specific crime can be a justifiable restriction on speech.¹⁵⁷ Ronen, on the other hand, considers incitement as a *sine qua non* for the realisation of terrorist acts. He, therefore, argues in favour of an early intervention against the materialisation of terrorism, because of the severity and the harmfulness of the crime.¹⁵⁸

To fulfil the minimum legal requirements for a limitation of the freedom of expression, the different elements that determine the scope of the offence of incitement to terrorism should be clearly defined. These elements are: the target conduct, the content of speech, the public character of the speech, the *mens rea* element, and the causal link between the speech and the actual terrorist act.

The analysis of the international measures that have been adopted and have to be implemented by states shows that there are clear differences between these instruments. Whereas the Security Council Resolution 1624 seems to be limited to a call on states to criminalise incitement to terrorism – leaving out justification and glorification –, this is not the case with the Council of Europe Convention on the Prevention of Terrorism and the EU Framework Decision on Combating Terrorism. These instruments both include indirect provocation in the scope of the instruments. Moreover, serious criticism has been expressed specifically in relation to the vague terms in which the causal link between the speech and the probability of a terrorist act has been formulated. Furthermore, the analysis of some national legislations, with regard to the way they deal with the criminalisation of incitement to terrorism, illustrates the wide variety of approaches taken. Joanne Mariner even warns that the legal trend globally moves in the direction of a wide interpretation of the scope, thus also criminalising indirect incitement, which she perceives as problematic.¹⁵⁹

The Johannesburg Principles on National Security, Freedom of Expression and Access to Information,¹⁶⁰ as well as the test formulated by the US Supreme Court in the *Brandenburg v. Ohio* case,¹⁶¹ however, provide some clear criteria to determine the causal link. These criteria guarantee a sufficiently proximate connection between the advocacy and the eventuality of the crime, and focus on the imminence and the likelihood or probability of the crime. When these criteria are taken into account while criminalising incitement to terrorism, the risk of unlawfully restricting the freedom of expression is limited.

Nevertheless, certain risks with regard to unwanted side-effects or counterproductive outcomes still exist. During a meeting organised by IPI on the implementation of Security Council Resolution 1624 (2005) and

¹⁵⁷ Ben Saul, 'Speaking of terror: Criminalising incitement to violence', in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 885.

¹⁵⁸ Yaël Ronen, 'Incitement to Terrorist Acts under International Law', in: *Leiden Journal of International Law*, 23 (2010), pp. 654-674, at pp. 654-656.

¹⁵⁹ Joanne Mariner, *Terrorism and Speech*, online publication at FindLaw Writ's – Legal Commentary, Monday January 28, 2008, <http://writ.news.findlaw.com/mariner/20080128.html>.

¹⁶⁰ The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Article 19, November 1996.

¹⁶¹ US Supreme Court, *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

the problem of incitement, concerns were voiced that some states might go too far in criminalising and punishing acts that are alleged to constitute incitement, and that this might not only represent a violation of human rights obligations, but may also be counterproductive. The repression as a result of the legislation might become a source of radicalisation or allow detainees to be seen as heroes or martyrs to their cause.¹⁶² The enactment of such offences is also likely to have a chilling effect, inhibiting constructive political, media and community debate on issues related to terrorism.¹⁶³ Saul adds to this point that there is even a real danger that criminalising the expression of support for terrorism will drive such beliefs underground. He states, “rather than exposing them to public debate – which allows erroneous or misconceived ideas to be corrected and ventilates their poison - criminalizing risks aggravating the grievances often underlying terrorism, and thus increasing, not reducing, its likelihood.”¹⁶⁴ Finally, the ICJ warns of the possibility that already alienated minority communities will be disproportionately affected by the law, because of arbitrary, discriminatory or excessive application of indirect incitement offences. This will also be counter-productive, since within these communities discussion of issues related to violent radicalisation and political violence needs to be encouraged rather than stifled.¹⁶⁵

To conclude, it is important to stress the need for effective measures to counter terrorism and the pre-stages of terrorism. We have moved beyond the limited focus on security and repressive measures to counter terrorism, and have now entered a new decade in which a comprehensive approach will take central stage. Prevention is becoming part and parcel – often even the core – of the overall strategy. In this comprehensive approach, repressive punitive measures can be used for preventive purposes as a measure of last resort, in order to draw a clear line between the kind of speech that is still allowed in a democratic society, and the kind of speech that represents a real threat to that society. Such repressive measures, however, can only be used as long as they are the result of a thorough assessment of the problem, and are well-targeted, tailor-made, and proportional, in order to limit the risk of unwanted negative side-effects. Ultimately, such efforts will help ensure the measures are effective in dealing with the problem.

9. Policy Recommendations

The complexity of the issue poses real challenges for policy makers. However, the analysis in this report has shown that some clear choices can be made, and recommendations can be followed, in order to effectively counter the problem of incitement to terrorism.

- When developing a balanced counter-terrorism strategy, government’s emphasis should be put on the prevention side, rather than exclusively on the repressive side. This includes environment-specific analysis of triggers and factors conducive to the spread of terrorism.
- States should invest in political participation of certain groups, by promoting political debate and counter-narratives, as well as analyse and address the grievances that are vocalised.
- More research is needed into the relation between certain narratives and actual terrorist acts.

¹⁶² International Peace Institute, *Combating Incitement of Terrorism and Promoting Intercultural Dialogue*, Expert Meeting Report of October 2010, p. 2.

¹⁶³ International Commission of Jurists, Briefing Paper: Amendment to the Framework Decision on Combating Terrorism – Provocation to Commit a Terrorist Offence, p. 2.

¹⁶⁴ Ben Saul, ‘Speaking of terror: Criminalising incitement to violence’, in: *UNSW Law Journal*, Volume 28 (3), pp. 868-886, at p. 885.

¹⁶⁵ International Commission of Jurists, Briefing Paper: Amendment to the Framework Decision on Combating Terrorism – Provocation to Commit a Terrorist Offence, p. 2.

- Considering the variety of measures that can be used to counter violent extremist narratives, punitive measures should be considered to be an element of a comprehensive approach and should be used as an *ultimum remedium*.
- The definition of the offence that criminalises incitement to terrorism should specify what categories of terrorist narratives should fall under the scope of the offence.
- Considering that measures to counter violent extremist narratives need to be well-targeted, tailor-made and proportionate in order to be effective, before implementing this legislation, it is recommended to take into account the possible negative side-effects of criminalising incitement, as well as the positive effects that one misses out on.
- When adopting legislation to criminalise incitement to terrorism, it is recommended to clearly define the following aspects, in order to avoid disproportional restriction of the freedom of expression:
 - Define the target conduct. In other words, a clear reference to a definition of a terrorist offence should be included in the offence of incitement to terrorism.
 - Clearly delimit the content of speech that falls under the scope of the offence, especially when the scope goes beyond direct incitement, and potentially also includes justification and glorification of terrorism.
 - Give clear instructions on the level of public accessibility of the speech that is the target of criminalisation by clarifying the totality of circumstances, such as the number of members of the public involved, and the openness and accessibility of the place or speech
 - When including indirect provocation into the scope of the offence, use indicators as the imminence and likelihood or probability of the crime (Johannesburg principle).
 - Include criteria of intent to incite, to avoid the innocent collection of information for research purposes to fall under the scope of the offence; and ensure the quality of the evidence of the intent, especially when the speech is more remote in relation to the (potential) terrorist attack.
- Broaden the dialogue between the CTED and the UN Member States on the implementation of SC Resolution 1624 to also include the human rights aspects of the implementation, and the effectiveness of the criminalisation incitement to terrorism as compared to other measures.
- National legislatures are recommended to conduct regular evaluations on the effects and counter-effects of the criminalisation of incitement to terrorism.

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Annex I: Overview Based on Member State Reports to the CTC on the Implementation of SC Resolution 1624 (2005)¹

The United Nations Security Council, in the preamble of Resolution 1624 (2005), *condemns* in the strongest terms the incitement of terrorist acts and *repudiates* attempts at the justification or glorification (*apologie*) of terrorist acts that may incite further terrorist acts. In the first operative paragraph of the resolution, the Security Council *calls upon* all states to adopt such measures as may be necessary and appropriate and in accordance with their obligation under international law to:

- (a) Prohibit by law incitement to commit a terrorist act or acts;
- (b) Prevent such conduct;
- (c) Deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct.

The Security Council, furthermore, in operative paragraph 5, *calls upon* all states to report to the Counter-Terrorism Committee, as part of their ongoing dialogue, on the steps they have taken to implement this resolution. In furtherance of this resolution, member states have reported to the CTC on their progress in implementing this resolution.² In the table below, an overview is given of the actions taken and the measures adopted in accordance with paragraph 1 of SC Resolution 1624 (2005), based on the reports as submitted by the member states to the CTC.

Available reports by Member States pursuant to United Nations Security Council Resolution 1624 (2005):

Member State	Reported measures taken on implementing UNSC Resolution 1624 (2005)
Afghanistan	No report available
Albania	No report available
Algeria	<p>Prohibition by law & prevention of incitement: Algeria holds that all necessary legal provisions are in place to prohibit and prevent incitement to commit a terrorist act or acts and that no further legal steps are currently under consideration:</p> <ul style="list-style-type: none"> • Algeria has developed a legislative framework to suppress incitement, since 1995. • Pursuant to Ordinance No. 95-11 of 25 February 1995, Algeria's lawmakers amended and supplemented the Penal Code through provisions concerning all forms of justification, encouragement and financing of terrorist acts; Article 87 • Act No. 01-09 of 26 June 2001, which amended and supplemented the Penal Code <p>To deny safe haven:</p> <ul style="list-style-type: none"> • In practice, article 125 of the Code of Criminal Procedure grants the Algerian courts jurisdiction over transnational crimes. • International cooperation to prevent and combat terrorism. Border security is

¹ This overview has been compiled by Ms. Yvet Blom, research assistant to ICCT – The Hague. Overview latest updated on 10 March 2011.

² The latest overview of the reports submitted by member states to the CTC can be found at <http://www.un.org/en/sc/ctc/resources/1624.html>.

	<p>strengthened by exchanging information on the perpetrators of incitement to commit terrorist acts.</p> <ul style="list-style-type: none"> • Dialogue with partners at the bilateral, regional and international levels is an integral part of Algeria’s approach to combating radicalization and terrorist violence. • Algeria calls upon other States to cooperate and create a legal framework for: <ul style="list-style-type: none"> ○ Criminalising efforts to justify acts of terrorism and incitement of terrorist acts by any information and communications medium; ○ Prohibiting and criminalising the printing, publication and dissemination of bulletins, communiqués and tracts, which seek to justify terrorist crimes that pose a threat to the interests and security of one or more States; and ○ Enacting a legal framework for the right of asylum and the protection of freedom of expression, including through the Internet, in order to prevent them from being misused in the service of terrorist plots. <p>To ensure that measures taken to implement res. 1624 comply with international law: Algeria’s public authorities are working to prevent and combat incitement to commit terrorist acts and attempts to justify terrorism within the framework of domestic law and in a manner consistent with Algeria’s international commitments. Algeria is a party to almost all the international conventions related to human rights and international humanitarian law and that its international commitments under those instruments take precedence over domestic law.</p>
<p>Andorra</p>	<p>Prohibition by law & prevention of incitement:</p> <p>Andorra holds that all necessary legal provisions are in place to prohibit and prevent incitement to commit a terrorist act or acts and that no further legal steps are currently under consideration:</p> <ul style="list-style-type: none"> • New Andorran Penal Code in force since 23 September 2005 • The new Penal Code of the Andorran legal system includes measures to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters. • Article 19 under new Penal Code: “incitement occurs when a person directly incites others to commit an offence by publishing material, broadcasting radio programmes, or using any other means of similar efficacy in facilitating the dissemination of such material to a group of persons, if such actions actually result in the commission of a criminal offence”. • Article 339 calls for the punishment of anyone who, publicly and with an intent to cause harm, commits acts or makes statements that are seriously offensive to members of a religious, national, ethnic, trade union or political group, or to persons who profess a particular belief or ideology. Moreover, anyone who seriously disrupts the operations of any public entity or educational institution, official proceedings or religious or cultural events shall be penalized. • Article 364 of the new Penal Code provides that “anyone who disseminates, by any means, an ideology or doctrine attempting to justify recourse to terrorism or to justify or glorify groups or organizations that practice or support terrorism shall be punishable under the law”. • The concept of an unlawful association has been expanded to apply to any entity that encourages discrimination or violence against individuals, groups or associations on the basis of birth, origin, nationality or ethnic identification, religion, views on philosophical, political or trade union matters, or any other

	<p>personal or social characteristics.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Article 5 of the Constitution of Andorra incorporates the content of the Universal Declaration of Human Rights as general principles of Andorran rights and freedoms. Article 14 of the Declaration, which establishes the right to seek and enjoy asylum, is therefore incorporated into the Andorran legal system. • An immigration application from a person who has participated in the financing, organization, preparation or perpetration of terrorist acts, or an application from a person who has already been found guilty of incitement to commit one or more terrorist acts would be rejected if the background check reveals these facts. • The Principality intends to demonstrate its solidarity with the States Members of the United Nations in the fight against the scourge of terrorism by heeding the resolutions of the Security Council and the General Assembly, by acceding to the major international counter-terrorism conventions and by developing effective means of suppressing it that are consistent with international rights and obligations, in particular those enshrined in instruments relating to human rights, refugee law and humanitarian law. <p>To ensure that measures taken to implement res. 1624 comply with international law: The Principality intends to demonstrate its solidarity with the States Members of the United Nations in the fight against the scourge of terrorism by heeding the resolutions of the Security Council and the General Assembly, by acceding to the major international counter-terrorism conventions and by developing effective means of suppressing it that are consistent with international rights and obligations, in particular those enshrined in instruments relating to human rights, refugee law and humanitarian law.</p>
Angola	No report available
Antigua and Barbuda	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Antigua and Barbuda have developed a legislative framework to suppress incitement, since 1972; The Public Order Act which contains several articles relevant to incitement (Article 33, Article 36). • Article 20 of the Prevention of Terrorism Act of 2005 punishes anyone who counsels or procures the commission of an offence under the Act, or conspires to commit such an act. Article 13 prohibits recruitment for a terrorist group or act. Article 17 makes the conspiracy provisions applicable both within and outside the national territory. • The Royal Police Force of Antigua and Barbuda dedicates resources in a Special Branch. This Branch is responsible for identifying potential terrorist-related activity within the community and for intelligence exchanges with foreign counter-terrorism partners. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • The Royal Police Force of Antigua and Barbuda dedicates resources in a Special Branch. This Branch is responsible for identifying potential terrorist-related activity within the community and for intelligence exchanges with foreign counter-terrorism partners. Barbuda does not have any legislation that adopts or implements the United Nations Refugee Convention and Protocol. • Articles 41 of the Prevention of Terrorism Act of 2005 specifically gives the

	<p>Minister responsible for immigration the power to refuse the application of any person applying for status as a refugee, if he or she has reasonable grounds to believe that the applicant has committed a terrorist act or is likely to be involved in the commission of a terrorist act. Article 40 provides similar powers with respect to permitting any non-refugee an endorsement or other authority to enter the country, and to ordering a person to leave the country and remain thereafter out of Antigua and Barbuda.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Article 1.2 Prevention of Terrorism Act of 2005: exempts acts committed in pursuance of a protest, industrial action, demonstration or stoppage of work. • Articles 40 and 41 of the Prevention of Terrorism Act of 2005 implement the principle of the Refugee Convention on denial of entry to suspected terrorists. An aggrieved individual may apply to the High • Court for judicial review of the exercise of the Minister’s power under Article 40 (1) or someone facing removal under Article 40 (2) for an order of habeas corpus or other order quashing the decision of the Minister. • Antigua and Barbuda is neither a signatory nor a ratifying state of the International Covenant on Civil and Political Rights. Although the provisions of the Covenant do not bind Antigua and Barbuda, nevertheless the Public Order Act, 1972 implements the objective Article 20-2 of that of the International Covenant on Civil and Political Rights, which requires that “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”. • Other guarantees in relation to fair treatment in criminal procedure law are: Articles 3-17 of the Constitution of Antigua and Barbuda that covers and enshrines the Fundamental Freedoms (human rights) Finally, even though Antigua and Barbuda does not have the supporting legislation to the United Nations Refugee Convention and its protocol, this does not negate the fact that in this country, the human rights freedoms and privileges of this Convention and Protocol are entirely respected and applied.
<p>Argentina</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • The Penal Code in force holds that the offence of incitement may be penalized as ‘aiding and abetting’ (art. 209), or ‘advocacy of a crime’ (art. 213), depending on the circumstances. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • The Argentine Republic is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. • In 1985, Decree 464/85 established the Refugee Eligibility Committee (CEPARE), with responsibility for the determination of refugee status, operating under the Ministry of the Interior. • CEPARE bases its analysis of applications for refugee status on the 1951 Convention and the UNHCR guidelines on refugee status determination, taking into account the provisions of article 1, section F, of the Convention, which establishes the grounds on which a person may be denied refugee status because he or she is considered undeserving of international protection. Although article 1, section F, of the Convention does not explicitly refer to terrorist acts, the various grounds for exclusion mentioned are the type of illicit act that usually gives rise to terrorism, and so the members of such organizations are denied refugee status.

	<ul style="list-style-type: none"> • Following the UNHCR guidelines on the application of the exclusion clauses, Argentina considers terrorist acts as serious non-political crimes. • Grounds for exclusion referred to in article 1, section F (b) (commission of a serious non-political crime) exist in the case of applicants with respect to whom there are serious reasons for considering that they have committed, or have incited the commission of, such acts. • Following internationally recognized basic human rights must be guaranteed: right to life, right to humane treatment, right to personal liberty and security, right to a fair trial, right to freedom of expression, right to protection against discrimination and right to judicial protection. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Argentina complies and implements the recommendations, resolutions and decisions of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights of the Organization of American States, United Nations organs created under human rights treaties and the special procedures and mechanisms of the United Nations Human Rights Commission, and will continue to do so within the new United Nations Human Rights Council; • Take into account the principal international and regional human rights instruments as well as UNHCR guidelines on international protection, in determining refugee status pursuant to the 1951 Convention.
Armenia	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • The provision stipulated by Article 39(2) of the Criminal Code appears as a legislative measure to prevent cases of incitement to commit terrorist acts. Incitement to commit a terrorist act is considered as a crime and the abettor bears liability for terrorism. • Article 226 of the RA Criminal Code: Inciting national, racial or religious hatred. <ol style="list-style-type: none"> 1. Actions aimed at the incitement of national, racial or religious hatred, racial superiority or humiliation of national dignity, are punished with a fine in the amount of 200 to 500 minimal salaries, or with correctional labour for up to 2 years, or with imprisonment for the term of 2-4 years. 2. The actions envisaged in part 1 of this Article committed: <ol style="list-style-type: none"> 1) publicly or by mass media, with violence or threat of violence; 2) by abuse of official position; 3) by an organized group, are punished with imprisonment for the term of 3 to 6 years. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Law of the Republic of Armenia on Political Asylum. (Article 6). • An information system at the border checkpoints of the Republic of Armenia is implemented to register the persons and vehicles entering and leaving the country. <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Australia	The available report does not hold any information on resolution 1624 (only resolution 1373).
Austria	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Austria holds that all necessary legal provisions are in place to prohibit and

prevent incitement to commit a terrorist act or acts and that no further legal steps are currently under consideration:

- The Austrian Penal Code, Section 12: the immediate offender and any person who incites another person to commit the offence is held criminally liable.
- Section 12 of the Penal Code covers the incitement of an entirely open group of persons.
- In addition to Section 12 of the Penal Code, Section 282 of the Austrian Penal Code criminalises the instigation to and approval of criminal offences. § 1 of section 282: whoever instigates to a criminal offence in a publication, on broadcast or by any other means that might render this message available to the broad public, is to be punished by imprisonment up to three years if he/she may not be punished more seriously for participating in the offence itself according to Section 12.
- Section 15 paragraph 2 of the Austrian Penal Code, incitement of preparatory acts: Criminal liability of the inciting person is established as soon as he/she materializes his/her decision to incite another person to commit an offence with an action immediately preceding the act of incitement.
- Resolution 1624 complies with obligations of international law to the extent that: Austrian Criminal Procedure Code (CPC): legally there are no differences between criminal proceedings based on a suspicion of criminal acts with a terrorist background and proceedings based on a suspicion of other criminal acts. Therefore the rights of defence are the same as in all other cases. The Austrian Penal Code and the CPC form integral parts of the Austrian legal order which is based on the respect of human rights and the rule of law. In particular, the European Convention on Human Rights (ECHR) has constitutional force in Austria. As for administrative measures, Article 18(1) of the Federal Constitution stipulates that the entire public administration shall be based on law.

To deny safe haven:

On 1 January 2006, the new aliens act (Federal Law Gazette I Nr. 100/2005) entered into force. Which holds among others: 'The possibility of issuing a residence ban if the alien is suspected of belonging or having belonged to a terrorist organisation or if the behaviour of the alien poses a threat to public order and safety, i.e. by inciting to violence, inciting to commit a crime or a terrorist act.

To ensure that measures taken to implement res. 1624 comply with international law:

- The Austrian Criminal Procedure Code (CPC): legally there are no differences between criminal proceedings based on a suspicion of criminal acts with a terrorist background and proceedings based on a suspicion of other criminal acts.
- The Austrian Penal Code and the CPC form integral parts of the Austrian legal order which is based on the respect of human rights and the rule of law. In particular, the European Convention on Human Rights (ECHR) has constitutional force in Austria. Under the ECHR, all laws, administrative acts and court sentences are subject to judicial review by the European Court of Human Rights.
- As for administrative measures, Article 18(1) of the Federal Constitution stipulates that the entire public administration shall be based on law. This holds inter alia also for any coercive measure taken by an administrative organ.
- Austria's laws regulating the admittance of refugees are in conformity with international human rights standards and the 1951 Convention relating to the status of refugees. The implementation of UNSC resolution 1624 has not

	<p>engendered any changes to these laws or their application.</p> <ul style="list-style-type: none"> • As regards humanitarian law, Austria is a party to the four Geneva Conventions of 1949 and to the two additional protocols of 1977.
Azerbaijan	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Criminal Code Article 214: criminal liability for terrorist activity, yet the Code lacks a separate provision establishing criminal liability for incitement to terrorism. • Article 32.4: a person using recruitment, collusion, threats or other means to incite another person to commit an offence is regarded as an instigator and is subject to the same criminal liability as the perpetrator of the offence. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Pursuant to article 14 of the Citizenship Act, if a person applying for citizenship of Azerbaijan is found to have links to a terrorist activity the application is rejected. • Article 7 of the Immigration Act provides that a foreign national or stateless person shall be denied immigration to Azerbaijan if he or she may impair the security of the State or public order, has no identity papers, submits false documents or information in order to obtain an immigration permit, or has been convicted of a serious or particularly serious crime during the previous five years. • A number of measures to prevent the entry into Azerbaijan of persons guilty of incitement to commit a terrorist act or acts are carried out under bilateral and multilateral cooperation arrangements (2005-2007 Programme of Cooperation of the States members of the Commonwealth of Independent States (CIS) to combat terrorism and other aggressive manifestations of extremism all information concerning wanted persons and organizations having links to terrorist groupings is gathered together in the CIS Anti-Terrorist Centre. • Cooperation is also proceeding between the countries members of the GUAM Organization for Democracy and Economic Development on the establishment of the national segments of the Virtual Centre, a data analysis facility providing for swift exchange of operational information in the fight against terrorism and other forms of organized crime. <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Bahamas	No report available
Bahrain	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Law on the protection of society from terrorist acts Article 17: “Any person who incites another to commit an offence for a terrorist purpose, even if his action has no effect, shall be punished with a term of imprisonment of not longer than five years.” • Law on the protection of society from terrorist acts: Article 11, §1, any person who promotes activities constituting an offence for a terrorist purpose shall be punished with imprisonment and a fine of not less than 2,000 dinars and not more than 5,000 dinars. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • The Aliens (Immigration and Residence) Act of 1965 comprises legal provisions guaranteeing the denial of safe haven to any person suspected of inciting a terrorist act, under Article 5-2, paragraph (c), Article 6.

	<ul style="list-style-type: none"> • Law No. 58 of 2006 on the protection of society against terrorist acts contains provisions guaranteeing the denial of safe haven to any person accused of inciting the perpetration of terrorist ac, under Article 6, paragraph 2, Article 9, Article 18, paragraph 1, • All measures taken to implement the above-mentioned paragraphs comply with all safeguards under international human rights law and international law. <p>To ensure that measures taken to implement res. 1624 comply with international law: All measures taken to implement the above-mentioned paragraphs comply with all safeguards under international human rights law and international law.</p>
Bangladesh	No report available
Barbados	No report available
Belarus	<p>Prohibition by law & prevention of incitement: Belarus has established criminal liability for incitement to commit terrorism, including international terrorism.</p> <p>To deny safe haven: Information on measures taken to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts will be provided subsequently.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: The draft legislative acts adopted to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) are being analysed in the Ministry of Foreign Affairs to ensure that they comply with Belarus’s international obligations. The Constitution of the Republic of Belarus acknowledges the paramount importance of universally recognized principles of international law and guarantees the conformity of legislation with them.</p>
Belgium	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Article 4.1 of the European Union Framework Decision of 13 June 2002: “Each Member State shall take the necessary measures to ensure that inciting or aiding or abetting an offence referred to in Article 1(1), Articles 2 or 3 is made punishable”. • 19 December 2003: amending the Penal Code concerning terrorist offences and participation in a terrorist group (articles 137 to 141 ter). The provisions of the Penal Code concerning ‘joint commission of an offence’ (article 66) and ‘aiding or abetting’ (article 67) are applicable to terrorist offences. The general terms of these provisions make it possible to prohibit and to prevent incitement to terrorism. • Article 66, Penal Code punishes amongst others ‘Any person who, by means of donations, promises, threats, abuses of authority or power, plots or deliberate deception, directly provoked the crime or offence; Any person who, either by views expressed in meetings or public places or by writings, printed matter, images or emblems of any kind displayed, distributed, sold or put on sale or public view, directly provoked others to commit the crime or offence, without prejudice to the penalties imposed by law on authors of provocations to commit crimes or offences, even if such provocations were not acted upon.”

- Article 67 of the Code punishes: ‘Any person who gave instructions for committing it; Any person who provided weapons, instruments or any other means used in the crime or offence, knowing that they would be used for that purpose...’
- Article 1 of the law of 25 March 1891 makes it possible to prosecute incitement to commit terrorism or to prevent such incitement, independently of whether the person accused of such incitement participated in a terrorist offence as such or whether such an offence actually took place.
- 19 January 2006; Belgium signed the Council of Europe Convention on the Prevention of Terrorism. Belgium will ratify the Convention as soon as possible, in order to supplement Belgian penal law provisions in this area.
- Acts of incitement to hatred, racism and discrimination are covered by the law of 30 July 1981 on the suppression of certain acts inspired by racism or xenophobia.
- Furthermore, there are a number of initiatives to combat “cyber hatred” by setting up an association which brings together key actors such as the Federal Computer Crime Unit (FCCU) of the federal police, the Internet Service Providers Association (ISPA), the College of Public Prosecutors and the Centre for Equal Opportunities and Combating Racism.

To deny safe haven:

- Denial of the right of asylum; Belgium is a party to the Geneva Convention of 1951 relating to the Status of Refugees, article 1 (F) under c that: “The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that (c) He has been guilty of acts contrary to the purposes and principles of the United Nations.” The Commissioner-General’s Office for Refugees and Stateless Persons, judges upon the asylum applications and verifies whether the clause denying refuge is applicable.
- Reform of extradition laws; review to amend extradition laws (laws of 1833 and 1874): “Belgium shall not extradite a person who is being prosecuted for political purposes or for an act relating to a political offence”.
- April 2006: Anti-radicalism plan (“*Plan Radicalisme*”) goals:
 - To develop integrated actions among the various participating departments;
 - To help protect democratic values and combat the polarization of society, notably through measures to combat incitement to hatred and the dissemination of fundamentalist, racist and extremist ideas.
- Proactive investigations (allow for early intervention, under direct control of a public prosecutor): article 28 bis, paragraph 2, of the Code of Criminal Investigation: Reasonable ground to suspect that serious offences (including those relating to terrorism) will be or have been committed but are not yet confirmed, authorizes the police, pursuant to a written and prior decision of a public prosecutor, to investigate, gather, record and process data or information.

To ensure that measures taken to implement res. 1624 comply with international law:

- A party of the universal instruments on human rights protection, humanitarian law and refugee law and of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- Belgium follows the guidelines of the Committee of Ministers of the Council of Europe on human rights and the fight against terrorism.
- Implementation paragraph 1 of resolution 1624 (2005); the law of 19 December

	<p>2003 (incorporating terrorist offences into the Penal Code): stipulates the principles of fundamental rights and freedoms, in particular, in articles 8 to 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.</p> <ul style="list-style-type: none"> • Each new law or measure is subject to the following procedure: <ol style="list-style-type: none"> 1. The law or measure is first studied by the competent administrative authorities, through their own legal offices; 2. It may, where applicable, be submitted to a competent advisory body for its opinion; 3. The law or measure is also confirmed by the Council of State, which must render an opinion on any regulation before its adoption in the form of either a royal decree or an act; 4. It may, if the measure under consideration requires the adoption or revision of a law, be reviewed by the competent parliamentary commission and then by the Parliamentary Assembly. • Measures may be subject to Belgian administrative review or judicial remedy and, where appropriate, be contested before the Human Rights Committee or the European Court of Human Rights.
Belize	No report available
Benin	No report available
Bhutan	No report available
Bolivia	No report available
Bosnia-Herzegovina	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Incitement to perpetrate a terrorist act (Article 201)¹, financing of terrorism (Article 202)² as well as other criminal offences are considered to be criminal offences according to General Provisions of the Criminal Code of BiH (CC BiH). • General Provisions of the Criminal Code of BiH, Chapter V (Five); <p>Incitement, Article 30</p> <ol style="list-style-type: none"> 1. Whoever intentionally incites another to perpetrate a criminal offence, shall be punished as if he has perpetrated such offence. 2. Whoever intentionally incites another to perpetrate a criminal offence for which a punishment of imprisonment for a term of three years or a more severe punishment is prescribed by law, and the criminal offence has never been attempted, shall be punished as for the attempt of the criminal offence. <p>Attempt, Article 26</p> <ol style="list-style-type: none"> 1. Whoever intentionally commences execution of a criminal offence, but does not complete such offence, shall be punished for the attempted criminal offence when, for the criminal offence in question, the punishment of imprisonment for a term of three years or a more severe punishment may be imposed, and for the attempt of another criminal offences when the law expressly prescribes punishment of the attempt alone. 2. An attempted criminal offence shall be punished within the limits of the punishment prescribed for the same criminal offence perpetrated, but the punishment may also be reduced. <p>To deny safe haven:</p>

	<ul style="list-style-type: none"> • The Intelligence and Security Agency of BiH (OSA BiH) works on intensively investigating the activities of individuals, groups, and entities that finance, incite, support, plan, prepare, organise and perpetrate activities that bear the characteristics of terrorism. The focus is primarily to prevent the granting of refuge to those individuals for whom there are credible and relevant information that they support or incite the perpetration of terrorist acts. • Other police agencies, the BiH State Border Service, the Ministry of Interior of the Federation of BiH and the Ministry of Interior of Republika Srpska, as well as other bodies, also carry out, in line with their scope of competences, the above-mentioned activities. • The Council of Ministers of BiH has established the State Commission for the review of status of citizenship granted by naturalisation in the war period 1992 - 1995. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Bosnia and Herzegovina has incorporated into its Constitution all the provisions of ECHR. • The Constitution also stipulates the obligation of securing full respect for: international humanitarian law, Universal Declaration on Human Rights, the International Covenant on Civil and Political, as well as International Covenant on Economic, Social and Cultural rights, and Framework Convention on the Rights of Persons belonging to national or ethnic, religious and linguistic minorities, as well as other human rights instruments. • Criminal Procedure Code of BiH (CPC BiH), Chapter: ‘Special investigative actions’, some temporary restrictions of fundamental rights and freedoms in the procedure of gathering information and evidence necessary to conduct the criminal procedure. Harmonised with the abovementioned international human rights instruments (ref. Article 8, Para. 2 ECHR).
Botswana	No report available
Brazil	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Penal Code (article 286), criminalises incitement to the commission of any crime in general. • Draft legislation regarding the criminalisation of terrorism and of the financing of terrorist activities; includes specific criminalisation of the incitement of terrorism. • Article 287 of the Penal Code also criminalises the public apologia (or glorification) of any crime or criminals. • The Federal Constitution of Brazil guarantees, among other individual and collective rights, religious freedom. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Discretionary power to immigration authorities to allow or deny entrance of national territory if there is reason to believe that a certain person is dangerous or his/her presence is deemed inconvenient to Brazil’s national interests. • The National System for Wanted or Impeded Persons (SINPI) is always consulted. • The Brazilian Federal Police Department exchanges information with several international intelligence and police organizations, concerning people allegedly involved with terrorist activities.

	<ul style="list-style-type: none"> • Brazil relies on databases of suspicious individuals supplied by its own intelligence activities and the exchange of information with foreign intelligence bodies. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • The Federal Constitution of Brazil provides that the country’s foreign policy is guided, among others, by the following principles: prevalence of human rights, self-determination of peoples, non-intervention, equality among states and the peaceful settlement of conflicts. • All United Nations’ conventions on human rights except the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families are signed. • All United Nations’ instruments on human rights except the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, are ratified (is under legislative consideration for future ratification). • Strong supporter of the United Nations Human Rights Council. • Reiterated in all international and regional fora on terrorism, its view that the fight against terrorism must be with full respect of international law, including human rights law, international refugee law and international humanitarian law. •
<p>Brunei Darussalam</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • There is no specific legislation for the offence of Terrorist act or acts. • However, the Penal Code includes <ul style="list-style-type: none"> ○ Offences affecting the human body, offences affecting life, criminal force and assault, kidnapping, abduction, etc. (offences involved in the planning, preparation or perpetration of terrorist acts). ○ Terrorist-related offences (the Hijacking and Protection of Aircraft Order 2000 and Tokyo Convention Order 2000). • Incitement to commit any of these offences: section 107 of the Penal Code. ‘..a person that abets the doing of a thing who instigates any person to do that thing; or engages, with one or more persons or persons, in conspiracy for the doing of that thing, if an act or illegal omission take place in pursuance of that conspiracy, and in an order to the doing that thing; or intentionally aids, by an act or illegal omissions, the doing of that thing. • In addition, the Public Order Act (Annex 5, section 31 – 33) could also be applied to prohibit and to prevent incitement to commit a terrorist act or acts. • To counter incitement of terrorist acts, the Royal Brunei Police Force closely monitors extremist activities through its Department of Criminal Intelligence. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Section 8 of the Immigration Act: Any person convicted in any country or state of an offence for which a sentence of imprisonment has been passed for any term is prohibited. This includes incitement to commit terrorist acts. • Prohibited is also any person who, in consequence of information received from any source deemed by the Controller to be reliable, or from any government, through official or diplomatic channels deemed by the Controller to be undesirable immigrant. • Such person will be prohibited from disembarking or may be detained at an immigration depot or other place designated by the Controller until he can be

	<p>returned to his place of embarkation or to the country of his birth or citizenship as provided under section 31 of the Immigration Act.</p> <ul style="list-style-type: none"> • The Internal Security Act and the Criminal Law (Preventive Detention) Order may be used in appropriate cases. • Sharing of intelligence reports between the Royal Brunei Police Force and the Department of Immigration and National Registration on cases of suspected counterfeit and forged passports that might be related to terrorist activities. • Stringent checks are made to prevent entry into the country of persons who have been guilty of incitement to commit a terrorist act. <p>To ensure that measures taken to implement res. 1624 comply with international law: A party to all the four Geneva Conventions of 1949 and its two Additional Protocols of 1977.</p>
Bulgaria	<p>Prohibition by law & prevention of incitement: Bulgarian Criminal Code, General Part, Section III:</p> <ul style="list-style-type: none"> • Art. 20 (1) Accomplices in a deliberate crime are the perpetrators, the abettors and the accessories. (2) Perpetrator is the one who participates in the very commitment of the crime. (3) Abettor is the one who has deliberately persuaded somebody else to commit the crime. (4) Accessory is the one who has deliberately facilitated the commitment of the crime through advice, explanations, promise to provide assistance after the act, removal of obstacles, providing resources or in any other way. • Art. 21 (1) All accomplices shall be punished by the penalty stipulated for the committed crime, taking into consideration the nature and the degree of their participation. <p>Special Part, Chapter One, Crimes against the Republic, Article 108a, (New SG No. 92/2002)</p> <ul style="list-style-type: none"> • Any person who undertakes to instigate fear and panic among the population, pose threats, force official authority, member of the public or representative of a foreign state or international organization to perform or fail to perform any of their functions, who commits a crime under the provisions of Articles 115, 128, 142, Para. 1, Art. 216, Para. 1, Articles 326, and 330, Para. 1, Articles 333, 334, Para. 1, Art. 337, Para. 1, Art. 339, Para. 1, Art. 340, Para. 1 and 2, Art. 341a, Para. 1-3, Art. 341b, Para. 1, Articles 344 and 347, Para. 1, Articles 348 and 349, Para. 1 and 3, Art. 350, Para. 1, Art. 352, Para. 1, Art. 354, Para. 1, Art. 356f, Para. 1, Art. 356h, and shall be punished for terrorist acts with imprisonment of five to fifteen years, when if death has been caused, the punishment imposed shall be imprisonment of fifteen to thirty years, life imprisonment or life imprisonment without alternative punishment. (...) <p>Chapter Ten, Crimes against the public order and peace , Article 320</p> <ul style="list-style-type: none"> • (Former text of Art. 320, SG No. 92/2002) A person who, by preaching before many people, or by distribution of printed works or in any other similar manner openly abets to the perpetration of a crime, shall be punished by deprivation of liberty for up to three years, but not by a more severe punishment than that provided by the crime itself. • (2) (New, SG No. 92/2002) The punishment for open instigation towards perpetration of a crime under Art. 108a, Para. 1 shall be imprisonment of up to six years.

	<p>To deny safe haven: Not answered</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Burkina Faso	<p>Prohibition by law & prevention of incitement: They are currently being determined (2006).</p> <p>To deny safe haven: Order No. 84-49 of 4 August 1984, the Organization of African Unity convention of 10 August 1969 and decree AN-V-28/FP of 3 August 1988 on the status of refugees to deny entry visas or safe haven.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Establishment of an interministerial committee in which the departments responsible for foreign affairs, territorial administration, security, defence, justice, finance and budget are represented, and in where each acts in its own sphere to implement the resolution.</p>
Burundi	No report available
Cambodia	No report available
Cameroon	No report available
Canada	<p>Prohibition by law & prevention of incitement: The Canadian <i>Criminal Code</i>: “terrorist activity”; two parts:</p> <ol style="list-style-type: none"> 1. An act or omission that is committed in or outside Canada and that, if committed in Canada, is an offence referred to in different subsections of section 7 of the Code that implement various United Nations conventions relating to the prevention of terrorism. 2. An act or omission, in or outside Canada; <ol style="list-style-type: none"> (i) that is committed (A) in whole or in part for a political, religious or ideological purpose, objective or cause, and (B) 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 to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada, and (ii) 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 a serious risk to the health or safety of the public or any segment of the public, (D) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of clauses (A) to (C), 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 referred to in any of clauses (A) to (C) [...] <ul style="list-style-type: none"> • An act or omission found in the definition of “terrorist activity” also “includes a

conspiracy, attempt or threat to commit any such act or omission, or being an accessory after the fact or counselling in relation to any such act or omission ...”

- For example, counselling an act or omission that falls within the definition of “terrorist activity” is itself caught by the definition of “terrorist activity”. Counselling, by subsection 22(3) of the Code, includes inciting. Hence, someone who incites another to commit an act or omission that constitutes “terrorist activity” engages in “terrorist activity”. By subsection 83.27(1) of the *Criminal Code*, a person convicted of an indictable offence, other than an offence for which a sentence of imprisonment for life is imposed as a minimum punishment, where the act or omission constituting the offence also constitutes a terrorist activity, is liable to imprisonment for life. In addition, section 2 of the *Criminal Code* defines “terrorism offence” to include a conspiracy or an attempt to commit, or being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraph (a), (b) or (c) of the definition. The offences in paragraphs (a) to (c) include those relating to the financing of terrorism, participating in an activity of a terrorist group and facilitating terrorist activity. Hence, counselling (as by inciting) a “terrorism offence” described in paragraphs (a) to (c) of the definition is also a “terrorism offence”. By section 83.25 of the Code, the Attorney General of Canada can initiate and conduct a prosecution for a “terrorism offence” in any territorial division in another province of Canada from that in which the offence is alleged to have occurred. In addition, there are new crimes created by the *Anti-Terrorism Act* that address specific kinds of conduct that further acts of terrorism. Below are many of the relevant provisions.

- Subsection 83.18 (1), every one who knowingly participates in or contributes to, directly or indirectly, 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 is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

- Subsection 83.18(3), “participating in or contributing to an activity of a terrorist group” includes, in part, providing, receiving or recruiting a person to receive training; providing or offering to provide a skill or an expertise for the benefit of, at the direction of or in association with a terrorist group; or recruiting a person in order to facilitate or commit a terrorism offence.

- Subsection 83.19 (1), every one who knowingly facilitates a terrorist activity is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

- Subsection 83.21 (1), every person who knowingly instructs, directly or indirectly, any person to carry out any activity for the benefit of, at the direction of or in association with a terrorist group, for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity, is guilty of an indictable offence and liable to imprisonment for life.

- Subsection 83.22 (1), every person who knowingly instructs, directly or indirectly, any person to carry out a terrorist activity is guilty of an indictable offence and liable to imprisonment for life.

- Section 83.23, every one who knowingly harbours or conceals any person whom he or she knows to be a person who has carried out or is likely to carry out a terrorist activity, for the purpose of enabling the person to facilitate or carry out any terrorist activity, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

- The *Criminal Code*:

- S. 318: advocating genocide against an identifiable group

- S. 319 (1) inciting hatred in a public place against an identifiable group likely to lead to a breach of the peace
- 319 (2) the wilful (i.e., intentional) promotion of hatred against an identifiable group
 - The *Anti-Terrorism Act* included amendments to the *Criminal Code* which added sections 320.1 and 430(4.1) and also amended subsection 13(2) to the Canadian *Human Rights Act*.
- Section 320.1 of the *Criminal Code* allows the courts to order the deletion of publicly available online hate propaganda from computer systems when it is stored on a server that is within the jurisdiction of the court.
- Canadian *Human Rights Act*; Subsection 13(1) prohibits the spreading of hate messages that would expose a person or group to hatred or contempt because of that individual's identification with a prohibited ground of discrimination.
- Section 430(4.1) of the *Criminal Code* created an offence of mischief motivated by bias, prejudice or hate based on religion, race, colour or national or ethnic origin, committed in relation to property that is a place of religious worship or an object associated with religious worship located on the grounds of such a building or structure associated religious property, including cemeteries.
- Signed the Council of Europe's first Additional Protocol to the *Convention on Cybercrime*, concerning the criminalisation of acts of a racist nature committed through computer systems.

To deny safe haven:

- Two pillars: first the interdiction abroad to prevent them from entering Canada. Second enforcement in Canada, including intervention in refugee hearings, vacation of refugee status, inadmissibility and detention hearings, security certificates, revocation of citizenship and removal from Canada.
- Sections 34 to 37 of Canada's *Immigration and Refugee Protection Act* (IRPA): Individuals involved in terrorism, human or international rights violations, serious or organized criminality are inadmissible to Canada.
- Reasonable grounds to believe has been defined as more than a mere suspicion but less than a balance of probabilities.
- IRPA includes measures which permit the denial of entry to persons who have not been convicted of an offence abroad, as long as evidence of criminal activity exists that could result in a conviction if there were a prosecution in Canada.

To ensure that measures taken to implement res. 1624 comply with international law:

- Canadian *Criminal Code* provisions relating to UNSC Resolution 1624 are in compliance with domestic legal constitutional framework, including Canada's *Charter of Rights and Freedoms*, as well as with international obligations.
- Canada's *Criminal Code* has specific provisions that address inciting to commit a "terrorist activity" or "terrorism offence"; that are designed to prevent a terrorist activity from taking place; and that are designed to combat hate propaganda.
- Careful attention was paid to human rights protections in the development and implementation of the *Anti-Terrorism Act*. The provisions of the Act were tailored to protect national security and prevent terrorism, while respecting Canadian values, such as the Canadian *Charter of Rights and Freedoms*, as well as Canada's international obligations. In short, the Act was designed to protect both national security and civil liberties.
- To ensure that Charter rights are protected, the provisions of the Act contain a number of safeguards (not invoking the Notwithstanding Clause (Section 33 of the

	<p>Canadian <i>Charter of Rights and Freedoms</i>), and thus Canadian courts are able to review the legislation for consistency with the Charter; the mere focus on the threat to national security posed by terrorism rather than generally expanding law enforcement powers; the implementation of international conventions and other international obligations and commitments (...).</p> <ul style="list-style-type: none"> • Canada's compliance with international human rights law, refugee law and humanitarian law are embodied within the <i>Immigration and Refugee Protection Act</i>. •
Cape Verde	No report available
Central African Rep.	No report available
Chad	No report available
Chile	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Act No. 18,314, defines terrorist acts and establishes related penalties. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • A party to the 1951 Convention on the Status of Refugees; consequently adheres to the precepts established therein. • Article 1 (F) of the Convention; The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that: <ol style="list-style-type: none"> a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; c) He has been guilty of acts contrary to the purposes and principles of the United Nations. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • All measures are taken with full respect for the international instruments, particularly to human rights. • Support given to General Assembly resolution 60/158, entitled "Protection of human rights and fundamental freedoms while countering terrorism", in which the Assembly reaffirms "that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law; and resolution 60/43, entitled "Measures to eliminate international terrorism", in which the Assembly affirms "that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law". • Within the OAS, Chile supported resolution 2137 of 2005, relating to the work of the Inter-American Committee against Terrorism (CICTE), operative paragraph 3 of which expresses the commitment that the fight against terrorism and the financing thereof should be within the framework of full respect for international law, international humanitarian law, human rights and refugee law.

China	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Criminal Law of China; those who incite others to commit terrorist crimes should bear criminal liability. • Criminal Law: acts of organizing, leading and participating in terrorist organizations and financially assisting terrorist activities constitute crimes. • The International Convention for the Suppression of Terrorist Bombings and the Shanghai Convention on Combating Terrorism, Separatism and Extremism, both of which China has acceded to, carry clauses on the prohibition and prevention of inciting one or more terrorist activities. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • The measures of border control effectively deny safe haven to anyone guilty of incitement to commit a terrorist act or acts. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • China has always held that counter-terrorism efforts should be based on the Charter of the United Nations and other universally recognized international law, including international human rights law, refugee law and humanitarian law.
Colombia	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Criminal Code: articles 29 and 30: perpetration and participation (incitement to commit a terrorist act or acts falls within the scope of the provisions relating to perpetration and participation). • Articles 348 Criminal Code: Instigation to commit an offence: ‘Any person who publicly and directly incites another person or persons to commit a specific offence or type of offence shall be liable to a fine. If the act is engaged in for the purpose of (...) or for terrorist purposes, the penalty shall be a term of imprisonment of between 80 and 180 months and a fine of between 666.66 and 1,500 times the minimum statutory monthly wage’. • Article 349 Criminal Code: Incitement to commit military offences: ‘Any person who, in support of terrorist activities, incites members of State law enforcement or security agencies to desert or abandon their posts or service, or who takes any action to achieve that objective, shall be liable to a term of imprisonment of between 32 and 90 months and a fine of between 13.33 and 150 times the minimum statutory monthly wage.’ • Other provisions to penalize acts linked to terrorism are: aggravated conspiracy to commit an offence (art. 340), training for terrorist activities (art 341), management of resources linked to terrorist activities (art. 345) and incitement to commit military offences in support of terrorist activities. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Convention relating to the Status of Refugees of 1951, article 1 (F) (Explained before (Chile)). • Decree No. 2450 of October 2002; <ul style="list-style-type: none"> ○ Establishes the procedure for determining refugee status and the Advisory Committee on the Determination of Refugee Status. ○ Provides that the Deputy Minister for Multilateral Affairs presides over the Advisory Committee, and ○ Article 12: “The Advisory Committee may, where it deems appropriate, request information from the security authorities of the country concerned, or from foreign authorities through Colombian embassies or consulates abroad, exercising

due caution so as not to endanger the life or safety of the person seeking refugee status.”

- Article 19: The Ministry of Foreign Affairs may decide, through a resolution, to suspend or revoke refugee status. The Advisory Committee on the Determination of Refugee Status is responsible for reviewing cases and taking decisions, subject to the provisions established under the Convention relating to the Status of Refugees, signed in Geneva in 1951, and taking into account the relevant resolutions of the United Nations Security Council and the Handbook on Procedures and Criteria for Determining Refugee Status prepared by the Office of the United Nations High Commissioner for Refugees (UNHCR).
- Article 20: The Advisory Committee on the Determination of Refugee Status, in accordance with articles 32 and 33 of the Convention relating to the Status of Refugees, adopted in Geneva on 28 July 1951, shall examine cases of expulsion as provided for under those articles and shall make the appropriate recommendations, which shall not be binding, to the Ministry of Foreign Affairs.
- A State party to the Convention on Asylum of 1928 (Havana Convention) (States may not grant asylum to persons accused of common offences)
- A party to the Convention on Political Asylum of 1933 (Montevideo Convention) (three vital elements:1) limits the right to asylum to persons accused of political offences, i.e., persons formally accused in ordinary court proceedings; 2) establishes that the nature of the offence was to be determined by the asylum State; 3) establishes asylum as an institution of humanitarian character.
 - A party to the Convention on Territorial Asylum of 1954(Caracas Convention).
- The Convention on Diplomatic Asylum of 1954 (signed but not ratified), states: “Every State has the right to grant asylum; but it is not obligated to do so or to state its reasons for refusing it”. Persons who are under indictment or on trial for common offences: “it shall rest with the State granting asylum to determine the nature of the offence or the motives for the persecution”. Asylum may not be granted except in urgent cases (when the individual is being sought by persons or mobs over whom the authorities have lost control, or by the authorities themselves, and is in danger of being deprived of his life or liberty because of political persecution and cannot, without risk, ensure his safety in any other way”.

To ensure that measures taken to implement res. 1624 comply with international law:

- Forums with non-governmental human rights organizations: including round tables for follow-up on international cooperation activities and on the recommendations of the United Nations High Commissioner for Human Rights, risk assessment committees of the various protection programmes, commissions on human rights of indigenous peoples and workers, and the process of formulating the National Plan of Action on Human Rights and International Humanitarian Law.
- Protection programmes for human rights advocates, labour and union leaders, members of opposition political parties, mayors and city council members, and leaders of organizations of displaced persons, through the expansion of coverage, consolidation in regions, training in preventive security and inclusion of new vulnerable populations.
- Plan of action for the protection and promotion of the human rights of workers, agreed to by the Workers’ Human Rights Commission, in which connection round tables for dialogue and understanding were held with various stakeholders in the labour sphere in several Colombian cities, led by the Vice-President of the Republic and the Minister of Social Protection.

	<ul style="list-style-type: none"> • The “Assistance and Protection for At-risk Communities” project in targeted municipalities in 11 regions of the country. The project utilizes three strategies: strengthening of the protection capacity of public institutions at the national, regional and local levels; strengthening of at-risk communities through prevention and self-protection mechanisms to prevent human rights violations; and consensus-building between the State and the community. In all respects, the project aims to foster the development of public policies to address the needs of at-risk communities. . • Creation and implementation of the Inter-Institutional Early Warning Committee (CIAT) for the examination of risk reports prepared by the Office of the Ombudsman concerning threats of large-scale violations of human rights and international humanitarian law and coordination of the response to those threats. • A process of decentralizing human rights and international humanitarian law policy through the incorporation of the issue into the development plans of all departments of the country and through the development and implementation of departmental and municipal plans of action on human rights and humanitarian law; • Adoption of the National Plan for Comprehensive Assistance to Displaced Populations (Decree No. 250 of 2005) and its implementation by national and departmental authorities; • Release of National Council on Economic and Social Policy (CONPES) document No. 3400 (2005), entitled “Goals and Prioritization of Resources to Assist the Population Displaced by Violence” • Strengthening and promotion of the participation of the displaced population; • Formulation of the Operational Plan for the Prevention of Displacement; • Strengthening of the National System of Assistance to Displaced Populations; • Formation and commencement of the work of the Regulatory and Risk Assessment Committee to protect leaders of displaced persons in the framework of the protection programmes overseen by the Ministry of the Interior; • Promotion and dissemination of information on the rights of displaced persons and related action programmes; • Coordination of international cooperation; • Issuance of guidelines for assisting displaced indigenous populations. Steps are being taken to reduce and prevent impunity in cases of human rights violations and infringement of international humanitarian law, including the formulation of a policy to put a stop to impunity in such cases by strengthening the capacity of the Colombian Government to investigate, prosecute and punish offenders.
Comoros	No report available
Cook Islands	No report available
Costa Rica	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Penal Code: Article 273: ‘Any person who incites another to commit an offence that disturbs the public peace shall be punished by imprisonment for six months to four years, regardless of whether the act occurs’. • Penal Code: Article 274: ‘Any person who associates with two or more persons to commit a crime shall be punished by imprisonment for one to six years, merely because of membership in the association. The punishment shall be six to ten years’ imprisonment if the purpose of the association is to commit terrorist acts or kidnapping for ransom. • Article 13 of draft Law No. 15494 on the Strengthening of Legislation against

Terrorism, specifically, article 274 “Provision of support and services to terrorism: 1. Any person who recruits someone else to take part in the commission of any act of terrorism shall be punished by six to ten years’ imprisonment. 2. Any person who voluntarily provides any type of support or services, including weapons, with the intention or the knowledge that this service will be used to commit any of the acts referred to in the preceding paragraph shall receive the same punishment.”

- Following the March 2005 recommendations of the United Nations experts, improvements are being made in draft Law No. 15494 to ensure that the following principles are clearly included in our laws: (a) The active nationality principle; (b) The principle *aut dedere aut iudicare* (the terrorist must be either extradited or tried); (c) The principle that terrorist crimes are not considered to be political or politically motivated crimes.

To deny safe haven:

- Intelligence: identifying the threat and exchanging information with counterpart services in America, Europe and Asia, through communication networks, so names of persons suspected of being involved in terrorism and general information on terrorism can be obtained.
- Directorate of Intelligence and Security (DIS) maintains an expanding database with information on persons suspected of being connected to terrorist networks and activities, and issues the corresponding warnings should such persons enter the country.
- Measures of DIS:
 1. “Protocol for responding to major crises”; a specialized instrument that provides for the technical platform for the construction, development and operation of the necessary mechanisms for responding to, resolving and monitoring major crises in any part of the national territory. In major crises DIS will be responsible for gathering information to forestall political or economic crises for the Government, as well as information on possible actions against the physical or other integrity of senior representatives of the supreme powers of the Republic and on threats to national territorial integrity.
 2. DIS cooperates and exchanges information with counterpart services in Ibero-America, through communication networks; useful tools for obtaining the names of persons suspected of being involved in terrorism and general information on terrorism
 3. DIS provides the Directorate of Immigration and Aliens with intelligence on persons suspected of being linked to terrorist organizations. This information comes from DIS sources and INTERPOL. The consolidated list does not appear on the database of the INTERPOL office in Costa Rica, but on a list considered by DIS to be a “standing alert” only at the national level. Other lists of terrorists provided by the United Nations, the International Criminal Police Organization (INTERPOL) and the European Police Office (EUROPOL), are transferred to the Costa Rican Drug Institute (ICD), the Office of the Superintendent of Financial Institutions (SUGEF), the Office of the Superintendent of Securities (SUGEVAL), the Office of the Superintendent of Pensions (SUPEN), and the Directorate of Immigration and Aliens. DIS also works with this list, in coordination with the customs authorities and other police forces.
 4. Participation in different global meetings of the 184 countries that are members of INTERPOL, where questions related to terrorism, bioterrorism

	<p>and the non-proliferation of weapons of mass destruction, and the latest investigative techniques to combat this type of organized crime are discussed.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Cote d'Ivoire	No report available
Croatia	No report available
Cuba	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Cuba does not intend to implement other legislation due to resolution 1624, since the following legislation is already implemented: • Act No. 93 (Acts of Terrorism Act): Article 5, paragraph (c): "Under this Law, preparatory acts, attempts and consummated acts of terrorism shall be punishable in connection with the offences envisaged in this Law. Likewise, under the rules established in the Penal Code for preparatory acts, the following shall be punished: (c) Any person who incites or induces another or other persons, by spoken word, in writing or in any other form, publicly or privately, to carry out some of the offences envisaged in this Law. If the offence is committed following such incitement or inducement, the person who provokes it shall be punished as the perpetrator of the offence committed." <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Persons linked to terrorism that are detected at international border controls, are refused entry into Cuba. • Persons detected within the national territory with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts, are tried in accordance with the applicable national legislation. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Complies with its legal obligations under international law; international human rights law, refugee law, and humanitarian law. The competent national authorities comply with these obligations by preventing and dealing with terrorism. • The Constitution of the Republic of Cuba recognizes and protects all the human rights proclaimed in the Universal Declaration of Human Rights in the articles of chapter VII entitled "Fundamental rights, obligations and guarantees". • Both the Constitution and the Criminal Procedure Act establish all the necessary guarantees for due process, so that all accused persons, even those involved in cases related to terrorism, enjoy adequate protection of their rights. • The human rights protection system has evolved appreciably in Cuba, and has been complemented by legal provisions that grant the Office of the Attorney General of the Republic specific functions to ensure increased protection of the civil rights of the individual. • Act No. 83 of 1997 (Office of the Attorney General of the Republic Act): Article 8 (c): express mandate of responding to all claims, complaints and reports submitted by citizens concerning alleged violations of their rights. Article 24 (2): Attorney General may order the reestablishment of due process, should it have been violated.

	<ul style="list-style-type: none"> • In Cuba, anyone may assert his rights before the courts or the competent authorities, in order to defend them when they have been violated.
Cyprus	<p>Prohibition by law & prevention of incitement: Penal Code: Cap 154:</p> <ul style="list-style-type: none"> • Section 56: membership of an unlawful association • Section 57: advocating and encouraging unlawful association • Section 58: giving or soliciting contributions for an unlawful association\ • Section 80: carrying arms to terrorise • Section 92: threatening violence <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Aliens and Immigration Unit: place immigrants that are considered suspects by other Services of the Cyprus Police, including the Office for Combating Terrorism in a stop-list (particulars of any person who is not allowed to enter or leave Cyprus). • Suspects that should be put under surveillance when entering Cyprus are put on a watch-list. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • The government of Cyprus pays due attention and fully respects the rule of law and all legal obligations, both international and domestic, concerning int. human rights law, refugee law, and humanitarian law. • Cyprus is a contracting member to all major international human rights instruments
Czech Republic	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Criminal code: acts of terror (Section 93 – wilful killing or attempted wilful killing with the aim of undermining the constitutional system of the Czech Republic and Section 93a – taking hostages with the aim of compelling others to comply with requirements undermining the constitutional system of the Czech Republic), sabotage (Sections 95 and 96 of the Criminal Code), public endangerment (Section 179), endangering safety of an aircraft and a civil vessel (Section 180), murder (Section 219), hostage taking (Section 234a) and other acts. • Special attention is paid to the intentions of the offenders: act of complicity in the form of organizing, aiding and abetting the above-mentioned crimes (Section 10) or as an act of preparing such crimes (Section 7), if it is not deemed to constitute complicity (e.g. where there is a closer connection with the acts of the principal offenders) (Section 9). An attempted crime, complicity in a crime in the form of organizing, aiding and abetting and preparations for a crime in terms of Section 41 paragraph 2 of the Criminal Code are generally punishable, which applies to all crimes defined in the Criminal Code. • Membership of an organized group (Section 34g) may be considered an aggravating circumstance for all the above-mentioned crimes, as well as for preparation, attempt or complicity in such crimes. • Act No. 537/2004 (22 October 2004): Section 95 of the Criminal Code: introducing a new crime of terrorist attack, which holds a broad range of actions that can be considered terrorist: <ol style="list-style-type: none"> 1. A person who, with the intention to undermine the constitutional order or defence capability of the Czech Republic, to damage or destroy the fundamental political, economic or social structure of the Czech Republic or of an international organization, to seriously intimidate the population or to unlawfully compel the

government or any other authority or an international organization to do, to omit doing or to tolerate anything,

- a) commits an attack endangering human lives or health with the aim to cause death or serious bodily harm,
- b) takes hostages or kidnaps a person or persons,
- c) destroys or causes extensive damage to public installations, transport or telecommunication systems, including information systems, fixed platforms on the continental shelf, power supply installations, water supply installations, medical or any other important facilities, public places or property with the aim to endanger human lives, the safety of an installation, system or place, or to expose property to the risk of extensive damage,
- d) disrupts or stops the supply of water, electric power or any other vital natural resource with the aim to endanger human lives or to expose property to the risk of extensive damage,
- e) seizes or exercises control over an aircraft, vessel or any other means of passenger or freight transport, or destroys or seriously damages navigation equipment or substantially interferes with its operation, or communicates false information, thereby endangering human lives or health, the safety of such means of transport, and/or exposing property to the risk of extensive damage,
- f) without permission, manufactures or otherwise acquires, holds, imports, transfers, exports or otherwise supplies or uses explosives, a nuclear, biological, chemical or any other weapon with mass destructive effects, and/or carries out, without permission, research and development of nuclear, biological, chemical or any other weapon or means of combat or explosives prohibited by law or by an international treaty, or
- g) exposes people to the risk of death or serious bodily harm or exposes another person's property to the risk of extensive damage by causing a fire or flood or the harmful effects of explosives, gas, electric power or other similarly dangerous substances or forces, or commits other similarly dangerous acts, or increases or aggravates such public endangerment or impedes the steps taken to avert or alleviate it, shall be punished by imprisonment for a term of five to fifteen years in addition, according to the court discretion, also by the forfeiture of property.

2. The same sanctions shall be imposed on a person who

- a) threatens to commit the acts described in paragraph 1 above, or
- b) provides financial support, supplies material resources or provides other support for such acts.

3. The offender shall be punished by imprisonment for a term of ten to fifteen years accompanied by forfeiture of property as the court deems fit, or by an exceptional sentence,

- a) if he or she commits the act described in paragraph 1 above as a member of an organized group,
- b) if by the act he causes serious bodily harm or death,
- c) if by the act he or she renders a large number of people homeless,
- d) if by the act he or she causes major difficulties in the production or supply of basic goods,
- e) if by the act he or she causes extensive disruption of transport,
- f) if by the act he or she causes extensive damage,
- g) if by the act he or she or another person gains substantial profit,

h) if by the act he or she seriously endangers the international position of the Czech Republic or the position of an international organization of which the Czech Republic is a member, or

i) if he or she commits the act during the state of national emergency or the state of war.

4. The protection under paragraphs 1-3 above is accorded also to foreign States.

- Other forms include connivance, failure to prevent a crime and failure to report a crime. All these provisions refer explicitly to the crime of terrorist attack in terms of Section 95 of the Criminal Code. The Criminal Code also contains an important provision penalizing criminal conspiracy, including participation, by a higher sanction (up to 15 years of imprisonment), if it is a criminal conspiracy aiming or seeking to commit a terrorist attack.

To deny safe haven:

- Act No. 326/1999: entry and stay of persons in the Czech Republic. If, during the border check of persons crossing the Czech Republic's border, there are grounds to believe that a foreigner could pose a threat to national security, to seriously disrupt public order or obstruct execution of judicial or administrative decisions (including suspected incitement to commit a terrorist attack), he/she can be refused entry in the Czech Republic's territory under Section 9 paragraph 1 (k) (this provision does not apply to EU citizens).
- If the foreigner is a person for whom an arrest warrant has been issued, the case falls within the competence of the Czech Republic Police.
- Asylum Act (Act No. 325/1999): apply for international protection. Sections 15 and 16 specify the grounds for denial of asylum. Asylum shall not be granted if there is a well-founded suspicion that a foreigner who submitted an asylum application:
 - a) has committed a crime against peace, a war crime or a crime against humanity in terms of international instruments that contain provisions on such crimes,
 - b) has committed a serious non-political crime outside the Czech Republic's territory prior to the submission of the asylum application, or
 - c) is guilty of acts contrary to the principles and objectives of the United Nations Organisation.

Criminal Code (Act No. 140/1961), section 57: Punishment by expulsion and the conditions for such punishment.

To ensure that measures taken to implement res. 1624 comply with international law:

- The Czech Republic is a party to all major international treaties in the field of international human rights law, refugee law and international humanitarian law (International Covenant on Civil and Political Rights, including both Optional Protocols; International Covenant on Economic, Social and Cultural Rights; International Convention on the Elimination of All Forms of Racial Discrimination; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol is currently in the process of ratification; Convention on the Elimination of All Forms of Discrimination against Women, including the Optional Protocol; Convention relating to the Status of Refugees, including the Optional Protocol; Geneva Conventions of 12 August 1949 and both Protocols Additional to the Geneva Conventions of 12 August 1949).
- These treaties are enshrined in internal legislation; e.g. the Charter of Fundamental Rights and Freedoms; an integral part of the constitutional order of the Czech Republic.

	<ul style="list-style-type: none"> • Article 10 of the Constitution, the international treaties are an integral part of the legal order; where the provisions of an international treaty differ from those of a national law, the international treaty is applied. • Article 1 paragraph 2 of the Constitution, obligation to fulfil international law. • In implementing measures under the Security Council resolution 1624 (2005), the Czech Republic’s authorities are bound to fulfil the obligations arising not only from international treaties but also from the international customary law. •
<p>Dem. People's Republic of Korea</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • There are no social or institutional sources in the Democratic People’s Republic of Korea that may give rise to terrorism and incitement of terrorist acts or their supporters, as its society is one large harmonious family where all people live in single-hearted unity. • Criminal Law of the Democratic People’s Republic of Korea: Article 61: ‘A person who performs propaganda and agitation with a view to opposing the State shall be sentenced to less than five years of reform through labour. In case of a grave crime, he or she shall be sentenced to five to ten years of reform through labour’. • Severe legal penalties are imposed in accordance with the Criminal Law on persons who knowingly failed to inform the relevant authorities of the crime being prepared or committed: • Practical measures have been taken to prevent possible terrorist acts. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Criminal Law: Article 70: “A person who hides another who has committed a crime against the State and nation or conceals evidence of the crime shall be sentenced to less than four years of reform through labour”. • Practical measures to ensure that citizens are well aware of their obligations in this regard and abide by the relevant laws and regulations. E.g. a well-organized system provides for citizens to report to relevant institutions about any unusual occurrences at any time. • The Democratic People’s Republic of Korea has concluded treaties with a number of countries including China, Cuba, Kazakhstan, Mongolia, the Russian Federation, the Syrian Arab Republic, Ukraine and Viet Nam on rendering mutual judicial assistance in criminal and civil cases, under which bilateral and multilateral cooperation is enhanced in such areas as criminal proceedings, investigation, arrest and extradition of criminals. <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
<p>Dem. Republic of the Congo</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Military Penal Code: punishes terrorist acts • Law No. 04/016 of 9 July 2004: financing of terrorism, money laundering • Plan to reform the criminal law; to integrate all the essential provisions contained in the 14 relevant conventions into the Penal Code. For that purpose, a videoconference was organized between experts from the Counter-Terrorism Committee and the National Committee for Coordinating Efforts to Counter International Terrorism of the Democratic Republic of the Congo. During this exchange experts from the Democratic Republic of the Congo welcomed the observations and recommendations made by the Committee experts in this area. • The Penal Code of the Democratic Republic of the Congo, section VII, punishes

	<p>corruption and illicit influence peddling.</p> <ul style="list-style-type: none"> • The Constitution of the Democratic Republic of the Congo prohibits and penalizes the organization of militias, which is defined as a crime of high treason. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Law No. 021/2002 of 16 October 2002; status of refugees. Establishes a National Commission for Refugees responsible for examining requests for asylum on a case-by-case basis in order to ensure that persons prosecuted for serious criminal offences or implicated in terrorist acts cannot insinuate themselves among asylum-seekers. • Legislative order No. 83/033 of 12 September 1983 which requires the Congolese authorities to establish a list of undesirable persons so that they may be prevented from gaining access to the country. This law establishes the National Immigration Commission to monitor the regular updating of the list of undesirable persons established by the security services. The legislative order also authorizes immigration officers to turn back any suspect person at the borders of the Democratic Republic of the Congo. • Article 33 of the Constitution of the Democratic Republic of the Congo recognizes the right of any foreign national to seek asylum in its territory but grants it only subject to national security requirements. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • The Democratic Republic of the Congo is in the process of reforming its domestic law to incorporate the essential provisions into it. • In accordance with article 215 of the Constitution the treaties ratified by the Democratic Republic of the Congo take precedence over domestic law.
Denmark	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Anti-Terrorism Act of 31 May 2002; a new special section on terrorism was inserted in the Danish Criminal Code (straffeloven). • Section 114 of the Criminal Code reads as follows: 'Any person is liable to imprisonment for any term up to life imprisonment if he commits one or more of the following offences with the intent seriously to intimidate a population or unlawfully to compel Danish or foreign public authorities or an international organisation to do or to abstain from doing any act or to destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation, provided that the offence may inflict serious harm on a country or an international organisation by virtue of its nature or the context in which it is committed: <p>(i) Homicide under section 237.</p> <p>(ii) Assault under section 245 or 246.</p> <p>(iii) Deprivation of liberty under section 261.</p> <p>(iv) Impairment of the safe operation of means of transport under section 184(1), unlawful disturbances in the operation of public means of communication, etc., under section 193(1) or very serious damage to property under section 291(2), where such offences are committed in a manner likely to endanger human lives or cause considerable economic loss.</p> <p>(v) Unlawful seizure of public means of transport under section 183 a.</p> <p>(vi) Serious violations of the arms legislation under section 192 a or under section 10(2) of the Act on Weapons and Explosives.</p> <p>(vii) Arson under section 180, explosion, spreading of noxious gases, floods,</p>

shipwreck or any railway or other traffic accident under section 183(1) and (2), injurious pollution of the water supply under section 186(1), injurious poisoning or pollution of products intended for general use, etc., under section 187(1).

(viii) Possession or use, etc., of radioactive substances pursuant to section 192 b.

(2) The same penalty shall apply to any person who transports weapons or explosives with the intent as referred to in subsection (1) hereof.

(3) The same penalty shall also apply to any person who threatens to commit one of the offences listed in subsections (1) and (2) hereof with the intent as referred to in subsection (1) hereof.”

- Attacks against foreign states, authorities and/or citizens as well as against international organisations are also criminalised.

- The Anti-Terrorism Act of 2002: special section (114a) on financing of terrorism, according to which it is an offence, to a wider extent than before, to provide or arrange for financial support to a terrorist or a terrorist organisation or otherwise to contribute to the promotion of its criminal activities. The maximum penalty is fixed at 10 years imprisonment.

- New Anti-Terrorism Act of 2 June 2006 includes legislative amendments required for Denmark’s ratification and implementation of the Council of Europe Convention on the Prevention of Terrorism and the International Convention for the Suppression of Acts of Nuclear Terrorism. The act includes the insertion of a new section 114a in the Criminal Code that comprises offences within the scope of and as defined in article 1 in the Council of Europe Convention on the Prevention of Terrorism that do not fall within the scope of section 114. The penalty may in these cases exceed the maximum penalty prescribed for the offence by up to 50 per cent.

- Danish Criminal Code section 23: the penalty in respect of an offence shall apply to any person who has contributed to the execution of the wrongful act by instigation, advice or action. Instigation: encouraging, inciting or tempting another person to commit a criminal offence.

- A person will be liable to punishment for participation pursuant to section 23 of the Criminal Code if he had the intention (*mens rea*) to procure an offence. The participation must be aimed at a specific offence to be punishable as section 23 of the Danish Criminal Code does not in itself confer penal authority, but merely expands the *actus reus* of the individual penal provisions.

- Section 136: any person who, without thereby having incurred a higher penalty, publicly incites others to an offence shall be liable to a fine or to imprisonment for any term not exceeding four years.

To deny safe haven:

Act No. 362 of 6 June 2002; amended the Alien Act. Purpose: to secure the implementation of U.N. Security Council Resolution 1373 (2001).

According to operative paragraph 2 (c) of Resolution 1373 all states shall *deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens*. Article 2 (c) of Resolution 1373 is thus similar to article 1 (c) of Resolution 1624.

In order to implement Resolution 1373 – including article 2 (c), Act No. 362 of 6 June 2002 tightened the provisions in the Aliens Act regarding denial and revocation of residence permit because of offences committed outside of or in Denmark:

It is under no circumstances possible to obtain residence permit – as a refugee or on other grounds – if the exclusion clauses in the Refugee Convention apply (crime against peace, a war crime, a crime against humanity, a serious non-political crime outside the country of refuge prior to admission to that country as a refugee or an act contrary to the purposes and principles of the United Nations).

It is also not possible under the Aliens Act to obtain residence permit if the alien in question is considered to be a danger to the state or a serious threat against the public order, security or health.

The provisions regarding expulsion were changed by the Act in order to – regardless of the length of the stay in Denmark – expel aliens who must be deemed a danger to national security, or a serious threat to the public order, safety or health. This also applies to an alien who first and foremost poses a threat to another country's public order, safety or health, if the threat indirectly entails a threat to the Danish public order, safety or health.

Moreover the provisions regarding expulsion were changed in order to expel aliens who commit offences with a view to overthrow or subvert Danish society or democracy.

The issue concerning asylum seekers or other aliens, who – because of his or her perpetration of serious crimes – have been denied a residence permit in Denmark, but at the same time cannot be returned to his or her country of origin because of the prohibition of refoulement, was also addressed in the Act. The Act introduced a system according to which the Danish Immigration Service every six months, or when the occasion otherwise arises, must check whether aliens excluded from being issued with residence permits in Denmark can be returned without risking persecution in their countries of origin. The Act also introduced a provision under which the police may decide that an alien staying in Denmark on sufferance has to report to the police regularly – as a main rule every one or two weeks. Aliens who do not observe their duty to report can be detained, if necessary, to determine whether it has become possible to return them. In continuation of these initiatives, a provision in the Aliens Act was introduced according to which the Immigration Service – unless particular reasons make it inappropriate – can decide that an alien who has been refused asylum, but who cannot be returned because he or she risks persecution thereby, must take up residence at a particular accommodation centre. The intention of this provision is that as a main rule such aliens must be ordered to take up residence at a special centre, which is fenced and has access control and police officers present. This ensures that the authorities are aware of such aliens' place of residence. If an alien refuses to comply with an order to take up residence at the centre, the alien can be punished with a fine or with imprisonment for up to four months.

By Act No. 362 of 6 June 2002 the scope of the provision concerning non-refoulement in the Aliens Act was tightened and thus brought into compliance with Denmark's international obligations. The non-refoulement provision in the Aliens Act must be applied in compliance with Denmark's international obligations, including the absolute prohibition on return to a country where the alien will be at risk of torture or inhuman or degrading treatment or punishment, cf. article 3 of the European Convention on Human Rights and article 3 of the Convention against Torture. A number of new provisions were furthermore added to the Aliens Act in order to facilitate information exchange between the immigration authorities, the intelligence services and the prosecution authority. The exchange of information has been found crucial in order to ensure that aliens posing a security risk for Denmark or countries with close ties to Denmark are identified in order to take appropriate precautions.

Finally it was also a part of Act No. 262 to improve the possibilities for the police to compare fingerprints taken in the context of an investigation of an offence or international searches with fingerprints taken from asylum seekers and to pass on fingerprints from asylum seekers to police authorities abroad.

It is the opinion of the Danish State that the above mentioned changes to the Aliens Act made in 2002 in order to implement inter alia article 2 (c) of Resolution 1373 meet the requirements of article 1 (c) of Resolution 1624.

	<p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <p>The Ministry of Justice has issued a guide regarding the elaboration of legislation. In the guide it is mentioned that attention must be given to Denmark's obligations under international law in the elaboration of legislation, such as treaties and conventions that Denmark has acceded to. Furthermore, all draft legislation is being examined by the Ministry of Justice before a bill is being introduced before Parliament. The examination by the Ministry of Justice aims at two things:</p> <p>Firstly, it is being examined whether the draft legislation is in accordance with formal requirements. For example it is examined whether the draft legislation linguistically is in accordance with the general lines, whether the division in paragraphs and chapters is appropriate and whether the explanatory text is sufficient.</p> <p>Secondly, the draft legislation is being examined in substance. It is examined whether the draft legislation corresponds to the Danish Constitution, EC-law and other general rules and principles. Furthermore, the relationship to general international conventions on human rights is being examined to such an extent as circumstances may require. The Ministry who is drafting the legislation is responsible for ensuring compliance with specific international conventions.</p>
Djibouti	<p>Prohibition by law & prevention of incitement:</p> <p>Article 25 of the Penal Code stipulates "anyone who, by means of a gift, promise, ruse, threat, abuse of authority or power, has caused an act that is considered a crime or offence or has given instructions for its commission, shall be considered an instigator and shall be punished on the same basis as a perpetrator." This article allows the prosecution of those who incite the commission of terrorist acts listed and punishable under article 167 and following of the Penal Code having to do with terrorism.</p> <p>Article 181 of that Code stipulates: "direct provocation of an armed group, whether by public slogans or statements, or by written material displayed, distributed or transmitted by another means in written, spoken or visual form, shall be punishable by three years' imprisonment and a fine of 1 million Djibouti francs. When the provocation leads to actions, the penalty shall be raised to 10 years' imprisonment and a fine of 5 million Djibouti francs."</p> <p>The provisions of article 390 of the Penal Code designed to prevent discrimination on the grounds of a person's origin, actual or assumed affiliation with a specific ethnic group, nation, race or religion, may be applied to such acts.</p> <p>The provisions of resolution 1624 (2005) have not yet been fully incorporated into the domestic legal system, but the Republic of Djibouti will study ways and means to accelerate their introduction into national legislation.</p> <p>To deny safe haven:</p> <p>Djibouti legislation provides for measures to deny assistance to a person who is believed to have committed such acts or activities:</p> <ul style="list-style-type: none"> – Either by refusing him entry into its territory by denying a visa. – Or by taking measures to expel him if the suspect disturbs public order. – Or by bringing him before the courts if it is proven that he committed the reprehensible actions provided for in and punishable under Djiboutian criminal law. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <p>The following constitutional provisions set forth the protection afforded to all individuals:</p> <p><i>Article 15, paragraph 1:</i> "All individuals shall be entitled to express and to freely disseminate their opinions, whether through the spoken word, in writing, or in visual form. Such rights shall be exercised in accordance with the law and with the</p>

	<p>requirement to respect the dignity of others.”</p> <p>These rights protect Djibouti nationals, as well as aliens who reside legally in the national territory, as reflected in the following provisions:</p> <p><i>Article 18:</i> “Any alien who resides legally in the national territory shall enjoy the protection of the law with respect to person and property.”</p> <p><i>Article 19:</i> “The State shall protect the rights and legitimate interests of Djiboutian nationals while they are abroad.”</p> <p>Furthermore, upon gaining its independence in 1977 the Republic of Djibouti acceded to the Convention relating to the Status of Refugees and adopted a law regulating the status of refugees.</p>
Dominica	No report available
Dominican Republic	No report available
Ecuador	No report available
Egypt	<p>Prohibition by law & prevention of incitement:</p> <p>Measures in place in Egypt to prohibit by law and to prevent incitement to commit a terrorist act or acts include the following:</p> <p>Article 86 of the Penal Code as amended by Act No. 97 of 1992 on terrorism provides as follows:</p> <p>“Any person who promotes by speech, writing or any other means the purposes mentioned in paragraph 1, or any person directly or indirectly possessing or acquiring writings, printed materials or recordings of any kind that promote or advocate any of the preceding for dissemination or viewing by others, or anyone who possesses or acquires any means of printing, recording or broadcasting that is used or intended to be used even temporarily to print, record or broadcast any of the aforementioned, shall be subject to a term of imprisonment of no more than five years.”</p> <p>Article 95 of the Penal Code as amended by Act No. 97 of 1992 on terrorism provides as follows:</p> <p>“Incitement to commit any of the crimes provided for in articles 87, 89, 90, 90 bis, 91, 92, 93 and 94 of this Act shall be punishable by a term of imprisonment with hard labour or, if no consequence resulted there from, by a term of ordinary imprisonment.”</p> <p>(Annex 1)</p> <p>In this regard, in a session held on 16 January 2006, the Parliament approved Presidential Decision No. 235 of 2005 on the amendment to article 1, paragraph 3, of the Arab Convention on the Suppression of Terrorism. This provision conforms to Security Council resolution 1624 (2005), which calls on all States to “prohibit by law incitement to commit a terrorist act or acts” and condemns “attempts at the justification or glorification (<i>apologie</i>) of terrorist acts that may incite further terrorist acts”. It is also in line with the tendency of Egyptian legislation as reflected in the above-mentioned article 86 of the Penal Code and in the broadening of the criminalisation of terrorist crimes beyond mere material acts that constitute such crimes to include all acts having to do with, leading to, or facilitating the commission of such crimes, in view of their seriousness. This amendment also represents an important step towards defining terrorism and eradicating it at the roots, which is an important goal of the international community.</p> <p>To deny safe haven:</p> <p>Agencies of the Ministry of the Interior, in cooperation with all foreign States, are</p>

	<p>working to strengthen security at border crossings and ports with a view to achieving security objectives and implementing relevant international conventions, treaties and resolutions through international, regional and bilateral cooperation.</p> <p>The measures being taken include the following:</p> <ul style="list-style-type: none"> • Enhancing passenger security procedures and terrorist screening is one of the main tasks being taken on by the security agencies in coordination with State agencies for controlling crime and facilitating travel in accordance with internationally used techniques and with our response to enquiry 1.8 of part 1; • The competent agencies of the Ministry of the Interior report all information they receive to all of their international counterparts through recognized channels of communication and diplomatic procedures in order to prevent persons accused of incitement to commit a terrorist act from entering Egyptian territory; • Combating fraudulent travel documents and identity cards is considered to be one of the main planks of the Ministry of the Interior’s plans for dealing with crime in general and combating terrorism in particular with a view to preventing terrorists from entering Egyptian territory and, when they do enter from abroad, capturing and taking legal measures against them; • A unified strategy has been adopted to thwart recruitment by extremist and terrorist organizations, particularly in light of the fact that the continuing threat posed by terrorism at the international level is one of the basic challenges facing the international community and one that requires total solidarity among States in combating it and confronting its elements. The strategy of the Egyptian Ministry of the Interior rests on a number of pillars, of which the most prominent are: <ul style="list-style-type: none"> o Curbing the activities of terrorist elements and organizations designed to attract and recruit citizens to their movements or to incite them to commit terrorist acts; o Strengthening measures to monitor the Internet with a view to preventing its use by terrorist organizations for recruitment operations or for incitement to commit terrorist acts; o Warning citizens against travel to conflict zones and impeding and monitoring the movements and activities of extremists in order to control them and to prevent them from inciting others to commit acts of terrorism; o Combating within the legal framework crimes of incitement to acts of violence. <p>To ensure that measures taken to implement res. 1624 comply with international law: The Arab Republic of Egypt has ratified all agreements pertaining to human rights, international humanitarian law and refugees. Pursuant to article 151 of the Egyptian Constitution, such agreements become law upon their ratification. Their provisions are operative like those of ordinary legislation, and all levels and types of courts are obligated to apply and implement them, particularly those provisions that pertain to a fair trial in criminal proceedings for crimes of terrorism or any other crimes.</p>
<p>El Salvador</p>	<p>Prohibition by law & prevention of incitement: El Salvador is a party to 11 of the 13 United Nations international instruments on terrorism and is close to ratifying the Convention on the Physical Protection of Nuclear Material and the International Convention for the Suppression of Acts of Nuclear Terrorism. It is also a party to the Inter-American Convention against Terrorism. At the regional level, El Salvador is a party to the Framework Treaty on Democratic Security in Central America, which refers to counter-terrorism, in particular in articles 1, 11 and 18. With regard to national legislation, article 10 of the Penal Code establishes the principle of universality. Article 343 punishes terrorist acts, which are considered as activities of organized crime (article 22 A) and article 344 deals with incitement or conspiracy to</p>

	<p>commit terrorist acts. The Penal Code deals with unlawful association (article 345), international criminal organizations (article 370), advocacy of crime (article 349) and incitement and conspiracy to commit the crime of aggravated homicide (article 129 A). In addition, in order to bring national legislation into line with the various international instruments on terrorism, the Inter-Agency Group against Terrorism (established in El Salvador in accordance with Security Council resolution 1373 (2001)), with the support of the United Nations and the Organization of American States (OAS), has drafted legislation on terrorist acts, which has already been submitted to the legislature for analysis and approval.</p> <p>To deny safe haven: El Salvador has ratified the 1951 Convention relating to the Status of Refugees and the related Protocol of 1967. Article 1, section F, paragraph (a), of the Convention specifies that refuge shall not be granted to any person who has committed a crime against peace, a war crime or a crime against humanity. At the national level, the Act on Determination of Refugee Status has been in force since August 2002 and states that its provisions are not applicable to persons with respect to whom there are serious reasons for considering that: they have committed a crime against peace, a war crime or a crime against humanity, as defined in the secondary laws of the Republic of El Salvador and in the international instruments drawn up to make provision in respect of such crimes; they have committed a serious non-political crime outside the country of refuge prior to admission to that country as a refugee; and they have been guilty of acts contrary to the purposes and principles of the United Nations.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: El Salvador is complying faithfully with its international commitments in the areas of human rights law, international humanitarian law and refugee law. In this connection, those who apply and enforce the law in these areas of international law are trained and sensitized in order to balance counter-terrorism with respect for international obligations.</p>
Equatorial Guinea	No report available
Eritrea	No report available
Estonia	<p>Prohibition by law & prevention of incitement: 2.1. In Estonia, terrorism as a criminal offence is currently defined in Section 237 of the Penal Code. According to it, acts aimed at causing health damage, death or at unlawful seizure, damaging or destruction of property, committed with the intention to provoke war or an international conflict or for political or religious causes, are punishable. At the present moment incitement to commit a terrorist offence is not criminalised in the special part of the Penal Code. However, a person who has committed such act may be held responsible as an abettor according to the articles on participation in crime of the general part of the Penal Code. The responsibility of the abettor always requires the responsibility of the perpetrator. Without perpetration complicity in a crime is not possible. Therefore the given regulation is not always sufficient. With its order No. 466 of 21 July 2005 the Government of the Estonia approved the Council of Europe Convention on the Prevention of Terrorism that was opened for signature on 16 May 2005. Article 5, paragraph 2 of the Convention states that “each Party shall adopt such measures as may be necessary to establish public provocation to commit a terrorist offence /.../ when committed unlawfully and intentionally, as a criminal offence under</p>

	<p>its domestic law". Estonia signed the Convention in September 2005. Estonia intends to ratify the Convention in 2006. Proceeding from the Convention, a number of law amendments have to be put to the Parliament. One of them is the draft Amendment Act of the Penal Code, criminalising as a principal offence, <i>inter alia</i>, incitement to commit a terrorist offence.</p> <p>To deny safe haven:</p> <p>2.2. According to the Estonian law (Aliens Act), residence permit is neither issued nor extended to an alien about whom there is information or credible evidence to believe that he or she belongs to a terrorist group or has committed a terrorist act. In case that person has been issued a residence permit earlier, the residence and work permit of such a person shall be declared invalid. According to the Obligation to Leave and Prohibition on Entry Act, prohibition on entry may be imposed on an alien if there is information or serious reason to believe that he or she is a member of a terrorist organization or has committed an act of terrorism.</p> <p>Estonian Security Services collect information about convicted persons, incl. persons who have incited to terrorism. A cooperation agreement has been signed between the Security Police Board and the Border Guard Board, to facilitate the exchange of information concerning persons convicted for terrorism, including persons who have incited to terrorism. To those about whom there is information or serious reason to believe that they have been involved in incitement in some other country, visa denial may be applied. Considering that Estonia has already signed the Council of Europe Convention, on the basis of information from the Security Police Board, the person will be included in the prohibition on entry register. However, neither Estonia nor the European Union has a general list of persons who have been convicted in some other country for incitement or whom there is serious reason to suspect in such activity.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <p>2.6. Estonia has acceded to several international conventions regulating cooperation on criminal procedures. Estonia is also a Party to the Rome Statute of the International Criminal Court (ratified it on the 30th of January 2002). In addition Estonia has signed bilateral agreements on legal assistance in criminal matters. According to Section 433 of the Code of Criminal Procedure Estonia participates in international cooperation on criminal procedure. International cooperation comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, cooperation with the international criminal Court and extradition to member states of the European Union. The same law clearly states that international cooperation in any criminal procedure can be effected pursuant to the provisions of domestic law „... unless otherwise prescribed by an international agreement of the Republic of Estonia or the generally recognized principles of international law". Accordingly it is prohibited for Estonia to cooperate legally with any other country on cases where such cooperation can result in the violation of the provisions of international human rights law, refugee law or humanitarian law.</p> <p>The basis of restrictions to principal rights foreseen in certain laws (Security Authorities Act, Surveillance Act, Obligation to Leave and Prohibition on Entry Act), follow the provisions of the international humanitarian law, comply with human rights conventions and are proportional.</p>
Ethiopia	No report available

Fiji	No report available
Finland	<p>Prohibition by law & prevention of incitement: Chapter 5, section 5 of the Finnish Penal Code (39/1889) establishes incitement as a criminal offence. Any person who intentionally persuades another person to commit an intentional offence or to make a punishable attempt at such an act is punishable for incitement to the offence as if he/she was the offender. This general criminal liability of an inciter also applies to terrorist offences made punishable by chapter 34 a of the Penal Code. Chapter 34 a was incorporated into the Penal Code on 1 February 2003 in order to implement the EU Council Framework Decision of 13 June 2002 on Combating Terrorism.</p> <p>Additionally, chapter 17, section I of the Penal Code establishes public incitement to an offence as a criminal offence. A person who through the mass media or publicly in a crowd or in a generally published writing or other presentation exhorts or incites anyone into the commission of an offence, so that the exhortation or incitement (1) causes a danger of the offence or a punishable attempt being committed, or (2) otherwise clearly endangers public order or security, shall be sentenced for public incitement to an offence. The penalty for public incitement to an offence is a fine or imprisonment for at most two years. Such incitement may also relate to terrorist offences. If the exhortation or incitement causes the commission of a terrorist offence or a punishable attempt thereof, the inciter is sentenced to punishment for incitement to a terrorist offence pursuant to chapter 5, section 5 of the Penal Code as if he/she was the offender.</p> <p>The prevention of terrorism is further supported by chapter 34 a, section 2 of the Penal Code, which broadly criminalises the preparation of offences to be committed with terrorist intent. Also the financing of terrorism is a punishable act, irrespective of whether a terrorist offence is committed (chapter 34 a, section 5 of the Penal Code). Finland signed on 16 May 2005 the Council of Europe Convention on Prevention of Terrorism. The Convention establishes as criminal offences certain acts that may lead to the commission of terrorist offences, i.e. public provocation to commit a terrorist offence (Article 5), recruitment for terrorism (Article 6) and training for terrorism (Article 7). For the national implementation of the Convention on Prevention of Terrorism, Finland is drafting an amendment of chapter 34 a, section 4 of the Penal Code (promotion of the activity of a terrorist group) that would, at least for some acts, make the fulfilment of the elements of the offence independent of the commitment of a terrorist offence or a punishable attempt thereof. Finland hopes to ratify the Convention before the end of the year 2006.</p> <p>To deny safe haven: According to section 148 of the Finnish Aliens Act, an alien may be refused entry into the country if there are grounds to suspect that the alien may commit an offence which is punishable by imprisonment in Finland, commit repeated offences, or was sentenced for an offence during his/her residence in Finland. Entry can be refused also if there are grounds to suspect that he/she may engage in activities that endanger Finland's national security or relations with a foreign State. In certain cases an alien may also be prohibited from entering the country (section 150 of the Aliens Act). The Security Police participates in the procedure for verifying whether the requirements for entry are met, by providing, when necessary, information to other security and immigration authorities. General requirements for issuing residence permits According to section 36 of the Aliens Act, a residence permit may be refused if the alien is considered a danger to public order, security or health, or Finland's foreign relations. Section 57 of the Act provides that a residence permit may be refused if the alien is found guilty or suspected</p>

of an offence punishable by imprisonment, or if he/she is found guilty or suspected of two or more offences.

According to section 149 of the Aliens Act, an alien who has resided in Finland under a residence permit may be deported if he/she is found guilty of an offence punishable by imprisonment for a maximum of a year, or if he/she is found guilty of repeated offences. He/she may be deported also if his/her activities show that he/she is liable to endanger other people's safety, or if he/she has been engaged, or there are grounds to suspect that he/she may engage, in activities that endanger Finland's national security or relations with a foreign State.

EU citizens can also be refused entry or right of residence in certain cases. One requirement for an EU citizen's entry into and residence in the country is that the EU citizen or his or her family members or other relatives are not considered a danger to public order and security or public health. EU citizens and their family members can also be deported and prohibited from entering the country if they are considered a danger to public order and security or public health.

According to section 13 of the Nationality Act (359/2003), a general requirement for naturalisation is that the person in question has not committed any punishable act. An applicant will not be naturalised if this is prejudicial to the safety of the State or to public order and security. Section 4 of the Act provides that a decision concerning loss of citizenship must not be made if, as a consequence of the decision, a person were to become stateless.

To ensure that measures taken to implement res. 1624 comply with international law:

Chapter 34 a of the Finnish Penal Code (39/1889) contains provisions that criminalise offences with terrorist intent.

According to the Penal Code, Finnish law applies, regardless of the law of the place of commission, also to offences referred to in chapter 34 a committed outside of Finland.

According to the Constitution of Finland, no one shall be found guilty of a criminal offence or be sentenced to a punishment on the basis of a deed which has not been determined punishable by an Act at the time of its commission.

The Criminal Investigations Act (449/1987) provides that, in a criminal investigation of a suspected offence, circumstances and evidence both against the suspect and in favour of him/her must be examined and taken into account.

Additionally, the suspect must be treated as not guilty during the investigation.

The Finnish legislation on law enforcement authorities obligates them to treat all persons in an equitable, conciliatory and human manner. Law enforcement authorities supervise the activities of both the aforementioned authorities and the courts on a regular and comprehensive basis.

According to the Constitution, everyone in Finland has the freedom of religion. Discrimination based on ethnic origin or religion is criminalised in Finland. The Ombudsman for Minorities is, for its part, responsible for reducing tensions between different cultures and safeguarding the status and rights of different minorities.

Due to the above-mentioned legal provisions, the related civil servant culture and the regular supervision of activities, a person suspected of a terrorist offence is treated in Finland in an appropriate manner, pursuant to the international obligations binding on Finland.

As for the measures mentioned in the answer to question 1.2, section 146 of the Aliens Act provides that, when considering refusal of entry to Finland, deportation or prohibition of entry and the duration of the prohibition of entry, account shall be taken of all relevant circumstances, such as the length and purpose of the alien's residence in Finland and the alien's ties to Finland. Particular attention shall be paid to the best interest of children and the protection of family life. If the decision is based on any

criminal activity of the alien, account shall be taken of the seriousness of the criminal act. According to section 147 of the Aliens Act, no one may be refused entry and sent back or deported to an area where he or she could be subject to death penalty, torture, persecution or other treatment violating human dignity or from where he or she could be sent to such an area. Further, according to section 9 of the Constitution of Finland, a foreigner shall not be deported, extradited or returned to another country, if in consequence he or she is in danger of a death sentence, torture or other treatment violating human dignity.

The Finnish legal provisions on granting asylum comply with the Geneva Refugee Convention. Asylum is not granted if there are reasonable grounds to suspect that the alien has committed a crime against peace, war crime or crime against humanity as defined by international agreements. Asylum is not granted either if there are reasonable grounds to suspect that the alien has committed a serious non-political crime, or an act which violates the aims and principles of the United Nations. Even if this exclusion clause is applied, the authorities are bound by the principle of non-refoulement. If the principle of non-refoulement prevents the authorities from removing a person from Finland, the person concerned will be issued with a temporary residence permit.

According to section 149 of the Aliens Act, a refugee may not be deported to his or her home country or country of permanent residence against which he or she still needs international protection. A refugee may only be deported to a State which agrees to admit him or her.

Furthermore, Finland has actively participated in the creation of international standards for combining effective measures against terrorism and full compliance with human rights obligations. In this respect, special attention should be paid to the Council of Europe Convention on the Prevention of Terrorism, to which the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has referred to as "a sound response which would respect human rights" (Report E/CN.4/2006/98).

One of the key provisions of the Convention is Article 12 that underlines that the protection of human rights and fundamental freedoms must be ensured in the fight against terrorism. According to paragraph 1 of Article 12, States Parties shall ensure that the establishment, implementation and application of the criminalisation under Articles 5 to 7 and 9 of the Convention are carried out while respecting human rights obligations, in particular the right to freedom of expression, freedom of association and freedom of religion, as set forth in, where applicable to that Party, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other obligations under international law. Paragraph 2 of Article 12 provides that the criminalisation should be subject to the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness or discriminatory or racist treatment. Moreover, human rights considerations have been taken into account in the definitions of the offences of the Convention. Special Rapporteur has in particular drawn attention to the fact that the definition of public provocation of terrorism in Article 5 is "based on a double requirement of a subjective intent to incite (encourage) the commission of terrorist offences and an objective danger that one or more such offences would be committed".

Finland has signed the Council of Europe Convention on the Prevention of Terrorism and is preparing the ratification of the Convention (see above 1.1).

Measures implementing paragraph 2 of resolution 1624(2005)

Finland participates in the common visa policy of the European Union, which is regulated by the Schengen Acquis. The grounds for the issue of visas are laid down in

	<p>the Common Consular Instructions on Visas. Article 6 of the Treaty on European Union provides a framework for the protection of human rights and fundamental freedoms in developing the Schengen Acquis. Increasing attention is being paid, in particular, to the reinforcement of information systems, to interviews with persons applying for visas as well as to document security. Data security has been considered a focal point in the legislative work with visa-related data systems. Data security has a strong connection with the right of an individual to respect for his/her private life in accordance with international human rights law. It should also be recalled that international human rights law does not give a person a subjective right to enter into the territory of a foreign state. While the European Union promotes the free movement of people, its internal regulations also allow the security considerations to be taken into account in individual cases when there is a risk connected with paragraph 1 of resolution 1624(2005). The ISPS Code for maritime transport adopted by the IMO has been implemented in Finland through EU and national legislation. Detailed provisions implementing the Code are laid down in the EU Regulation on enhancing ship and port facility security and in national legislation of Finland. During the drafting, it has been ensured at all levels that the Code and the implementing legislation do not conflict with international law. Finland's activities comply with both its international and its national obligations. The same concerns aviation security arrangements and the drafting and implementation of the related international and national legislation. Measures implementing paragraph 3 of resolution 1624(2005) See answers to questions 1.4 and 1.5 above.</p>
France	<p>Prohibition by law & prevention of incitement:</p> <p>Our legal system contains provisions for combating the spreading of extremist ideas. The Act of 10 January 1936 allows the President of the Republic to dissolve, through a cabinet decree, associations or “de facto groups” inciting to discrimination, hatred or violence towards a person or group of persons owing to their origin or membership (or non-membership) of a particular ethnic group, nation, race or religion. Groups which, “in French territory or originating from that territory, pursue activities intended to promote acts of terrorism in France or abroad” are included in this legislation. French legislation concerning incitement to terrorism is covered in the Penal Code and the Act of 29 July 1881 on the press and media. Article 322-6-1 of the Penal Code criminalises the dissemination to non-professionals, by any means, of processes for manufacturing weapons of destruction, using explosive, nuclear, biological or chemical materials. Article 24 of the Act of 1881 criminalises incitement to and advocacy of terrorism. The penalty for this offence is five years’ imprisonment and a fine of 45,000 Euros. Article 23 defines the range of means used for such incitement, which can occur orally in a public place, or on any written material accessible to the public. Article 24, paragraph 6, provides that, “anyone who, using one of the means set forth in the preceding article, has directly caused any of the terrorist acts set forth in Book IV, Title II of the Penal Code or has advocated such acts, shall be subject to five years’ imprisonment and a fine of 45,000 Euros”.</p> <p>To be punishable, such incitement must have been committed using “speeches, shouts or threats proffered in public places or meetings, or by written words, printed matter, drawings, engravings, paintings, emblems, pictures or any other written, spoken or pictorial aid, sold or distributed, offered for sale or displayed in public places or meetings, either by posters or notices displayed for public view, or by any means of electronic communication” (Act of 29 July 1881, art. 23).</p> <p>Incitement is punishable even if it has not resulted in an offence. This legislation defines terrorism as an individual or collective undertaking, the aim of which is to cause serious damage to public order by means of intimidation or terror, which include the following:</p>

- deliberate attacks upon the life or physical integrity of the person; abductions and sequestration; hijacking of aircraft, ships or any other means of transport;
- theft, extortion, destruction, damage or deterioration, as well as computer related crimes;
- offences in relation to combat groups and disbanded movements;
- manufacture or possession of deadly or explosive devices or machines;
- production, sale, importation or exportation of explosives;
- acquisition, possession, transport or illicit carriage of explosives or explosive devices;
- possession, carriage or transport of weapons of war and munitions in categories 1 and 4;
- the offences laid down in articles L2341-1 and L2341-4 of the Defence Code;
- individual or collective undertakings the aim of which is to cause serious damage to public order by means of intimidation or terror;
- introduction into the atmosphere, upon or under the ground, into food or food components, or into any waters, including those of the territorial sea, of a substance that is likely to endanger the health of persons or animals or the natural environment;
- participation in a group or an understanding established for the purpose of preparing, by means of one or more material actions, one of the aforementioned acts of terrorism;
- financing a terrorist undertaking by supplying, bringing together or managing funds, securities or assets or providing guidance for this purpose, with the intention or in the knowledge that they will be used, wholly or in part, to perpetrate a terrorist act, whether or not such an act occurs;
- inability to substantiate an income commensurate with one’s lifestyle, while being closely associated with one or more persons who engage in terrorist acts. The Government is considering the possibility of extending the procedural regime for terrorist offences to include the offence of incitement to commit terrorist acts.

The Act of 9 March 2004, “adapting judicial methods to the evolution in crime”, concerning action to combat terrorism, strengthened the special procedural regime by inserting “terrorist offences” into the category of organized crime (Code of Criminal Procedure, arts. 706-73 and 706-74) and by developing new investigation techniques. These legislative adjustments also increased criminal penalties:

A specific offence was established for directing and organizing a conspiracy designed to prepare terrorist acts (Penal Code, art. 421-5, para. 2), which carries a penalty of 20 years’ imprisonment and a fine of 500,000 Euros; The penalties for trafficking and manufacturing weapons, including biological weapons, and explosives, when committed by an organized gang, were increased to 10 years’ imprisonment; A new offence was established setting forth the penalty of one year’s imprisonment for disseminating, except for professional use, processes for the manufacture of destructive devices from powders or explosives, nuclear, biological or chemical materials or any other materials intended for domestic, industrial or agricultural use. Penalties are increased to three years when such dissemination takes place through a telecommunications network (Penal Code, art. 322-6-1);

A new offence of ecological terrorism was established, referring to the introduction of a substance that is likely to endanger the health of persons or animals or the natural environment “into food or food components” (Penal Code, art. 421-2). The Act of 23 January 2006, combining prevention and punishment, completes these arrangements. The Act: develops the use of video surveillance and strengthens the automatic vehicle surveillance system;

facilitates identity checks in cross-border trains; requires electronic communication operators to keep data on telephone and Internet connections for one year; creates a new cross-border control database; allows the authorized services access, in an

administrative framework, to certain files of the Ministry of the Interior; increases the penalty for “formation of a terrorist organization” (from 20 years’ imprisonment to 30 for leaders and organizers and from 10 years to 20 for participants); authorizes the committing magistrate to extend the maximum length of custody from four to six days in cases of “imminent terrorist action” or if “urgently required by the needs of international cooperation”; centralizes, under the Paris courts for the execution of sentences, the monitoring of persons convicted of terrorist acts; and extends the time limit within which the minister responsible for naturalization must begin proceedings for deprivation of French nationality.

To deny safe haven:

The Code on the Entry and Residence of Foreigners and the Right of Asylum (CESEDA) states that the French Office for the Protection of Refugees and Stateless Persons (OFPRA) is not competent to receive applications from persons who have been refused residency on the ground that their presence in the territory could pose a serious threat to public order, public safety or State security (art. L 741.4), which is the case of a person who incites others to commit terrorist acts. Foreigners without residence permits who request admission to France as asylum-seekers are therefore denied admission if they are suspected of being involved in a terrorist activity. If they have been granted a temporary residence permit, the permit may be withdrawn for the same reasons.

Subsidiary protection, which is granted for one year by OFPRA to foreigners under serious threat in their countries of origin, shall also be refused. In addition, article L 213.1 of the Code provides for denial of access to the territory by any foreigner who represents a threat to public order. European nationals are subject to special treatment pursuant to the Decree of 11 March 1994, amended on 29 October 2005 in order to incorporate European Directive 2004/38/CE of 29 April 2004 into the domestic legal framework. According to article 14 of the Decree, a European national who represents a threat to public order must leave French territory within one month, except in cases of emergency. In addition to the provisions governing denial of asylum to persons suspected of involvement in terrorism, France has a legislative framework that allows it to expel from its territory any individual whose conduct is illegal.

Expulsion (administrative decision)

Article L521-3 of the Code on the Entry and Residence of Foreigners and the Right of Asylum (which replaced, in March 2005, article 26 of Order No. 45-2658 of 2 November 1945) provides for the expulsion of foreign nationals who, while lawfully present in the country, engage in “conduct that might undermine the basic interests of the State, or that is linked to terrorist activities, or that constitutes explicit and deliberate provocation to discrimination, hatred or violence against a particular individual or group of individuals”.

This administrative procedure has been used to expel from French territory radical preachers whose activity was felt to amount to such a provocation. Well documented reports on their activities are prepared by the information services and transmitted for consideration to the Directorate of Civil Liberties and Legal Affairs (DLPAJ), which submits a summary to the Minister of the Interior and Territorial Development. If the expulsion is essential from the national security standpoint, the Minister of the Interior issues a Ministerial Expulsion Order against them, as a matter of absolute urgency, immediately enforceable.

Exclusion from French territory (judicial measure)

Articles 131-30 et seq. of the Penal Code provide for the expulsion of foreign nationals

who have been convicted of terrorist acts even if they are lawfully present in French territory. The judge may order an additional sentence of exclusion from French territory, permanently or for a period of up to 10 years. Pursuant to this judicial measure the convicted person is automatically escorted to the border once his or her sentence has been served.

Escort to the border (administrative decision)

A foreign national suspected of terrorist activities may be subject to an expulsion order when he or she is unlawfully present in French territory (Code on the Entry and Residence of Foreigners and the Right of Asylum, arts. L551-1 et seq.).

Since 11 September 2001, 68 individuals have been expelled from the territory, including 15 radical preachers. Since 1 January 2006, 9 individuals have been expelled, including one religious leader.

To ensure that measures taken to implement res. 1624 comply with international law:

France ensures that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international human rights law, refugee law and humanitarian law. In doing so it pays particular attention to the human rights set forth in the relevant international treaties to which it is a party (International Covenant on Civil and Political Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of All Forms of Racial Discrimination, etc. ...), and in its constitution and the European Convention on Human Rights.

The Constitutional Court (Constitutional Council) verifies the conformity of the legislation with these obligations, as well as respect for the principle of proportionality of punishment (preamble to the French Constitution, which replicates article 8 of the Declaration of the Rights of Man and of the Citizen: "The law shall provide for such punishments only as are strictly and obviously necessary").

It should be noted that, although the Constitutional Council exercises only a limited review of the legislation, it may on occasion censure manifestly disproportionate punishments (decision No. 87-237 DC of 30 December 1987). Moreover, individuals sought in the framework of anti-terrorist inquiries enjoy all the procedural guarantees recognized by French legislation in conformity with international law. These include the right to an effective remedy before an independent, fair and impartial tribunal.

Terrorist offences are governed by a special procedural regime featuring, in particular, extension to 96 hours of the duration of police custody, with access to a lawyer postponed, for adults, to the seventy-second hour. In addition, it strengthens possibilities for police and judicial investigations. Judicial treatment of such offences is covered by the Paris counter-terrorism centre.

However, this system preserves the procedural guarantees of accused persons in order to provide them with a fair trial. Thus, an accused person enjoys the right (even if deferred), to the assistance of a lawyer, to an ongoing review by the judicial authority of all the steps of the inquiry and the coercive measures used by the specialized services, to file a remedy against all acts by the judicial authority and to appeal against any convictions handed down in the first or second instance, however serious the offences in question. Lastly, specialized training courses are taught by the École Nationale de la Magistrature as part of refresher training for judges, through special seminars on both terrorism and the functions of committing magistrates. For example, the École recently held a Franco-Spanish seminar on combating terrorism, with the participation of specialized judges and prosecutors from France and Spain. Concerning the return of aliens (see para. 1.2), France ensures that the measures taken are in conformity with its obligations to receive refugees and to combat torture and other inhuman, cruel or

	<p>degrading treatment. The Code on the Entry and Residence of Foreigners and the Right of Asylum states, “a foreigner cannot be deported to a country if he can prove that his life or liberty would be at risk in that country or that he would be exposed to treatment contrary to the requirements of article 3 of the European Convention on Human Rights”, which covers the same principles as those included in article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These provisions apply to all deportation measures handed down in French territory.</p> <p>Whenever a foreigner alleges that he or she would be at risk in the event of return, the administrative authority verifies the existence of “serious reasons” to believe that the person in question would face a “real risk” of being subjected to ill treatment in the event of return.</p> <p>The review conducted takes account of the general situation in the particular State of return as well as that of groups of persons in a situation similar to that of the foreigner concerned.</p> <p>In that connection, the review is based on many sources of information: reports from diplomatic missions, expert missions, international human rights committees and NGOs. Moreover, inasmuch as the risks faced by an individual on a personal basis are not necessarily proportional to the general situation prevailing in a given country, an in-depth review is conducted of the personal situation of each foreigner concerned, his or her past activities and his or her relations with the authorities.</p> <p>Finally, in certain specific cases, in addition to the above-mentioned review aimed at determining the existence of risk in the event of return, diplomatic contacts may be taken with the authorities of the country of origin to obtain more detailed information about the situation of the foreigner concerned in the event of return.</p> <p>This procedure, which is used on a case-by-case basis, represents an extra precaution and should in no way be compared to the practice of “diplomatic assurances”, consisting of agreements with a third country which are supposed to guarantee that a national returned to that country will not face risks. It should be emphasized that the decision specifying the country of return is subject to review by the administrative court. An appeal against a decision specifying the country of return has the effect of suspending the decision, under the same conditions as the deportation order issued by the Prefect for irregular entry or stay, if filed at the same time. In the case of disputes involving other deportation measures (expulsion, legal prohibition against entering the territory), it is also possible, pursuant to the Act of 30 June 2000, to institute interim relief proceedings to suspend the decision specifying the country of destination. In cases where a foreigner cannot be expelled from the territory, he or she is placed under house arrest and therefore authorized lawfully to remain in France.</p>
Gabon	No report available
Gambia	No report available
Georgia	No report available
Germany	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Germany has no general definition for a terrorist criminal offence • German criminal law does not have specific provisions for incitement • Criminal liability is governed by the generally applicable provisions of the Criminal Code (StGB). • Section 26 StGB: whoever intentionally induces another to intentionally commit

	<p>an unlawful act will be punished the same as the perpetrator.</p> <ul style="list-style-type: none"> • Section 30 (1) StGB: whoever attempts to induce or incite another to commit a serious criminal offence is subject to punishment. (2) whoever declares his willingness, accepts the offer of another, or agrees with another to commit or incite the commission of a serious criminal offence is subject to punishment. • Section 129 (5) StGB: formation of terrorist groups. • Section 129a StGB: terrorist organisations abroad. • Section 111 StGB: public incitement to crime: whoever publicly, in a meeting or through dissemination of writings, including audio and visual recording media, data storage media, illustrations and other images, incites an unlawful act, shall be punished as an inciter. • Section 140 (2) StGB: Rewarding and Approving crimes: whoever publicly, in a meeting or through dissemination of writings, approves of certain enumerated unlawful acts in a manner that is capable of disturbing the public peace, is subject to punishment. • Section 130a StGB: instructions for crimes is punishable by way of writings, including audio and visual recording media, data storage media, illustrations and other images, which is capable of serving as instructions for a terrorist act specified in the law, or gives such instructions publicly or in a meeting. • Currently under discussion whether more extensive criminal legislation is necessary to combat terrorism. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Active criminal prosecution on an international level • Residency Act; section 5 (4): issuance of a residence title shall be denied if the foreigner has publicly called for the use of violence • Residency Act; section 54 no. 5a; the above justifies expulsion of foreigners from Germany • Residency Act; section 73: Security authorities are involved in assessing these factual situations <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • German criminal law provisions relating to UNSC Resolution 1624 are in compliance with Germany's constitutional framework, including constitutional guaranteed basic rights as well as with Germany's international obligations. • German constitution: Article 1 paragraph. 3 provides that human rights, specified as so-called basic rights In the German Basic Law, are binding upon legislature, executive and judiciary as directly applicable law. • German constitution: Article 20 paragraph. 3 provides that the legislature is bound by the constitutional order (including with regard to the implementation of Resolution 1624). • Rule of law principle: principle of proportionality: protection against unreasonable interference by the state into individual basic rights, particularly the general freedom of expression, pursuant to Article 2 section 1 of the German constitution. As a constitutional law principle, the principle of proportionality is directly binding on all state authority. • The provisions of the criminal law were tailored to protect the national security and to prevent criminal ("terrorist") offences, while respecting civil liberties, such as the constitutional basic rights, as well as Germany's International obligations.
Ghana	No report available

Greece	Report not enclosed (only resolution 1373 (2001))
Grenada	No report available
Guatemala	No report available
Guinea	No report available
Guinea-Bissau	No report available
Guyana	No report available
Haiti	No report available
Honduras	No report available
Hungary	Report not enclosed (only resolution 1373 (2001))
Iceland	No report available
India	No report available
Indonesia	<p>Prohibition by law & prevention of incitement: Law No.15/2003 on Combating Terrorism, Article 14: ‘any person who plans or incites other people to commit acts of terrorism is subject to criminal sanction which carries a maximum sentence of life imprisonment or even the death sentence.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Law No.15/2003 on Combating Terrorism Article 13 (b): ‘any person who provides a hiding place to terrorists will be charged as a criminal and is punishable by a minimum of 3 years in prison or a maximum of 15 years in prison. • Law No.9/1992 on Immigration contains provisions which could be applied to ensure that no safe haven is given to those who plan, finance, support or commit terrorist acts. Article 42 (2): provides steps to be taken against foreigners residing in Indonesia who carry out dangerous activities or activities deemed to threaten public order or violating existing national laws and regulations (deportation and denial of entry to Indonesia). Article 17: denial of entry into Indonesian territory is applied to foreign nationals who are involved in an international crime syndicate or suspected of committing acts against the general security and public order. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Law No.15/2003 on Combating Terrorism, Article 2: eradication of criminal acts of terrorism shall be a set of policies and strategic steps to strengthen the public order and safety by remaining committed to upholding the law and human rights, non-discriminatory in nature in respect of ethnicity, race or groups. • The Law on Combating Terrorism also includes provisions which cover the rights of a victim or heir of the victim as well as the rights of a defendant accused of terrorist acts. • Law No.15/2003 on Combating Terrorism, Article 36; victims or heir of the victims of terrorist acts shall be entitled to compensation and/or restitution. Article 37; individuals who are discharged of all legal charges by the Court with a permanent

	<p>legal stature shall also be entitled to rehabilitation. Article 35; a defendant can file an appeal against the verdict by the Court or express objection for the passing of the verdict.</p> <p>In protecting witnesses and victims of criminal acts, Indonesia has also other legislations in place as follows:</p> <ul style="list-style-type: none"> • Law No. 26/2000 on Human Rights Court which covers the rights from physical and mental protection from threat of terror and violence. This protection should be conducted by law enforcement apparatus and security apparatus without additional cost; • Government Regulation No.2/2001 on the Protection of Victims and Witnesses for Serious Human Rights Violations; • Government Regulation No.23/2003 on the Protection of Witness. <p>Furthermore, in order to prevent torture, cruel, inhuman or degrading treatment or punishment, Indonesia has enacted several legislation as follows:</p> <ul style="list-style-type: none"> • Law No.39/1999 on Human Rights; • Law No.8/1981 on Criminal Procedures; • Law No.1/1946 on Penal Code; and • Law No.5/1998 on the Ratification of the International Convention against Torture, Cruel, Inhuman or Degrading Treatment or Punishment.
Iraq	<p>Prohibition by law & prevention of incitement:</p> <p>1. Steps taken by the National Investigation and Information Under-Secretariat, Directorate of Information, in connection with paragraphs 2 and 3 of Security Council resolution 1624 (2006):</p> <p>(a) Encouragement of security and intelligence personnel at border-crossing points to be on the watch for terrorist elements and persons wanted by the judicial authorities;</p> <p>(b) Creation of a new office of information at Baghdad International Airport for the same purpose mentioned above;</p> <p>(c) Participation in the entry of the names of suspected individuals and persons wanted by the judicial authorities in the computers of the Passport Directorate, together with any information pertaining to them;</p> <p>(d) Monitoring of persons entering the country by the Entry Visa Unit subordinate to our Under-Secretariat, which coordinates its operation with the Residence Directorate, so that we are furnished full particulars on persons entering and they can be kept in view by the monitoring division of our Under-Secretariat;</p> <p>(e) Security information pertaining to terrorist elements is exchanged with neighbouring countries and other States;</p> <p>(f) Cooperation and coordination are engaged in with the security authorities of all other countries to assist in the apprehension of terrorist elements and persons wanted by the judicial authorities;</p> <p>(g) Media consciousness-raising shall be carried out through a declaration on freedom of religion, multiplicity of doctrines and cultural freedom broadcast via the visual media, satellite channels and Internet sites.</p> <p>To deny safe haven:</p> <p>(a) Directorate works in coordination with the General Secretariat of the International Criminal Police Organization (Interpol) and Interpol Bureaus in countries all over the world, gathering and exchanging information on Arab and non-Arab terrorists operating in Iraqi territory by means of an integrated special project comprising detailed information on all currently available indicators concerning terrorist groups, their operating methods and related financing sources and movements, known as the FNLJ programme;</p>

	<p>(b) Directorate dealt with details pertaining to terrorist leaders of terrorist groups and organizations, such as Abu Mus'ab al-Zarqawi, Abu Qudamah, Omar al-Farouq and others, after their veracity was confirmed by our competent authorities, and forwarded them to the General Secretariat of Interpol in Lyon, France, on 12 and 13 December 2006.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
<p>Ireland</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Under common law it is an offence to incite another to commit a crime. This may be done by persuasion or by intimidation. The crime of incitement stands alone and does not depend on whether a substantive offence was committed; • The possession, production and publication of any document which is, contains or includes a treasonable or seditious document (Sections 10, 11 & 12, Offences against the State Act 1939); • Section 7 of the Criminal Law Act 1997 provides that any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be tried as the principal offender. • The making of a threat to engage in a terrorist activity (Section 6, Criminal Justice (Terrorist Offences) Act 2005). • The Criminal Justice (Terrorist Offences) Act, 2005 implemented a number of international conventions and created new international, terrorist offences. The 2005 Act take existing offences and establishes them as terrorist offences when committed with the intention of seriously intimidating a population, unduly compelling a government or an international organisation to perform or abstain from performing an act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a state or an international organisation. Incitement together with the offences created in the Acts, and in particular, the Criminal Justice (Terrorist Offences) Act, 2005, makes it an offence for a person to incite another to commit any of the acts listed in Schedule 2. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Ireland is entitled to refuse entry to, and deport from, the State any non-national in the interests of national security or public policy. It would be against the public policy of the State to grant safe haven to any person with respect to whom there is credible and relevant information giving serious reasons for considering they may have been guilty of incitement to commit a terrorist act and, accordingly, such a non-national can be refused entry or deported. • The terrorist conventions (International Convention Against the Taking of Hostages, Convention of the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, International Convention for the Suppression of Terrorist Bombings, Offences Against Internationally Protected Persons, International Conventions for the Suppression of the Financing of Terrorism) can form the basis for extradition to other contracting parties where there is no extradition treaty in place between them so that in those cases where the individual is present in the State he or she can, provided all of the requirements are met, be extradited to face the offences of which they are suspected. • Where a terrorist offence under the Criminal Justice (Terrorist Offences) Act, 2005 is committed outside the State then, if a request for extradition or surrender

in order to proceed against the person concerned for such an offence is refused, and also in certain other special circumstances, the person concerned may be prosecuted in Ireland for the offences committed outside Ireland.

- Where there are serious reasons for considering that an individual seeking asylum in the State has committed a serious non-political crime outside the State prior to entering the State or has been guilty of acts contrary to the purposes and principles of the United Nations, e.g. who has been guilty of acts covered by Resolution 1624 (2005), then, pursuant to the provisions of the Convention on the Status of Refugees, the individual may be excluded from the definition of “refugee” and, accordingly, be excluded from the process of seeking refugee status pursuant to Section 2 of the Refugee Act, 1996.
- If it is considered necessary in the interests of national security and public policy the State may decline to grant a declaration of refugee status and require the person concerned to leave the State. A person who is in the State as a refugee may have their status as refugee withdrawn under section 21 of the Refugee Act, 1996 and will thereupon be expelled from the State if their presence poses a threat to national security or public order.
- The Garda Síochána (Ireland’s National Police Force), also acts as Ireland’s national immigration service, operates extensive border control checks, including ‘watch’ and ‘stop’ lists, in respect of persons suspected of terrorist-related activity.
- Ireland is a party to the 1957 Convention on Extradition, and has implemented the EU Framework Decision on the European Arrest Warrant. Any person resident in Ireland may be subject to extradition under the Extradition Act 1965 as amended (to countries other than EU member states), the European Arrest Warrant Act 2004, as amended (to EU member states) or under bilateral agreements with third States. In addition Ireland has ratified 12 UN anti-terrorism instruments which contain extradition provisions.
- Citizenship and residency can be revoked where false documentation or false information has been provided in an application, and the person can be subject to deportation.

To ensure that measures taken to implement res. 1624 comply with international law:

- A person accused of incitement to commit a terrorist act or acts has available all of the protections required by the Irish Constitution and human rights instruments, both international and European.
- A person accused of incitement to commit a terrorist act would not be treated differently in substance to a person charged with any other offence.
- A party to the ECHR and required to meet the standards in its treatment of persons charged or convicted of a criminal offence, including the offence of incitement to commit a terrorist act. Possibility of appeal at the ECHR.
- A person refused entry to the State: judicial review of the decision at court (procedural fairness, reasonable decision, compatible with human rights law, proportionate, did not breach any legitimate expectation and that reasons had been given for the decision.
- A person seeking asylum in the State; entitled to due process and entitled to seek judicial review if refused asylum.
- A refugee or person seeking asylum will not be expelled or returned to a place where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
- No person will be expelled, returned or extradited from the State to a place where there are substantial grounds for believing that he would be in danger of

	<p>being subjected to torture as set out in the Convention against Torture of 1985 and as required by the European Convention on Human Rights.</p> <ul style="list-style-type: none"> • As regards paragraph 2 and 3 of the UNSCR the European Convention on Human Rights has now been incorporated into Irish law in so far as (a) a court may declare a particular domestic provision or rule of law to be incompatible with the Convention whereupon the matter will then have to be considered by the Legislature and (b) in interpreting and applying any statutory provision or rule of law Irish courts are required, in so far as is possible and subject to the rules of law relating to interpretation and application of statutes, to do so in a manner compatible with the State’s obligations under the Convention.
<p>Islamic Republic of Iran</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Iranian laws prohibit any incitement to violence and terrorist acts by publications, individuals or entities, and have made such crimes punishable. • The Islamic Republic of Iran, as the initiator of the idea of “Dialogue among Civilizations” has always supported the initiatives that help prevent and counter the incitements to violence and terrorist acts. • Based on the sublime teachings of Islam, which denounce and prohibit incitement to terrorist acts, Iran is determined to combat the culture of terrorism. With regard to preventing those guilty of incitement to terrorism from entering the country, it should be noted that in recent years important steps have been taken by the relevant authorities and institutions of the Islamic Republic of Iran to counter this menace. • Iran is seriously concerned that because of the lack of control by certain neighbouring countries over their sides of the border, illegal immigrants and arms traffickers may infiltrate the Iranian territory and commit terrorist and other criminal acts in Iran. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Strict monitoring of borders. • Greater control over cross-border movements, and construction of security headquarters along the eastern and western borders of the country (such as the Nabi-e-Akram Headquarters) to exercise more control over cross-border movements. • Construction and expansion of security walls along the eastern borders. • Efforts to raise public awareness among peoples living along the border areas, aiming at aborting and preventing any incitement to violence and terrorist acts plotted by Al-Qaida and its affiliated terrorist groups. <p>To ensure that measures taken to implement res. 1624 comply with international law: The Islamic Republic of Iran welcomes a continuous and constructive dialogue with the Counter-Terrorism Committee and hopes to benefit from its guidelines and hopes to receive information on the practical measures taken by the Committee in the fight against terrorist groups other than Taliban and Al-Qaeda.</p>
<p>Israel</p>	<p>Prohibition by law & prevention of incitement: Penal Code, Section 144(d)(2): incitement to commit violent acts entails a penalty of 5 years imprisonment: (a) A person who issues a public call to commit an act of violence or terrorism or words of praise, sympathy or encouragement to an act of violence or terror, supports or identifies with it (hereinafter – inciting publication), and by the content of the inciting publication and the surrounding circumstances there is an actual probability that the</p>

	<p>publication would bring to an act of violence or terrorism, shall be punished by 5 years imprisonment</p> <p>(b) In this Section, "An act of violence or terror" – an offence that causes physical injury, jeopardizes one's life or inflicts grave bodily harm.</p> <p>(c) Publishing a true ad honest report on the forbidden publication according to articles (a) and (b)(1) does not constitute an offence according to this section.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Section 13 of the "Entry to Israel Law" – every illegal alien would be expelled from Israel. • When the Ministry of the Interior receives information that a foreign resident has committed a criminal offence, an investigation is being held and if it is a serious offence his visa will be cancelled and he will be required to leave Israel <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Israel developed an extensive network of government authorities, a body of domestic legislation, and a range of practical policies in order to deal with terrorism in all its aspects within the permissible legal boundaries under domestic and international law. • Reviewing and monitoring of counter-terrorism measures: several important institutional safeguards (judicial review: Israel's Supreme Court; Israeli Parliament, the Knesset; ongoing open and critical public discourse, within the Government branches, the Parliament and the civil society at large; Israeli Attorney-General safeguards civil liberties in the struggle against terrorism) • It is under the premise that Israel's national security does not provide an unlimited justification for infringing the rights of the individual, not even in its struggle against terrorism, that Israeli courts in general, and the Supreme Court in particular, decide cases involving counter-terrorism measures. This close scrutiny by the highest judicial civil instance in Israel, sitting as High Court of Justice, is available not only to Israelis but also to non-citizens, including residents of the West Bank and Gaza. • Israeli Parliament, the Knesset: members of various Governmental branches, discuss concrete counter-terrorism measures and their compatibility with preserving human dignity and human rights. • The Attorney-General is independent from the political establishment. As a result, a determination by the Attorney-General that a government-action or policy is unlawful has substantial power to end that practice.
Italy	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Under Italian criminal law, incitement to commit acts of terrorism is punishable per se or as a form of participation in specific crimes. • Italian Criminal Code, Article 302: "Whosoever incites any person to commit one of the intentional crimes provided for in Book II, Chapters I and II, Title I, shall be punished, if the incitement is unsuccessful, or if the incitement is successful but the crime is not committed, by a prison sentence of one to eight years. However, the sentence shall not be more than one-half the sentence prescribed for the crime that was incited." • These crimes include association for the purposes of terrorism and international terrorism, aiding and abetting members of the association (provided for in Articles 270 bis and 270 ter of the Italian Criminal Code); attacks for terrorist purposes (Article 280 of the Italian Criminal Code); and kidnapping for terrorist

purposes (Article 289 bis of the Italian Criminal Code).

- In general, incitement is punishable only if the incited crime is not committed. If instead it is committed, Italian law views the instigator as having acted in concert with the person instigated to perpetrate the (attempted or committed) crime. In this case, the laws governing participation in the commission of that specific crime shall apply.
- The Constitutional Court: incitement shall be punishable only if it involves a “genuine risk” of inducing someone to commit the specific crimes covered by Article 302. Therefore, in the opinion of the Constitutional Court, incitement can be both lawful — if it falls within the constitutional right to freely express thoughts — and unlawful — if, as a result of a criminal proceeding, the conduct is deemed to have induced the incited person to commit a specific crime.
- Law No. 438 of 15 December 2001 introduced two new crimes: association for the purposes of terrorism and international terrorism and aiding and abetting members of the terrorist association. Under this law, two types of conduct can be punished: (i) promoting, setting up, organizing, heading or funding associations whose intent is to commit acts of violence for the purposes of terrorism and international terrorism; (ii) supporting any one of the persons who participate in terrorist associations by harbouring them or providing them with food, hospitality, and means of transportation or communication.
- Decree-law 144 was enacted on 27 July 2005, later converted into law 155 of 31 July 2005, containing “Urgent measures for countering international terrorism”. This law introduces new tools to successfully fight terrorism, including:
 - article 270 — quater of the criminal code (on recruiting for terrorist activities, including international terrorism);
 - article 270 — quinquies of the criminal code (on training in terrorist activities, including international terrorism);
 - article 270 — sexies of the criminal code (Terrorism-inspired behaviour).
- Law 155 of 31 July 2005 amended section 414 of the criminal code, increasing the sentence when the solicitation or instigation to commit a crime involves terrorist acts. Section 3: introduced new provisions that allow the deporting of any foreign national “against whom there are well-grounded reasons to believe that his/her stay on the national territory might facilitate in any way terrorist groups or activities, also at the international level”.
- At present no other legislative initiatives are under review to prevent incitement to commit terrorist acts.

To deny safe haven:

- Italian Constitution, Article 10: right to asylum if, in the country of origin, he or she is denied the exercise of democratic liberties provided for by the Italian Constitution.
- Italian law: foreigners seeking asylum holds two general categories:
 - (a) Foreigners possibly entitled to refugee status under the Geneva Convention of 28 July 1951 and the 1967 New York Protocol, and persons within the mandate of the United Nations High Commissioner for Refugees;
 - (b) Foreigners who are not included in these two groups.
- Asylum-seekers under (a): the police authorities have the legal power to gather information on the asylum-seeker, also ex officio, to determine whether there are impediments to approval of the application. Pursuant to Article 1, paragraph 4, letter (d), of Law 39/90, the following facts would be impediments: an asylum-seeker has been convicted in Italy of serious crimes including terrorism; he or she constitutes a

danger to the security of the State; he or she is a member of mafia-type criminal association involved in drug trafficking or a member of a terrorist association.

- The information collected might also concern the participation of the asylum-seeker in terrorist organizations or the perpetration of acts of terrorism. As to possible information exchanges with other countries, the police authorities, pursuant to Law 121 of 1 April 1981, have the power to gather and classify data and information on public order and security also with a view to maintaining and fostering international relations. In ratifying the Schengen Agreements, moreover, Italy has adopted the Schengen Information System, a database for information exchange between member States. All the collected data are available at the Data Processing Centre of the Department for Public Security.
- Law 675 of 31 December 1996 on the Protection of Personal Data provides that the rules on data processing shall not fully apply to the information collected in the Data Processing Centre, on the basis of Italy's accession to the Schengen Agreement. Under Italian law information exchange is possible, also at the international level, provided that its purpose is to prevent and prosecute criminal offences or to address threats to national security. The Authority for the Protection of Personal Data (*Garante per la protezione dei dati personali*) is in charge of processing data collected in the Data Processing Centre.
- Article 38 of the Schengen Agreement (14 June 1985) establishes that information exchange between member States is allowed only for the specific purposes of granting or denying asylum applications;
- Articles 14 and 15 of the Dublin Convention (15 June 1990) set strict conditions for information exchange, confirmed also by European Council Regulation 2725/2000 on the Eurodac system.
- Asylum-seekers under (b): proceedings to grant asylum are carried out before an ordinary civil judge under case law as per point (1).
 - Code of Civil Procedure; the judge can gather information from the public administration ex officio, but he/she is by no means obliged to transmit the information to other authorities. Should the judge believe that a crime has been committed, he/she is compelled to report to the public prosecutor.
 - Code of Civil Procedure: the public prosecutor must take part in proceedings on the status of persons, including those for the granting of asylum. Since the public prosecutor is in charge of instituting criminal proceedings, he/she can initiate a criminal investigation on the basis of the information collected in the proceedings. In this framework, the rules on international cooperation in criminal matters, including the exchange of documents and information, shall apply.
 - Article 1, paragraph 4, letter (d), of Law No. 39/90 expressly provides that, on the basis of the information collected by the police authority, asylum-seekers convicted in Italy of serious crimes including terrorism, representing a danger to the security of the State, or participating in mafia-type criminal associations for the purposes of drug trafficking or terrorist associations, may be barred from crossing the border or, in any case, denied asylum.
 - According to Italian case law, an asylum application can be denied if the applicant committed serious crimes contrary to the principles of the Italian Constitution, including terrorist crimes. In such cases, the same principles generally used in extradition proceedings for political crimes shall apply. Extradition can be approved if the seriousness of the crime prevails over the political motivation for the asylum application.

To ensure that measures taken to implement res. 1624 comply with international law:

	<ul style="list-style-type: none"> • Italy signed and ratified the four Geneva Conventions of 12 August 1949 by law 1739 of 27 October 1951. Italy also signed and ratified the two 1977 Protocols to the Geneva Conventions by law 762 of 11 December 1985. • All Italian legislation must comply with the European Union Treaty and the Italian Constitution, which set high, effective safeguards for human rights and humanitarian law, and prevent all forms of discrimination, also in the fight against terrorism.
<p>Jamaica</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Terrorism Prevention Act (TPA) of 2005: acts of terrorism are indictable offences punishable by life imprisonment for an individual and fines for a body corporate. • The TPA in its current form makes no provision for the incitement to commit an act of terrorism. Despite this it is still possible to prosecute persons who through threat, persuasion or pressure, incite another to commit a terrorist act under common law • Jamaica remains committed to fulfilling its obligations to combat terrorism in all its forms and manifestations and is currently in the process of reviewing the provisions of the TPA. <p>To deny safe haven: Jamaica remains unwavering in its commitment to deny safe haven to those who orchestrate, finance or commit acts of terrorism in all forms and manifestations. This commitment is demonstrated by actions such as Jamaica’s ratification of the United Nations Convention Against Transnational Organized Crime and its Protocols.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
<p>Japan</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Penal Code, incitement falls under the scope of Article 61 “incitement”, or Article 62 “accessoryship”, depending on the facts of the case. • Subversive Activities Prevention Act: Upon the request of the Director-General of the Public Security Intelligence Agency (PSIA), the Public Security Examination Commission, which is part of the Ministry of Justice but independent of the Minister, shall impose regulations and control measures on groups that have committed, not as individuals but as part of a unified organization, terroristic subversive activities, and can be expected to continue to commit such acts of violence in future. Article 38 of the Act; prohibits the incitement of insurrection, instigation of foreign aggression or assistance to an enemy. Articles 39 and 40; prohibit the incitement of such offences as arson, homicide, public disturbance and endangering traffic, with the purpose of promoting, supporting or objecting to a political ideology or measure • Explosives Control Act, Article 4; prohibits the incitement of the use of explosives with the purpose of disrupting public safety or harming another’s body or property. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Ratified all of the twelve universal conventions and protocols against terrorism, and established extensive jurisdiction over those activities regarded as terrorist acts under the conventions, with the aim of denying safe haven to those who commit

	<p>such acts and facilitating their extradition or prosecution. In addition, when the incitement of a terrorist act is prosecuted as “incitement” under Article 61 or “accessoryship” under Article 62 of the Penal Code, the offender can be extradited or prosecuted.</p> <ul style="list-style-type: none"> • After 9/11, Japanese police have enhanced their intelligence gathering and analysis related to terrorism, working in close coordination with domestic and foreign security intelligence agencies and other relevant organizations. The police are to respond strictly to unlawful conduct relating to incitement of terrorist acts by applying the Penal Code or other applicable laws. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Constitution: Article 98, paragraph 2: provisions of treaties, including international human rights conventions, concluded by the Japanese Government, are faithfully observed. • Japan is implementing refugee protection and is developing an asylum system under the legal framework created in accordance with the Convention relating to the Status of Refugees and its Protocol. • Japan is endeavouring to put UNHCR’s “Agenda for Protection” and other relevant conclusions of the UNHCR Executive Committee into practice within the scope possible.
Jordan	<p>Prohibition by law & prevention of incitement:</p> <p>Jordanian Penal Code:</p> <ul style="list-style-type: none"> • articles 147 to 149, criminalise terrorist acts, including incitement to commit them. • Article 148, paragraph 1: conspiracy to commit an act or acts of terrorism shall be subject to penalties of hard labour. • Article 20: “if the Code does not include a specific provision in this regard, the minimum sentence of imprisonment and hard labour shall be three years and the maximum sentence shall be 15 years”. <p>The Government’s draft counter-terrorism act contains various measures and provisions to prohibit incitement to commit terrorist acts, in particular surveillance of the suspect’s domicile, movements and means of communication, the imposition of a travel ban on any suspect; the registration of the suspect’s place of residence and the seizure of any of his possessions that are consistent with terrorist activity, in accordance with the provisions of the law; and the seizure of any funds suspected to be related to terrorist activity.</p> <p>To deny safe haven:</p> <p>The draft counter-terrorism act contains a series of measures to deny safe haven to any person with respect to whom there is credible information or suspicion that he may be guilty of incitement to commit terrorist acts:</p> <ul style="list-style-type: none"> • If there is any information concerning any person, obtained in the course of investigations or from any other source, which implicates him in matters relating to terrorism, an arrest warrant is issued and circulated to land, port and airport border posts, and once his records and criminal activity have been confirmed in the database of the security forces, he is detained if he attempts to enter or exit the Kingdom and is questioned about the information in the possession of the competent authorities. • If the investigation produces conclusive evidence of his involvement in matters which relate to terrorism or which affect Jordan’s internal or external security,

	<p>whether he committed the act itself or merely prepared or planned its commission, or incited others to commit it, the person is subject to the relevant security measures, according to which he is committed for trial in the State Security Tribunal, which is responsible for hearing cases relating to terrorism in accordance with article 3, paragraph 1 (a), of Act No. 17 of 1959 concerning the State Security Tribunal.</p> <ul style="list-style-type: none"> • If investigations reveal that the person is involved in the commission of acts of terrorism or in incitement to commit such acts in a friendly or neighbouring State, or in a State that has signed an extradition agreement with the Kingdom, and if the conditions necessary for his extradition are satisfied under such an agreement, the detainee is extradited to that State. • Through the Border and Alien Affairs Bureau, the State security forces provide information and observations concerning persons arriving in the Kingdom, so that the law enforcement authorities can be informed about them and keep them under surveillance, by determining their place of residence and assigning them to a respectable person who will answer for them so that the security forces can detain them in the event that they are proven to be involved in acts of terrorism, in their planning, or in incitement to commit them. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • On principle: it is not legitimate to detain anyone except in accordance with the provisions of the law. • Act No. 9 of 1961, article 103: an individual may only be detained and imprisoned by order of the competent authority and in accordance with the law. • The Kingdom’s correctional and rehabilitation centres, including the detention facilities of the intelligence service and military tribunals, are open to inspection by representatives of the International Committee of the Red Cross, human rights committees and the Public Freedoms Committee of the Legislature, and the judiciary keeps such centres under constant supervision. • Jordan’s 1952 Constitution, article 21, paragraph 1: “Political refugees shall not be extradited on account of their political beliefs or for their defence of liberty.” Nevertheless, there is a provision which prohibits the granting of the right to asylum to any person with a relationship or connection to terrorist activities, and there are measures and mechanisms to verify that an applicant does not have such a connection before he is granted the right to asylum. • The Council of Ministers, as the body responsible for considering asylum requests submitted by aliens is obliged to use all the security facilities available to it to check that the applicant is not a terrorist, is not involved in another crime and is not a fugitive from justice. • The Council of Ministers will deny the right of asylum to, or rescind the right of asylum of, such individuals, if it is proved that they have committed a crime (terrorism or another offence), or if granting the right of asylum would be against the interests of the State in the context of its international relations. • The Government of the Hashemite Kingdom of Jordan wishes to reaffirm its desire to take all the measures necessary to promote international efforts against terrorism.
<p>Kazakhstan</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Kazakhstan’s Counter-Terrorism Act since 1999: legal and institutional framework for counter-terrorism measures to protect the rights and freedoms of citizens, the constitutional order and national security. Article 10: prohibits advocacy of terrorism and other crimes of a terrorist nature (article 10).

	<ul style="list-style-type: none"> • The Criminal Code (article 233-1): liability for advocacy of terrorism and public incitement to commit an act of terrorism: “1. Advocacy of terrorism or public incitement to commit an act of terrorism, or the distribution of materials with such contents, shall be punished by a term of imprisonment of up to five years. 2. The same actions, when committed by a person acting in an official capacity or by the head of a public association or through the mass media, shall be punished by a term of imprisonment of from three to eight years.” • Mechanism for prohibiting the activity of terrorist organizations: framework for applying the relevant penalties to those organizations and their members, including penalties aimed at preventing the dissemination of extreme radical ideas through the press, audio and video materials and the Internet. • The activities of 14 international terrorist organizations and one extremist organization are prohibited by law in Kazakhstan. (Al-Qaida, Asbat al-Ansar, Aum Shinrikyo, Boz Gurd, the Muslim Brotherhood, the Taliban movement, the Jamaat of mujahidin of Central Asia, the Islamic Movement of Uzbekistan, the East Turkestan Islamic Movement, the Islamic Party of Turkistan, the Kurdish National Congress, Lashkar-e-Tayyiba, the Social Reform Society and the Eastern Turkestan Liberation Organization. The extremist group is the religious party Hizb ut-Tahrir). • On the basis of the current regulatory and legal framework, Kazakhstan is implementing existing arrangements within the context of 40 intergovernmental agreements which it has adopted in the area of counter-terrorism with a view to carrying out joint counter-terrorist activities with the competent bodies of foreign States and international organizations. To help resolve the problem of the spread of terrorist ideology through various forms of appeals and incitement, and the competent and concerned government bodies are implementing a range of legal, organizational and practical measures. As a result, no terrorist act is permitted within the national territory. <p>To deny safe haven: The Republic of Kazakhstan is taking action to enhance the protection of the State border. An adequate passport and visa system is in place. The entry and exit of persons whose names are included in the following lists are monitored: – The consolidated list of individuals and entities belonging to or associated with the Al-Qaida organization or the Taliban which is maintained by the Security Council Committee established pursuant to resolution 1267 (1999); – Rosters of persons sought by the special services and law enforcement agencies of the member States of the Shanghai Cooperation Organization and the Commonwealth of Independent States because they have committed or are suspected of committing crimes of a terrorist and extremist nature.</p> <ul style="list-style-type: none"> • Intensive efforts are made in the context of the Shanghai Cooperation Organization to prevent the entry of persons involved in terrorism. This resulted in the Government decision of 5 June 2007 on cooperation in identifying and blocking the routes by which persons involved in terrorist, extremist and separatist activities enter the territory of SCO member States. <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Kenya	No report available
Kiribati	No report available

Kuwait	<p>Prohibition by law & prevention of incitement:</p> <p>Has yet to enact a law expressly devoted to counterterrorism. Other laws that can be used to combat and criminalise acts of terrorism, are:</p> <ul style="list-style-type: none"> • Law No. 31 (1970), amending some of the provisions of the Penal Code (law No. 16 of 1960), which criminalises and provides penalties for acts that are detrimental to the internal and external security of the State; and law No. 35 (1985) on related crimes, specifically articles 3 and 4 thereof. • Decree issued on 7 January 1979: the Ministry of the Interior specified that among the Ministry's responsibilities are the maintenance of security and order inside the country and the formulation and implementation of plans that ensure the stability of the security of the State. On that basis, the Ministry of the Interior conducts investigations into those acts to prevent them from occurring and, should such acts occur, to apprehend their perpetrators. • Kuwaiti penal laws criminalise inciting or aiding in the commission of a criminal act in keeping with the criminalisation of the act itself. The ministries concerned monitor religious sermons, schools, universities and the media in order to prevent the incitement to commit terrorist acts. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • The exchange of information with friendly States with which it has concluded conventions or memorandums of understanding on the exchange of information on terrorists, wanted persons and terrorist organizations. • Creating a database of the names, data and pictures, if available, of such persons that will be made available by computer to all border entry/exit points. Suspected terrorists or convicted terrorists will be prevented from entering or will be apprehended. The names of all persons who are being prosecuted or tried or are being expelled from the country will be added to the lists and will be updated periodically. • The Passport Act (law No. 11 of 1962) establishes the criteria for the obtainment of official passports by Kuwaitis and the entry and exit of persons, both Kuwaiti and foreign, into and from the country, as well as the penalties for forgery or falsification of those important documents. <ul style="list-style-type: none"> • – The Kuwaiti Penal Code, as amended, criminalises the act of forging documents of all types, among them official documents, which naturally include personal identity papers and travel documents. The forgery of official documents is an offence punishable by a severe penalty consisting of a term of imprisonment of up to seven years, to which may be added a fine or, if the perpetrator is a foreigner, expulsion (articles 275, 274, 260, 259, 258 and 257). • Controls on travel and identity documents • Establishment of special offices at the various entry/exit points in the country. Those offices have been provided with state-of-the-art equipment for examining the passports of persons arriving in the country where such passports are suspected of being forged. Those persons are handed over to the competent investigative authorities should it be established that their passports are forged. • Creation of a database containing the names of suspected persons or persons wanted by the law. All entry/exit points have been linked to this database in order to monitor the entry of such persons into the country. • Information exchanged electronically between the authorities concerned in Kuwait and their counterparts in other States and in organizations concerned with counter-terrorism through direct hotlines in order to combat terrorist acts,
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	<p>movements and networks, particularly in relation to forged travel documents.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Kyrgyzstan	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • In 2009 draft legislation was prepared to supplement the Kyrgyz Criminal Code, establishing criminal responsibility for terrorist propaganda, public incitement to commit terrorist acts and public justification of terrorism. The draft law is currently pending approval by ministries and departments of the Kyrgyz Republic. • 20 February 2009, Act on amendments and additions to the Criminal Code of the Kyrgyz Republic: Establishment of criminal responsibility for organizing activities that incite national, racial, religious or interregional hatred; the acquisition, possession, transport or dispatch of extremist materials with a view to distributing or preparing to distribute them; and the intentional use of symbols or attributes of extremist organizations. <p>To deny safe haven: Not answered</p> <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> - 2009 the National Security Service and the Ministry of Foreign Affairs of the Kyrgyz Republic jointly organized conferences in Bishkek, Osh and Issyk-Kul on the subject of partnership among State agencies, civil society and the business community in the fight against terrorism. - Convention on the Physical Protection of Nuclear Material (1980) - Amendment to the Convention on the Physical Protection of Nuclear Material (2005) - Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988) - Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005) - Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988) - Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005). <p>On 24 and 25 November 2009 the State National Security Service, in conjunction with the Ministry of Foreign Affairs, held an international conference in Bishkek on contemporary challenges in combating terrorism and other violent forms of extremism.</p>
Lao People's Dem. Republic	<p>Prohibition by law & prevention of incitement:</p> <p>Penal Law:</p> <ul style="list-style-type: none"> • Article 60: addresses an attempted act of terrorism; • Article 80 deals with crimes related to the use of chemical weapons; • Article 98 focuses on air, airport and port security breach; • Article 101 addresses crimes related to hostage taking. • Articles 133, 134 and 146, address issues of sexual exploitation, human trafficking, abduction and drug trafficking. • Article 175 specifically addresses dangerous acts on board aircraft, and in cars, airports, ports and transportation. • Article 64 (new) deals with crimes related to money-laundering, • Article 165: concealing a crime

To deny safe haven:

- The Lao People's Democratic Republic does not yet have a specific law on counter-terrorism. However, the Lao PDR has strongly supported Security Council resolution 1373 (2001) on counter-terrorism;
- The Lao People's Democratic Republic has established a National Ad Hoc Committee for implementing resolution 1373 (2001) on counter-terrorism in accordance with the Prime Minister Decree No. 63 dated 27 December 2002. The Committee includes the Ministry of Foreign Affairs, the Ministry of Public Security, the Ministry of Defense, the Ministry of Justice, etc.;
- Article 16 of the Criminal Law of the Lao People's Democratic Republic, no one is allowed to use the territory of the Lao PDR to harbour terrorists or organize forces against other countries;
- Article 56 of the Criminal Law forbids any individual or group of individuals to undertake a disloyal plot or betray his/their own country;
- Article 58 of the Criminal Law prohibits spying by any individual or group of individuals;
- Article 59 of the Criminal Law prohibits the use by any individual or group of individuals of the territory of the Lao PDR to undertake any activity that undermines national security;
- Article 65 of the Criminal Law prohibits the organization by any individual or group of individuals of misleading propaganda, deception and fabrication of facts which aim to discredit the policy of the Lao Government;
- Articles 76, 77 and 78 of the Criminal Law forbid any individual or group of individuals to undertake any illegal production, possession, use, trade or theft of armaments and atomic materials.

To ensure that measures taken to implement res. 1624 comply with international law:

- A party to seven international conventions on the fight against terrorism.
- The National Assembly of the Lao PDR is considering the ratification of the remaining five conventions.
- The Lao PDR has incorporated the provisions of the concerned international conventions into its national legislation, especially into the national Penal Law, which was amended and adopted by the National Assembly on 9 November 2005.
- With respect to the protection of human rights as we undertake measures to fight against terrorism, the Lao PDR applies various national laws, particularly, the Law on criminal proceeding of 15 May 2004, the law on People's Court, the law on Public Prosecution; for instance:
 - Article 5 of the Law on criminal proceeding: violation of the rights and freedoms of citizens;
 - Article 8 of Law on criminal proceeding: presumption of innocence;
 - Article 17 of Law on criminal proceeding: comprehensive, complete and objective case proceeding;
 - Article 18 of Law on criminal proceeding: ensured right of citizen to submit a petition and complaint;
 - Article 62 of Law on criminal proceeding: arrest;
 - Article 65 of Law on criminal proceeding: detention;
 - Article 78 of Law on criminal proceeding: exercise discretion in the court house;
 - Article 4 of the Law on People's Court: equality under the law and public court;
 - Article 2 of the Law on Public Prosecution: duty of the Public Prosecutors.
- Establishment of a Government inter-agency consisting of the Ministry of

	<p>Foreign Affairs, Ministry of Public Security and Ministry of Justice to coordinate efforts in this regard domestically and with international concerned bodies. The Ministry of Public Security is mandated to coordinate national implementation, while the Ministry of Foreign Affairs is tasked with external coordination, and the Ministry of Justice liaises with other government agencies to carry out research and propose draft legislation to the National Assembly for consideration.</p>
Latvia	<p>Prohibition by law & prevention of incitement: Criminal Law, 17 June 1998</p> <ul style="list-style-type: none"> • Article 20: an act or failure to act committed knowingly, by which a person (joint participant) has jointly with another person (perpetrator), participated in the commission of an intentional criminal offence, but himself or herself has not been the direct perpetrator of it, is considered to be a joint participation. Organizers, instigators, and accessories are joint participants in a criminal offence. • Part 3 of Article 20: A joint participant is held liable in accordance with the same Article of the Criminal Law as that in which the liability of the perpetrator is established. • Thereby, incitement to commit a terrorist act or acts is punishable in accordance with Article 20 and Article 88 of the Criminal Law. <p>The Republic of Latvia signed the Convention on the Prevention of Terrorism of Council of Europe on 19 May 2006. Three main acts that should be adopted as criminal offences under domestic law: public provocation to commit a terrorist offence (includes apology and glorification), recruitment for terrorism and training for terrorism (includes transmission of expertise and instructions for terrorism).</p> <ul style="list-style-type: none"> • Amendments of the Criminal Law are planned in order to implement these requirements. <p>To deny safe haven: Asylum Law of 7 March 2002: a person shall be considered to be an asylum seeker if he or she, in accordance with procedures prescribed by Asylum Law, has submitted an application for granting of refugee or alternative status.</p> <ul style="list-style-type: none"> • The Refugee Affairs Department examines the application and takes a decision to grant or to refuse the refugee or alternative status. • The State Border Guard identifies the asylum seeker; • the Minister of Interior: procedures according to which an asylum seeker shall be identified and the cooperation of the institutions of the Ministry of the Interior involved in the asylum procedure. • Security Police provides information- to the Refugee Affairs Department about the asylum seeker in term of 10 days after receiving the application, namely, if the person concerned is participating in terrorist, totalitarian, anti-state or other organization that uses violent methods or if this person causes threat to security or public order of the Republic of Latvia. • The asylum seeker can be detained for a term not longer than 10 days if it is necessary for the interests of State security and public order. • Provisions of the Asylum Law on the granting of refugee status are not applied if there is a reason to believe that the asylum seeker has committed a crime against peace, a war crime or crime against humanity, also a crime of genocide within the meaning defined in international legal acts, which have been adopted to carry out measures against crimes of such type or if before arrival to the Republic of Latvia he or she has committed an especially serious non-political crime or is guilty of committing acts that are contrary to the principles and purposes set by the United

	<p>Nations.</p> <ul style="list-style-type: none"> • The status of asylum seeker shall not be applied to a person who endangers State security and public order due to the information provided by the competent institutions. <p>Regulations of the Cabinet of Ministers are being prepared which would regulate the collateral examination of persons to whom the status of asylum seeker is being applied before issuing residence permits or visas to the persons concerned.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Adopted of all thirteen international legal instruments on which the global fight against terrorism is based by ratifying those. By doing so the national legislation of the Republic of Latvia has been amended where necessary in order to comply with all the requirements set out in these international legal instruments. • It must be noted that as established by Chapter 8 "Fundamental Human Rights" of the Satversme (the Constitution of the Republic of Latvia) the State recognises and protects fundamental human rights in accordance with the Constitution, laws and international agreements binding upon the Republic of Latvia. • The Constitutional Court of the Republic of Latvia, as provided for by law reviews cases concerning the compliance of laws with the Constitution, and has the right to declare laws or other enactments or thereof invalid if they do not comply with the Constitution. • The process of judicial review ensures the possibility for an individual to defend ones rights both within the national courts' system as well as in international tribunals. • What refers to the implementation of paragraph 3 of the Security Council Resolution 1624 (2005), the Secretariat of the Minister for Social Integration Affairs ensures that all its activities comply with the obligations of the international law. Consulting experts of international law in the Republic of Latvia work on these issues. Secretariat of the Minister for Social Integration Affairs has created a successful cooperation with the Latvian National Human Rights Office in order to ensure the necessary debates on drawing effective ways to combat discrimination according to the red situation in Latvia.
<p>Lebanon</p>	<p>Prohibition by law & prevention of incitement: No answer received yet from the Ministry of Justice.</p> <p>To deny safe haven: Directorate-General of Public Security: takes a series of measures, such as preventive measures in cases where the information is unconfirmed (such as providing information on cross-border movements or placing under surveillance after entering the country) to operational measures in cases where the information is confirmed (such as barring entry, detention, and interrogation). All measures are taken in coordination with the competent judicial authority.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: The Ministry of the Interior and Municipalities has instructed the Directorate-General of Public Security to enforce the laws in force protecting human rights. This applies to all detainees regardless of the grounds for arrest, whether terrorism charges or otherwise.</p>

Lesotho	No report available
Liberia	No report available
Libyan Arab Jamahiriya	<p>Prohibition by law & prevention of incitement: Not answered</p> <p>To deny safe haven: A draft law on asylum is still under consideration and is being prepared by the competent technical authorities.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Article 14 of law No. 20 of 1991: on strengthening freedom: no person may be deprived of his freedom, or have his freedom restricted, nor may he be searched or questioned unless he has been accused of an act punishable by law or unless such action has been authorized by a competent judicial authority. • Article 17: the accused is innocent until judged guilty in court and prohibits subjecting the accused to any type of physical or psychological torture or treating him in a manner that is cruel or degrading or that violates his human dignity. • Second paragraph of Great Green Document on Human Rights published in 1988 states: "The citizens of the Jamahiriya venerate and protect human rights and forbid their curtailment. Punishment is only for those whose freedom is a danger or source of corruption to others. The purpose of punishment is societal reform and the protection of human values and the interests of society. The society of the Jamahiriya forbids punishments that violate human dignity or that do violence to the human individual such as hard labour or long prison sentences". • International conventions take precedence over national legislation: when taking measures to implement Security Council resolution 1624 (2005), fully take into consideration all of the country's obligations under international humanitarian law, human rights charters and refugee law because the provisions of those instruments are fully consistent with Libyan legislation in force.
Liechtenstein	<p>Prohibition by law & prevention of incitement: Measures relating to incitement of terrorist acts must be viewed in light of the special characteristics of the country, especially its manageable size.</p> <ul style="list-style-type: none"> • § 283 StGB prohibits all forms of discrimination and the propagation of hatred against persons on the basis of their race, ethnicity, or religion. • § 12 StGB criminalises incitement of all types of offenses, including offenses relevant to terrorism. Persons present in Liechtenstein suspected of incitement are prosecuted by the responsible authorities or can be extradited to foreign countries pursuant to existing legal assistance obligations. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • There is no realistic danger that Liechtenstein could be used as a safe haven by persons connected with incitement to terrorist acts. Permits to stay in Liechtenstein are granted on a very restrictive basis. The procedure applies a quota system (currently a maximum of 56 permits a year). A prerequisite is proof of future employment in Liechtenstein. For this reason, persons granted permits are generally

	<p>experts and specialists. The granting of visas is administered by the Swiss authorities.</p> <ul style="list-style-type: none"> • Liechtenstein's international border with Austria is controlled by the Swiss border police pursuant to bilateral customs and police cooperation agreements. Accordingly, the security standards correspond to those in Switzerland. Moreover, as there is no airport in Liechtenstein, no one can enter the country directly by plane. The Liechtenstein police have access to electronic databases to identify persons associated with terrorism. These databases are linked to the stolen travel document database of Interpol to check suspicious documents online immediately. • According to the Visa Waiver Program of the US Government, the risk is extremely low that Liechtenstein passports could be counterfeited or used as fraudulent travel documents by terrorists. Only one administrative office in Liechtenstein issues travel documents (to date, no blank passports have disappeared or been stolen). Moreover, since Liechtenstein travel documents always attract the particular attention of border guards, they are not useful to terrorists. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • At the international level, Liechtenstein's efforts to strengthen dialogue among different countries, cultures, and civilizations include its active engagement at the United Nations. Liechtenstein often acts as a mediator and is engaged in strengthening the United Nations as a forum of multilateral diplomacy. • At the national level, the activities of the Office of Equal Opportunity are of particular note. On 21 March 2006, for instance, the "No Exclusion" billboard campaign was launched, which contains pointed statements relating to the problems of unequal treatment and racially motivated exclusion. • In June 2002, the Government appointed an inter-office Working Group against Racism, Anti-Semitism, and Xenophobia, which supports the coordination of Liechtenstein's comprehensive integration policy. With respect to integration policy as such, an integration policy framework is currently under development. • Liechtenstein places great importance on compliance with all standards of human rights and international law in the fight against terrorism on the part of all States and all responsible organs of international organizations.
<p>Lithuania</p>	<p>Prohibition by law & prevention of incitement:</p> <p>Law on 26 November 2004: added a new article (250) to the Criminal Code of the Republic of Lithuania (Official Gazette, 2004, No 171-6318): encouragement or incitement to commit a terrorist act or other crimes related to terrorism through public statements made in speech, writing or in public information media is now criminalised. Also acts that scorn victims of terrorism.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Law on the Legal Status of Aliens: Any non-EU citizen that travels through Lithuania is checked by the State Security Department (SSD) on (prior) involvement with terrorism. If confirmed, SSD informs the Migration Department and a visa is not granted. • Same procedure in case of a requested refugee status • If any person already lives in Lithuania and suspected of incitement, her or she will be prosecuted according to Criminal Law <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • All activities are based on the rule of law. • Prepared legal acts must conform the Constitution and other effective

	<p>laws</p> <ul style="list-style-type: none"> • Constitution: article 138: international treaties ratified by the Seimas of the Republic of Lithuania, constitute an integral part of the legal system • Law on International Treaties of the Republic of Lithuania: Article 11, part 2: provisions of the international treaty prevails over the law • Ratified or joined all the most important international instruments in the area of human right protection, refugee rights safeguards and humanitarian law. Both general principles as provisions of obligations are being followed in preparing legal acts. •
Luxembourg	<p>Prohibition by law & prevention of incitement:</p> <p>Criminal law does not include specific criminal offences for actions and behaviours that could be considered “incitement to terrorism”. Although punishable under general criminal law under articles 66 to 69 of the Penal Code (perpetrators and accomplices to criminal offences).</p> <ul style="list-style-type: none"> • Under article 66 of the Penal Code: anyone who, by means of gifts, promises, threats, abuse of authority or power, conspiracy or criminal deception, has directly provoked the commission of a crime or an offence is considered a perpetrator or accomplice to a crime, as well as anyone who, either by statements made in public meetings or places, by posters displayed or by written material, whether printed or not, and sold or distributed, has directly provoked its commission. • Under article 67 of the Penal Code, anyone who has given instructions for the commission of a crime or an offence or who has procured weapons, tools or any other means which have been used in the crime or offence in full knowledge that they would be put to that use, as well as anyone who knowingly aided or abetted the perpetrator or perpetrators of the crime or offence in its preparation or facilitation or in its accomplishment, is considered to be an accomplice. • A draft law is currently being prepared by the Ministry of Justice, in view of the adoption of the Council of Europe Convention on the Prevention of Terrorism, signed in Warsaw on 16 May 2005. • Given that article 5 of this Convention requires States parties to introduce the offence of “public provocation to commit a terrorist offence” in their domestic law, the question of incitement to terrorism, as it currently exists in the positive law of Luxembourg, will be reconsidered as part of that effort. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Individuals having committed or suspected of committing terrorist offences who might attempt to abuse political refugee status in Luxembourg, requests for asylum in Luxembourg are considered in accordance with the Convention on the Status of Refugees signed in Geneva on 28 July 1951, as well as the Act of 5 May 2006 on the right of asylum and supplementary forms of protection. • However, as the very definition of “terrorist act” can differ significantly from one State to another as a function of its socio-political concepts, Luxembourg conducts a concrete and detailed examination of the particular circumstances of each case, taking into account on a case-by-case basis specific problems relating to the origin of the applicant and the requirements of combating terrorism. • Luxembourg approved, by the Act of 21 December 2004, the Protocol of 15 May 2003 amending the European Convention on the Suppression of Terrorism signed in Strasbourg on 27 January 1977, without making use of the facility offered in article 16 of the new version of the Convention, which allows a State party, by means of a reservation, to refuse extradition for an offence it considers to be a

	<p>political offence.</p> <ul style="list-style-type: none"> • In any hypothetical case not covered by the preceding paragraph, for instance requests for extradition addressed to Luxembourg by a State that is not a member of the Council of Europe, in application of article 7.4 of the Code of Criminal Investigation, anyone having committed a terrorist offence abroad may be prosecuted and sentenced in Luxembourg when a request for extradition is made and the individual in question is not extradited. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • A State party to the European Convention on Human Rights signed at Rome on 4 November 1950 as well as other applicable international instruments in that area. • In accordance with the Luxembourg Constitution and other applicable laws, the competent criminal jurisdictions ensure the enforcement of these laws. • The current laws in Luxembourg are deemed adequate to ensure respect for the provisions of international instruments on human rights, humanitarian law and political asylum.
Madagascar	No report available
Malawi	No report available
Malaysia	No report available
Maldives	No report available
Mali	No report available
Marshall Islands	No report available
Mauritania	No report available
Mauritius	<p>Prohibition by law & prevention of incitement: Prevention of Terrorism Act 2002,</p> <ul style="list-style-type: none"> • Section 3: prohibition of acts of terrorism. Any person who does, threatens to do or does an act preparatory to or in furtherance of an act of terrorism or omits to do anything that is reasonably necessary to prevent an act of terrorism shall commit an offence punishable under the said Act. • Section 6: any person, who in any manner or form, solicits support for or tender support to a prescribed organization, commits an offence. "Support" includes instigation to the cause of terrorism under the Act. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Immigration Act, section 8(1)(l): persons declared suspected international terrorists under the Prevention of Terrorism Act 2002 are deemed to be prohibited immigrants and shall not be admitted to Mauritius. • Deportation Act, section 4: A deportation order may be issued in respect of a prohibited immigrant if the Minister deems it fit. • Mauritius Citizenship Act, section 11: a citizen of Mauritius may be deprived of his citizenship by Order of the Minister where the latter is satisfied that the citizen has shown himself by act or speech to be disloyal or disaffected towards the State or

	<p>is, or has been declared, a suspected international terrorist under the Prevention of terrorism Act 2002.</p> <ul style="list-style-type: none"> • Prevention of Terrorism Act, section 6: any person who solicits support or tenders support in relation to an act of terrorism or solicits support for or tenders support to a proscribed organization shall commit an offence. Support” includes instigation to the cause of terrorism under the Act <p>To ensure that measures taken to implement res. 1624 comply with international law: Measures reviewed by: High-Level Committee consisting of: representatives of all relevant Ministries (including Prime Minister’s Office and the Attorney General’s Office and Ministry of Human Rights).</p>
Mexico	<p>Prohibition by law & prevention of incitement: Federal Penal Code:</p> <ul style="list-style-type: none"> • Article 139; regulation relating to terrorism, • Article 142; Any person who instigates, incites or calls for the commission of the offences dealt with in this Title shall be subject to the same penalty as is specified for the offence in question, with the exception of the offences as referred to in the second paragraph of article 130, the second paragraph of article 131 and paragraph I of article 135, which shall retain their own specific penalty. Any person who instigates, incites or calls on military personnel to commit the offences dealt with under this Title shall be liable to a penalty of 2 to 40 years’ imprisonment.” <p>11 September 2003: an initiative to criminalise international terrorism and the financing of terrorism submitted by the President of the Republic to the Senate of the Republic. Approved on 27 October 2005, transmitted to the Chamber of Deputies for adoption. The bill is currently being considered by two committees of that chamber and is expected to be adopted shortly.</p> <ul style="list-style-type: none"> • The bill modifies articles 139 Federal Penal Code: now, also terrorist acts carried out in Mexico with the intention of undermining the international security or authority of a foreign State are punishable. • Article 148 bis penalizes the raising of funds of any type that are intended to support terrorist activities or assist them in any way, regardless of the ultimate purpose assigned to such funds. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • National Institute for Migration has set up a Migration Alert System: includes the periodic updating of the list of foreigners involved in terrorist activities, as part of the Integrated System for Immigration Operations (SIOM), in order to deny their entry into the country. <p>The Population Act:</p> <ul style="list-style-type: none"> • Discretionary power to deny entry to dangerous persons, including terrorists, who are not permitted to enter the country. • Article 126: If there is credible information that a foreigner has been guilty of inciting or committing acts of terrorism, he or she may be refused protection, for undermining Mexico’s sovereignty or national security, in which case he or she would be permanently expelled. • Article 27, paragraph V: admission can be refused to foreigners if they have breached national law or have an unsavoury history abroad. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Constitution of the United Mexican States, article 133: the treaties are part of

	<p>Mexican legislation.</p> <ul style="list-style-type: none"> • Charter of the United Nations, Article 25: incorporation of obligations imposed by the Security Council are applied directly to national authorities in accordance. When their application affects individuals, the obligations are automatically incorporated into Mexican law when they are published in the <i>Official Gazette</i>. • Mexico has noted that the obligations under paragraphs 1, 2 and 3 of Security Council resolution 1624 (2005) do not conflict with any of the obligations established in the framework treaties on refugee law, international humanitarian law and human rights law. Therefore, Mexico, as party to the Geneva Convention of 1949 and the Protocol Additional to the Geneva Convention adopted in 1977, does not have a conflict of obligations with respect to the international law in force in Mexico or the provisions contained in resolution 1624 (2005). • Constitution: guarantees protection and respect for human rights
Micronesia	No report available
Monaco	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • International Convention for the Suppression of Terrorist Bombings (United Nations, New York, 15 December 1997), signed on 25 November 1998, entered into force on 6 October 2001. • International Convention for the Suppression of the Financing of Terrorism (United Nations, New York, 9 December 1999) signed on 29 October 2001; entered into force on 10 April 2002. • Apart from those two Conventions, there is currently no specific legislative measure aimed at prohibiting or preventing incitement to commit a terrorist act or acts. <p>To deny safe haven: Sovereign Ordinance No. 3,153 of 19 March 1964, articles 22 and 23: Under the measures for the protection of public order, any person who poses a risk to national security may be barred by ordering the return (<i>refoulement</i>) or expulsion of such persons, in accordance with of concerning the conditions under which foreign nationals may enter and remain in Monaco.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Constitution of Monaco:</p> <ul style="list-style-type: none"> • Article 2: The Principality of Monaco is a constitutional hereditary monarchy governed by the rule of law and committed to respect for basic rights and freedoms. • Article 20: Penalties may only be established or imposed in accordance with the law and that criminal laws must ensure respect for human personality and dignity. Also under article 20: No one may be subject to cruel, inhumane or degrading treatment; abolishes the death penalty; and establishes that criminal laws may not be applied retroactively.
Mongolia	No report available
Montenegro	No report available
Morocco	<p>Prohibition by law & prevention of incitement: Penal Code:</p> <ul style="list-style-type: none"> • Article 128: "The following shall be considered as accomplices to a serious or

	<p>minor offence without directly participating in the offence: 1. Persons who, by gifts, promises, threats, abuse of authority or power, machinations or trickery, directly incited such an act or gave instructions that it should be committed.”</p> <ul style="list-style-type: none"> • Article 130: an accomplice to a serious or minor offence is liable to the punishment for that serious or minor offence. • After amendment of the Penal Code by Act 03-03 of 28 May 2003, article 218-2: “Advocacy of acts constituting terrorist offences by speeches, shouts or threats uttered in public places or meetings, or by writings and printed matter sold, distributed or offered for sale or exhibited in public places or meetings, or by public messages using various audiovisual and electronic media shall be punishable by two to six years’ imprisonment and a fine of 10,000 to 200,000 dirhams.” <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Never granted safe haven to such persons. • Moroccan Code of Criminal Procedure: individuals proved to have been involved with a criminal act under Moroccan law punishable by a prison term of more than one year, are liable to extradition if they are aliens or, if they are non-extraditable nationals, to criminal prosecution in Morocco, even if the acts were committed abroad. • Royal Decree (Dahir), article 3: members of the judiciary to explain the reasoning underlying their decisions. • Act 02-03: article 4: “Access to Moroccan territory may also be refused in the case of any alien whose presence would constitute a threat to public order or who has been either banned from the territory or deported.” (a terrorist act is considered by the Penal Code to be a serious breach of public order) • Persons suspected of financing terrorism may also be under suspicion for acts of advocacy or incitement of terrorism. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Constitution of 1996: holds human rights. • International commitments prevail over domestic law. • The Constitutional Council rules on whether the law adopted is in keeping with the Constitution. • The measures taken to combat terrorism as well as discrimination have followed this procedure, which is intended to protect human rights against any abuse. And Morocco civil society is represented by human rights organizations; and very active in defending the progress made in this area.
Mozambique	No report available
Myanmar	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Emergency Provisions Act of 1950; section 5 (j) • Penal Code of 1861, Section 109 • Unlawful Associations Act 1908, section 17(1) • Counter-Terrorism Law is being drafted. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Emergency Provisions Act of 1950; section 5 (j) • Penal Code of 1861, Section 109 • Unlawful Associations Act 1908, section 17(1) • Counter-Terrorism Law is being drafted.

	<p>To ensure that measures taken to implement res. 1624 comply with international law: Myanmar takes into account its obligations under international law, in particular international human rights law, refugee law and humanitarian law, when it draws up domestic laws.</p>
Namibia	<p>Prohibition by law & prevention of incitement: Anti-Terrorism activities Bill, Section 16: Any person who knowingly:</p> <ul style="list-style-type: none"> • Incites or promotes the commission of a terrorist act; • Incites or promotes the membership in a terrorist organization; or • Solicits property for the benefit of a terrorist organization or the commission of the terrorist act <p>Commits an offence and is on conviction liable to imprisonment for a period not exceeding 20 years.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Immigration Control Act, 1993 (Act No: 7 of 1993), Sections 1 to 13: provides for the entry of people into Namibia and the requirements thereof. • Section 39: deals with prohibited immigrants. • Other measures can be taken under the extradition Act if and when a request to that effect was received <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • As a secular state, Namibia is not affected by religious extremism elements, as 90% of the population are Christians. • The Combating of Terrorist Activity Bill criminalises, amongst other acts, incitement to execute or conspiracy to commit terrorist activities by any individual or group in Namibia.
Nauru	No report available
Nepal	No report available
Netherlands	<p>Prohibition by law & prevention of incitement: Criminal Code:</p> <ul style="list-style-type: none"> • Article 131: incitement of any criminal offence or act of violence against the public authorities (also covers incitement to terrorist acts). The offence does not need to take place, for incitement to occur. When guilty: imprisonment up to five years and/or a fine • Article 132: possession of inflammatory literature • Article 137d: incitement to hatred, discrimination or violence • Article 285: issuing of threats • Article 140a: participation in an organisation with terrorist aims (after the Crimes of Terrorism Act entered into force on 10 August 2004; implements the EU Council framework Decision of 13 June 2002 on combating Terrorism <p>Civil Code:</p> <ul style="list-style-type: none"> • Article 2:20: legal persons whose activities are contrary to public policy and/or national security can be banned or dissolved. • Legislation is prepared to expand the scope under civil law for automatically banning organisations that have been placed on the EU list of terrorist organisations

	<p>To deny safe haven:</p> <ul style="list-style-type: none"> • A party of the EU Schengen treaty. • Persons stay in the country for less than three months need a valid visa (is not permitted if they pose a danger to public policy or national security) • Aliens Act: aliens who pose a danger to public policy or national security are ineligible for a permit. This is determined by an official report of the AIVD. • Geneva Convention, status of refugees under 1F. • The law of the Netherlands allows for the option of terminating the residence of legal aliens, after a ministerial decision to ban him or her from the Dutch territory for a number of years. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Counterterrorism policies are based on respect for international law • Legislative measures are subject to judicial reviews and comply with the constitution and obligations under international law. • All enforcement measures are prescribed by law, pursue a legitimate aim, and aim for proportionality • Enforcement measures under review by domestic and international courts (ECHR) • Adopted: Optional Protocol to the International Covenant on Civil and Political Rights
New Zealand	<p>Prohibition by law & prevention of incitement:</p> <p>Crimes Act 1961: criminalises incitement to commit an offence, whether or not that crime has actually taken place. Incitement to commit terrorist acts would be caught regardless of whether the terrorist act was to occur inside or outside of New Zealand.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • NZ Immigration Visa and Permit application system: holds warnings concerning credible and reliable information that a person has been guilty of incitement to commit a terrorist act or acts. This system manages the applications from foreign nationals and provides a means to deny entry off-shore. • “Advance Passenger Processing” system: New Zealand Immigration Service can deny persons of interest the right to board an aircraft bound for New Zealand. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • All legislation introduced post 1990 has been vetted by the Attorney General for compliance with the New Zealand Bill of Rights Act 1990; which affirms New Zealand’s commitment to the ICCPR. • Where individuals are charged with any of the relevant offences, the law provides for due process and the observation of natural justice as required by the NZBORA. • All major policy decisions that go to Cabinet must also comply with human rights requirements. • When developing the recent policy proposals for giving effect to obligations under Resolution 1624, consideration was given to their consistency with the NZBORA and the Human Rights Act 1993 and comment included to Cabinet on these matters. • All activities, practises and policies designed to strengthen the security of New Zealand’s international borders are implemented in a way that: maintains due process around all refugee and removal or expulsion decisions, ensures decisions are

	<p>made on an individual basis and not by class, incorporates initiatives that ensure respect for privacy, and prevents detention of persons without judicial review of detention.</p> <ul style="list-style-type: none"> • The New Zealand Human Rights Commission, paragraph 3, encouraging the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society. The Human Rights Commission is a functionally independent Crown Entity. • The Race Relations Commissioner, working within the Human Rights Commission, has an active role in maintaining and developing harmonious relations
Nicaragua	No report available
Niger	No report available
Nigeria	<p>Prohibition by law & prevention of incitement: Prevention of Terrorism Bill before the National Assembly: contains provisions to prevent incitement to commit terrorist acts. Pending the enactment of the Bill, there are constituent elements of the Criminal and Penal Codes and the Criminal Procedure Act (CPA) that deal with incitement to commit offences related to terrorism.</p> <p>To deny safe haven: Nigeria does not provide safe haven to terrorists or any one found guilty of incitement to commit terrorist act or acts. Such individuals are prevented from entering Nigeria in the first instance through the exchange and sharing of Information with other countries. Incitement to commit offences related to terrorism is against the law in Nigeria.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: All measures taken to implement the provisions of paragraphs 1, 2, and 3 of resolution 1624 (2005) are in compliance with the rule of law. Measures adopted and actions taken are periodically reviewed by the appropriate oversight bodies (National Assembly, the Judiciary and the National Human Rights Commission).</p>
Norway	<p>Prohibition by law & prevention of incitement: General Civil Penal Code (Act of 22 May 1902 No. 10)</p> <ul style="list-style-type: none"> • Section 147a: If a person commits a terrorist act, he/she is liable to imprisonment for a term not exceeding 21 years. Aiding and abetting such an offence is also prohibited and punishable. • According to well established Norwegian law, incitement is prohibited. • Norway is considering a new provision that explicitly prohibits incitement to commit a terrorist act. The Ministry of Justice is currently working on a proposal for this provision, which will be circulated within the relevant ministries and directorates for comments shortly. • Section 140: a person who publicly urges or incites the commission of a criminal act, or aids and abets hereto, shall be liable to fines or to detention or to imprisonment for a term not exceeding eight years. • If a terrorist act is not completed, but an incitement to commit this act is made, this may constitute a punishable attempt to accomplishment, or give rise to liability pursuant to section 140 of the Penal Code. <p>To deny safe haven:</p>

- Immigration Act, chapter 5: Any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they are guilty of incitement to commit a terrorist act or acts will be denied safe haven.
- Act No. 39 of 13 June 1975 relating to Extradition of Offenders (the Extradition Act).
- European Convention on Extradition of 13 December 1957, its Additional Protocol of 15 October 1975, the Second Additional Protocol of 17 March 1978
- Schengen Convention of 19 June 1990.
- Norway has also entered into bilateral extradition agreements with the USA as of 9 June 1977 and Australia as of 9 September 1985.

Extradition Act, the request for extradition must fulfil several legal requirements:

- The person in question must be accused, indicted or convicted of a punishable offence in the requesting state (Extradition Act Section 1). The offence must also be punishable by Norwegian law (dual criminality) with a minimum penalty threshold of imprisonment for more than one year (Section 3). If the person against whom extradition is requested is convicted for the offence, extradition may take place only if the judgement involves deprivation of liberty or committal to an institution, for a period of at least 4 months.
- Norwegian nationals may not be extradited (Section 2).
- Extradition may not take place for political offences (Section 5).
- Extradition for military offences may only take place if the offence also would be punishable with imprisonment for more than one year in accordance with non-military penal legislation (Section 4).
- Extradition is prohibited if it may be assumed that there is a grave danger that the person concerned, for reasons of race, religion, nationality, political convictions or other political circumstances, will be exposed to persecution directed against his life or liberty, or that the said persecution is otherwise of a serious nature (Section 6). This provision must be interpreted in light of international conventions Norway has ratified.
- According to Section 7, extradition may not take place if it would be contrary to fundamental humanitarian considerations, especially on account of the person's age, condition of health or other circumstances of personal nature.
- Extradition may also be refused on the basis of the principle of non bis in idem, see Section 8.
- Extradition may not take place if prosecution or enforcement of the penalty under Norwegian law is barred by lapse of time (Section 9).
- According to the Extradition Act Section 10, extradition will be refused if it is not found that there is just and sufficient cause for suspecting the person concerned being guilty.
- Section 12 paragraph 1: a list of compulsory conditions in respect of extradition.
- The Norwegian Constitution Section 110 c, it is the responsibility of the authorities of the State to respect and ensure human rights.
- The Human Rights Act of 21 May 1999 incorporates inter alia the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, Protocol no. 6 of 28 April 1983 on the Abolition of the Death Penalty, the UN International Covenant on Civil and Political rights of 16 December 1966 and the UN International Covenant on Economic, Social and Cultural of 16 December 1966 rights in Norwegian law. These conventions will have the force of Norwegian law.
- Norway has also ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 and the UN

	<p>Convention relating to the Status of Refugees of 28 July 1951. The Norwegian authorities will not extradite a person if it would involve a breach of fundamental human rights or public order.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Human rights founded on international law are given a strong position under Norwegian law. • Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms • International Covenant of 16 December 1966 on Economic, Social and Cultural Rights • International Covenant of 16 December 1966 on Civil and Political Rights into domestic law, compare the Human Rights Act, section 2. • The provisions of the conventions and protocols are given precedence over any other legislative provisions that conflict them, compare the Human Rights Act, section 3. • All Norwegian legislation shall be interpreted in conformity with our obligations under international law.
Oman	No report available
Pakistan	<p>Prohibition by law & prevention of incitement: Anti Terrorism Act (ATA), amended in 2004:</p> <ul style="list-style-type: none"> ○ Provides powers to Law Enforcement Agencies to deal with terrorists and terrorist acts. ○ Effectively covers and prevents incitement to commit a terrorist act or acts. <ul style="list-style-type: none"> • Security of Pakistan Act allows Law Enforcement Agencies to detain terrorist actors for three months for interrogation. • Activists of banned organizations can be placed on Schedule IV of the Anti Terrorism Act and kept under strict watch and stringent monitoring mechanism. Under ATA, such Activists can be placed under detention for one year if he violates restrictions placed on him. <p>To deny safe haven: The following steps have proved helpful in denying safe haven to persons found guilty of incitement:</p> <ol style="list-style-type: none"> a. Immigration control measures; b. Registration of foreign nationals and deportation of illegal residents; c. Timely and proactive sharing of information with friendly countries; d. Signing of extradition treaties with affected countries; e. Exemplary/speedy trial of facilitators/harbourers; f. Neutralizing miscreants where required and necessary; g. Effective banking/financing regimes; and h. Regulating private/financial firms/business. <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Palau	No report available

Panama	<p>Prohibition by law & prevention of incitement: Incitement to commit any offence is clearly covered by and established in the Penal Code (no special terrorism act).</p> <p>To deny safe haven: Only general provisions are applicable to this offence.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: The international human rights, refugee and humanitarian treaties and conventions ratified by the Republic of Panama are deemed to be part of domestic law. Violation of these international instruments therefore constitutes a violation of domestic law.</p>
Papua New Guinea	No report available
Paraguay	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • The legislature is currently considering an amendment to the Penal Code that would define and establish penalties for criminal behaviours that might be considered related to terrorism, including money-laundering, kidnapping and other activities. The National Congress has set up a committee to review the Penal Code that is currently in force. • Act 1337/1999: created the National Defence Council to set security and defence policies. The Council is empowered to meet and to decide what action should be taken when acts have been committed that entail a risk to domestic security and the national defence effort. • Executive Branch of the National Security Plan: will be implemented by the Ministry of the Interior through the National Police. To improve security for all citizens and inhabitants of the Republic through the expansion and training of the police forces and the use of appropriate elements, equipment and technology. • Act No. 2887, May 2, 2006: ratifying the framework agreement on cooperation in regional security matters between the States Parties of MERCOSUR, Bolivia and Chile • Act No. 2888, ratifying the framework agreement on cooperation in regional security matters between the States Parties of MERCOSUR. Both agreements were signed in Belo Horizonte, Brazil, on 16 December 2004. • Secretariat on Prevention and Investigation of Terrorism (SEPRINTE); the investigative units of the Public Prosecutor's Office <p>To deny safe haven:</p> <ul style="list-style-type: none"> • The Paraguayan immigration authorities constantly monitor and check all travel documents against international lists of persons who are wanted, around the world, for committing terrorist acts. The database is provided by Interpol and other international agencies. • The General Directorate of Immigration of the Ministry of the Interior is in charge of monitoring the movements of persons entering and leaving the national territory, and the Public Prosecutor's Office is responsible for prosecuting those who commit punishable acts. • Periodic checks of travel documents are conducted in different areas of the country with a view to determining if persons suspected of committing criminal acts have entered in irregular fashion. The police and tax authorities are present throughout such operations to ensure that proper procedures are followed.

	<p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Paraguay holds the view that compliance with international conventions concerning terrorism must go hand in hand with full respect for fundamental human rights and due judicial process. • Those groups or individuals whose actions or behaviour are not in line with or do not meet the requirements set forth in international agreements are common criminals. They should be treated as such, and they should be liable to the sanctions and penalties established in the national legislation currently in force.
Peru	No report available
Philippines	No report available
Poland	<p>Prohibition by law & prevention of incitement:</p> <p>Incitement to commit a terrorist act is criminalised under Polish law twofold. First as a abetting to commit a crime and secondly as a separate, <i>sui generis</i> offence.</p> <ul style="list-style-type: none"> • Article 18. § 2). Whoever, willing that another person should commit a prohibited act, induces the person to do so, shall be liable for instigating. • Article 19. § 1). The court shall impose the penalty for instigating, and aiding and abetting within the limits of the sanction provided in law for perpetrating. • Article 255. § 1). Whoever publicly incites to the commission of an offence shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years. § 2). Whoever publicly incites to the commission of a crime shall be subject to the penalty of deprivation of liberty for up to 3 years. § 3). Whoever publicly praises the commission of an offence shall be subject to a maximum of 180 times the daily fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to one year. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Act of 13 June 2003 on Aliens (Journal of Laws of 2003, No. 128, item 1175) • Act of 13 June 2003 on granting protection to aliens on the territory of the Republic of Poland (Journal of Laws of 2003, No. 128, item 1176). • No decision on granting an alien any form of residence permit or protection may be rendered without prior opinion on national or public security issues given by the Chief of Internal Security Agency. In all such proceedings authorities are also either obliged or free to seek information on security issues from other agencies, i.e. Police or Border Guards. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Article 9 of the Constitution of The Republic of Poland of 2nd April 1997 (Official Journal No: 78, position 483 and from 2001 No: 28, position 319) stipulates that the Republic of Poland observes the binding international law. • Article 87 paragraph 1: the ratified international agreements are the sources of generally binding law in the Republic of Poland. • Article 91, paragraph 1: they become part of the internal legal system and are directly applicable after having been published in the Official Journal of the Republic of Poland, unless their application requires passing a statute. • Article 91 paragraph 2: the agreement ratified with the prior consent given in the statute (that is the agreement concerning: peace, alliances, political and military treaties, freedom, rights and obligations of the citizens defined in the Constitution, membership of the Republic of Poland in international organization, serious financial

	<p>burden of the country or issues regulated in the statute or issues that require passing a statute) has priority over the statute if the statute does not comply with the agreement.</p> <ul style="list-style-type: none"> • Article 91 paragraph 3: the law stated by the international organization is directly applicable in the Republic of Poland and has priority in case of an overlap with the national law, if it arises from the agreement ratified by the Republic of Poland and constituting an international organization. • Article 2 of the Constitution of the Republic of Poland states that Poland is a democratic country accepting the rule of law and according to Article 7 the public authorities act solely on the basis of and within the limits of the law. <p>The constitutional provisions mentioned above guarantee that public authorities observe international obligations and provide the authorities with the powers that were clearly assigned to them and to which they have been duly authorized by the law.</p>
Portugal	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Penal Code articles 300 and 301: revoked by Law 52/2003, dated 22 August; law on fight against terrorism. Based on the Council Framework Decision n^o 2002/475/JAI, dated 13 July. Art. 2 par. 2 foresees the punishment of the “promotion” of terrorist acts and activities. “Whoever promotes or funds a group, an organisation or a terrorist association, adheres to them or supports them, namely through information or the provision of material means, or through any form of financing, shall be punished with imprisonment from 8 to 15 years”. • Measures of prevention and repression have been applied in the area of terrorism and terrorism financing as part of the policy of control. • A specific offence of terrorism incitement is not included in the Criminal Code. • The material and subjective elements of this illegal behaviour are set forth in the general rules of incitement: <ul style="list-style-type: none"> ○ Article 26: commission of an offence ○ Article 236: incitement to war through hatred ○ Article 330 incitement to collective disobedience. • Signing of the Council of Europe Convention on the Prevention of Terrorism, of 16 May 2005 (not ratified): a provision designated as public provocation to commit a terrorist offence. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Constitution of the Portuguese Republic, <ul style="list-style-type: none"> ○ Article 33, par 2.: “The expulsion of any person who has entered or stays in Portuguese territory on a regular basis of a person who has obtained a residence permit, or who presents an asylum request that has not been refused, may only be determined by a judiciary authority. The Law will ensure expeditious decisions” <ul style="list-style-type: none"> • Law 15/98, dated 26 March: a new legal regime in the field of asylum and refugees. ○ Article 3: asylum is denied to those who have committed acts against the fundamental interests or sovereignty of Portugal; individuals that commit war crimes or crimes against humanity; those who have committed intentional acts which are punished by law with an imprisonment penalty exceeding 3 years, or those who have committed acts contrary to the objectives and principles of the United Nations. ○ Article 7 lists a number of the activities the asylum seeker is prohibited from undertaking. • Decree-Law n^o 4/2001, dated 10th January, altered by Decree-Law n^o 34/2003,

	<p>dated 25th February, regulates the conditions of entry, permanence, departure and expulsion of foreigners from the national territory.</p> <ul style="list-style-type: none"> o The entry into Portuguese territory must be refused to foreigners who do not cumulatively fulfil the requisites of entry foreseen in the Law or who constitute a danger or a serious menace to the public order, national safety, or to the international relations of Member States of the European Union or of States where the Convention of Application is in force. • Schengen information system • UNSC/RES 1267 (1999) and UNSC/RES 1373 (2001), and within the European Union Regulations 1 “The asylum seeker cannot: <p>a) (...)</p> <p>b) Develop activities which maybe detrimental to the internal or external safety, the public order or which may endanger the relationship between Portugal and other States;</p> <p>c) Commit acts which are contrary to the objectives and principles of the United Nations or of international treaties or conventions Portugal is a party to or to which it adheres”.</p> <ul style="list-style-type: none"> • Law 144/99 of 31 August: obligation to deny safe haven to any persons that are linked in any form to terrorism; if an individual convicted by the offence of incitement to commit a terrorist act or acts is found in Portugal, he/she can be arrested and extradited to the country of the conviction. The same applies if the individual is found in Portugal and a request of mutual legal assistance is received in order to prosecute him/her in another country. • If an individual falls under the suspicion of the commission of the mentioned offence, he/she can be investigated, detained and prosecuted in a Portuguese criminal court, according to the Criminal Code and to the Code of Criminal Procedure. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • A member of the United Nations and other international and regional organizations where a number of Treaties related with human rights, refugee law and humanitarian law have been ratified (e.g. ECHR). <p>Constitution: democratic state of law:</p> <ul style="list-style-type: none"> • Articles 1 and 2: Portugal is a sovereign Republic that is based upon the dignity of the human person and is based upon the rule of law, and respect and effective guarantees for fundamental rights and freedoms. • Article 7 states that in the framework of international relations, Portugal shall be governed by the principles of the respect for human rights, the rights of peoples, equality between states, the peaceful settlement of international disputes, non-interference in the internal affairs of other states and co-operation with all other peoples for the emancipation and progress of mankind. • All that fundamental principles are reflected in secondary legislation, where all the provisions are in accordance with the protection of individual, refugee humanitarian and other individual rights.
<p>Qatar</p>	<p>Prohibition by law & prevention of incitement:</p> <p>Qatari Penal Code No. 11 of 2004:</p> <p>Article 39: “A person shall be regarded as an accomplice in the crime if he:</p> <ol style="list-style-type: none"> 1. Incites another person to commit the act constituting the crime if that act was carried out on the basis of such incitement; 2. Agrees with another person to commit the crime and the crime takes place on the basis of such agreement;

3. Knowingly gives to the author weapons, implements or any other items for use in the commission of the crime or assists him in any other way in activities to prepare for, facilitate or complete commission of the crime.”

Article 40: “Anyone who is an accomplice in a crime shall be liable to the penalty for that crime, unless otherwise prescribed by law.”

(ii) Measures adopted by the State of Qatar to prohibit by law incitement to terrorism include the enactment of the Counter-Terrorism Act No. 3 of 2004, article 9 of which provides that: “Anyone who incites another person to commit a terrorist act shall be punished with a term of imprisonment of not less than three years and not more than five years.”

The above Act also comprises provisions with regard to the following:

- ☑ The criminalisation of terrorism;
- ☑ Acts that may be considered as terrorist crimes;
- ☑ Prescribed penalties for the terrorist crimes for which provision is made.

Penalties are prescribed for the following:

- ☑ Establishment or membership of terrorist groups or organizations;
- ☑ The financing of terrorism;
- ☑ The coercion of individuals to join terrorist groups;
- ☑ Using to advantage the management of any establishment in advocating terrorism;
- ☑ In the case of a Qatari citizen, membership of a terrorist organization or group headquartered outside the country;
- ☑ Persons who provide terrorist training and persons who receive such training;
- ☑ Persons who incite the commission of a terrorist crime;
- ☑ Persons who conceal or destroy items or assets relating to terrorist crimes;
- ☑ Persons who assault any officer responsible for enforcing the provisions of this Act;
- ☑ Persons who assist the escape of perpetrators of a terrorist crime.

Further steps to which recourse may be had in addition to the prescribed penalties include:

- ☑ A ban on residence in a specific location;
- ☑ Compulsory residence in a specific location;
- ☑ A ban on frequenting specific places or premises;
- ☑ An amnesty for informants;
- ☑ Application of provisions concerning confiscation;
- ☑ Application of provisions concerning the lapse of criminal proceedings;
- ☑ Application of provisions concerning the activities of the Office of the Public Prosecutor in regard to:
 - Investigations;
 - Prosecution of cases;
 - Preventive detention;
 - Seizure of correspondence and printed matter;
 - The right to examine information;
 - Prevention of the disposition of assets;
 - Administration and seizure of assets;
- ☑ Ensuring compliance with international conventions and treaties.

II. Other measures include:

1. The establishment of a national committee on money-laundering and financing of terrorism;
2. The establishment of a coordinating committee for the implementation of Security

	<p>Council resolution 1373 (2001) and other Security Council resolutions on counter-terrorism;</p> <p>3. The issuance of administrative directives by the Central Bank of Qatar on the subject of money-laundering and the financing of terrorism;</p> <p>4. The establishment of the Qatari Financial Intelligence Unit, which is engaged in efforts to combat money-laundering and the financing of terrorism;</p> <p>5. The efforts of financial institutions operating in the State of Qatar to combat money-laundering and the financing of terrorism.</p> <p>To deny safe haven: An entry visa is required for the State of Qatar. Under the administrative procedures, the competent authorities are permitted to refuse an entry visa to persons with respect to whom such information is available in that such persons constitute a danger to national security.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • The State of Qatar has adopted a number of legislative and regulatory procedures and measures aimed at guaranteeing that commitment under the norms of international law, in conformity with the rules and principles of international human rights law, refugee law and humanitarian law. • Constitution: guarantees freedom of opinion and publication and prohibits the extradition of political refugees. It also provides <i>nullum crimen, nulla poene sine lege</i>, and that the accused is innocent until proven guilty before a court of law in a trial in which he is assured of the necessary guarantees to exercise the right of defence. • Counter-Terrorism Act No. 3 of 2004: terrorist crime and incitement to commit such crime, • Code of Criminal Procedure No. 23 of 2004 defines the conditions and procedures for extradition, which are consistent with the relevant international rules and principles. It also regulates investigation procedures under the authority of the Office of the Public Prosecutor, which is an independent judicial investigating authority.
<p>Republic of Moldova</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Decision Nr.464 - Fighting against terrorism, of 12 October 2001 • Law Nr.539-XV - Fighting against terrorism: legislative and organizational framework on combating terrorism, coordination of the activities of special institutions that deal with counter terrorism, actions taken by local and central administrative authorities, public associations and organizations, persons with a certain degree of liability, as well as the rights, obligations and guarantees for the persons that deal with fighting against terrorism. Article 24 of the Law - Fighting against terrorism stipulates that an organization can be held liable for unfolding terrorist activities. This way, (1) the organization is considered to be terrorist and is to be liquidated only by a court decision. If the organization is found to be terrorist, its goods are seized in favour of the state. (2) In the case when the court recognizes an international organization registered abroad as being terrorist, its activity on the territory of the Republic of Moldova is prohibited, its office, branch or representation is liquidated, and the goods are seized in favour of the country. <p>The Penal Code of the Republic of Moldova (approved at 18 April 2002) contains provisions regarding criminal liability for terrorism.</p> <ul style="list-style-type: none"> ○ Art.278 qualifies terrorism: explosions, fires or other actions that jeopardize human life, cause material damages in big proportions or lead to other critical

	<p>consequences, if these actions are taken with the intention to undermine public safety, intimidate the population or to dictate some decisions to be taken by public authorities or some persons, as well as the threat to commit such actions with the same intentions.</p> <ul style="list-style-type: none"> ○ Art.279 recriminates the financing and material assistance for terrorist acts. ● Law Nr.633 from 15 November 2001: prevention and combating of money-laundering and terrorism funding. ● Criminal Code: article 42, p. (4): incitement as a form of participating in criminal activity (inclusive terrorism) (incitement to commit a terrorist act or acts is not regulated as such). <p>To deny safe haven:</p> <ul style="list-style-type: none"> ● Law nr. 269-XIII from 9 November 1994 regarding the exit from and entry into the Republic of Moldova: article 9 of the Law regarding the exit from and entry into the Republic of Moldova, a foreign citizen or a stateless person can be denied the issuance of an invitation of entry or residence permit if he or she presents danger for the national security, public order, health or morality, has committed crimes against peace, other serious delinquencies, including military and/or crimes against humanity, if these crimes are defined in the international documents. ● Law nr. 1518-XV from 6 December 2002 concerning migration ● Articles 541-550 from the Criminal Procedural Code of the Republic of Moldova, adopted on 14 March 2003. ● The extradition procedures of the foreign citizens or stateless person are regulated by the Law regarding juridical status of foreign citizens and stateless persons in the Republic of Moldova, art. 23-29. ● The extradition procedure is organized in accordance Penal Procedure Code and 1957 European Convention for extradition. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> ● A state member of the international community ● Priorities are given to international law. ● The Republic of Moldova follows the Directives of the Committee of Ministries of the Council of Europe on the respecting for human, refugee and humanitarian rights in the fight against terrorism. They are translated into the state language and distributed to all the national authorities in charge. ● In accordance with the art. 3 of the Law on combating terrorism, all measures are based on the principles of legality, priority accorded to the measures of terrorism prevention, juridical, political, social-economic prophylaxis measures, defend those persons which are under the danger of a terrorist attack and others measures. ● National law establish the rights and obligations of the person suspected, in charge, or which are under penal pursuit and guarantee the respect of this rights. National law compels to guarantee and to protect the human being in any circumstances and to interpret the law in the favour of suspected, in charge or culprit person.
Rep. of the Congo	No report available
Republic of Korea	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> ● No legislations specifically governing the prohibition of terrorist acts currently exist in the Republic of Korea. ● Terrorist acts are punishable by the General Criminal Code and special

	<p>laws governing criminal behaviour.</p> <ul style="list-style-type: none"> • Korean Criminal Code: any person inciting criminal behaviour including terrorist acts will be punished in a manner equal to the punishment of the actual perpetrator. • The Korean Government is currently reviewing draft legislation aimed at deterring the procurement and money-laundering of terrorist funds and the freezing of terrorist finances. <p>To deny safe haven: Although there is as yet no specific legislation in that regard, the Republic of Korea denies safe haven to any persons suspected of terrorist behaviour by punishing those aiding terrorists at a level equal to the punishment of the actual terrorists.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: No information to elaborate on this topic</p>
Romania	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Laws No. 65612002 and No. 53512004 (chapter 3 - section 1 and 2), and the Criminal Code: Hold measures of prevention and sanctioning terrorism financing. • Law No. 50812004, a specialised division on combating terrorism and organized crime was set up with the Public Ministry, under the jurisdiction of the Prosecutor's office of the Supreme Court of Romania. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Government Decision No. 19412002: the regime of aliens in Romania: Art 8 contains provisions concerning the denial of safe haven to any persons with respect to whom there are serious reasons for considering that they have been guilty of incitement to terrorist activities. • Government Decision No. 10212000, on the status and regime of refugees in Romania: specific provisions on the same issue (Art.4). In addition, Art. 44 of Law No. 53512004 reads as following: "Art 44. - (1) Against foreign citizens or stateless persons about whom there are solid data or clues that they intend to commit terrorist acts or to favour terrorism, a measure shall be applied of declaring them to be personae non gratae for Romania or of interrupting their right of abode in our country, if the measure of prohibition to leave our country was not ordained against them, according to the Law on the legal treatment of foreigners in Romania. (2) Para. (l) shall apply accordingly also to applicants for asylum, to refugees and to victims of armed conflicts whose statute and legal treatment are regulated by special laws." <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Russian Federation	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Federal Act No. 35-FZ, 6 March 2006: "On Counter-Terrorism": includes among terrorist acts prohibited in the Russian Federation incitement to commit a terrorist act, advocacy of the idea of terrorism, dissemination of material or information calling for terrorist activities or supporting or justifying such activities and provision of information or other complicity in the planning, preparation or commission of a terrorist act. • Incitement to commit a crime of a terrorist nature or inducement to participate in the activities of a terrorist organization is punishable by deprivation of freedom for a period of four to eight years. • Under consideration is the issue of strengthening criminal liability at the legislative level for justification, including in the media and on the Internet, of

terrorist activities or crimes of a terrorist nature. In this regard, such activity may be something other than a direct call to commit a specific terrorist act.

- Member of the Council of Europe Convention on the Prevention of Terrorism, which was drafted and prepared with its active participation, and deposited its instrument of ratification with the Council in May 2006.
- Corresponding Federal Act of 20 April 2005 “On ratification of the Council of Europe Convention on the Prevention of Terrorism” and of the Federal Act “On Counter-Terrorism”, a bill is being drafted amending individual legislative acts of the Russian Federation, including additions to the Criminal Code and provisions specifying criminal liability for public calls to commit terrorist acts and public justification of terrorism.
- Electronic Russia (2002-2010), work is being done to establish an infrastructure to filter Internet content for the purpose of preventing and monitoring incitement to commit terrorist acts.

To deny safe haven:

- Federal Act No. 122-FZ “On refugees” of 22 August 2004. This Act, does not cover persons:
 - With respect to whom there are serious reasons for considering that they have committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
 - Who have committed a serious non-political crime outside the territory of the Russian Federation prior to their admission to the territory of the Russian Federation as refugees;
 - Who have been guilty of acts contrary to the purposes and principles of the United Nations.
- Russian Presidential Decree No. 746 of 1997 “On approval of the procedures for granting political asylum by the Russian Federation”, political asylum is not granted if the person is being prosecuted for acts of commission (or omission) recognized as crimes in the Russian Federation or is guilty of acts contrary to the purposes and principles of the United Nations and if criminal proceedings have been instituted against the person or a final judgement against the person requiring enforcement has been handed down by a court in the territory of the Russian Federation. This Act not only provides for specific procedures but also establishes strict time limits for consideration of applications for refugee status, so that even clearly frivolous applications cannot be ignored.
- A new version of the Federal Act “On refugees” is now being drafted which is intended in particular to halt illegal migration into the territory of the Russian Federation through misuse by aliens of the right to asylum and to help to reduce the number of persons improperly granted refugee status. The draft takes into account the Convention relating to the Status of Refugees of 1951 and its 1967 Protocol, concluded by the Executive Committee of the Office of the United Nations High Commissioner for Refugees (UNHCR), the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and studies of existing legislation in several foreign countries with considerable experience in implementing the Convention and dealing with asylum issues.
- The list of additional grounds for denial of asylum contained in the bill is consonant with the proviso in article 33, paragraph 2, of the 1951 Convention relating to the Status of Refugees.
- The Russian Federation is cooperating with the countries of origin of persons seeking asylum in the Russian Federation, inter alia for the purpose of verifying the

	<p>reliability of information provided concerning the applicant’s grounds for seeking asylum, including exchange of fingerprint records. This facilitates not only the suppression of unchecked multiple applications for asylum by persons who have no grounds for receiving refugee status but also the identification of persons with respect to whom there are serious reasons for considering that they are guilty of incitement to commit terrorist acts.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Federal Act On counter terrorism of 6 March 2006: counter-terrorism measures including incitement, are based on the following underlying principles: – Promotion and protection of basic human and civil rights and freedoms; – The rule of law; – Priority given to the protection of the rights and legitimate interests of persons affected by the threat of terrorism; – Certainty of punishment for carrying out terrorist activity; – Systematic and comprehensive use of political, outreach, social and economic, legal, special and other counter-terrorism measures; – Cooperation among Governments, public and religious associations, international and other organizations and citizens in combating terrorism.</p>
Rwanda	No report available
Saint Kitts and Nevis	No report available
Saint Lucia	No report available
Saint Vincent and Grenadines	<p>Prohibition by law & prevention of incitement: United Nations (Anti-Terrorism Measures) Act in 2002: a “terrorist act” means the use or threat of action which constitutes an offence within the scope of and as defined in one of the treaties listed in the Second Schedule; any other act intended to cause death or serious bodily injury to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.</p> <ul style="list-style-type: none"> • Section 6: any person in Saint Vincent and the Grenadines or any citizen of Saint Vincent and the Grenadines outside Saint Vincent and the Grenadines who provides any form of support, active or passive, to any terrorist or any entity owned or controlled by any terrorist or to any entity acting on behalf of or at the direction of any terrorist by recruiting or assisting in the recruitment of persons; or supplying or assisting in the supply of weapons, commits an offence. • Section 7: a person guilty of the offences of providing or collecting of funds for terrorist acts, providing resources and services for benefit of terrorists, dealing with property of terrorists or supporting terrorists in other ways listed in the Act shall be liable on conviction based on indictment to imprisonment for a term not exceeding twenty years, to an unlimited fine or both; or on summary conviction to imprisonment for a term not exceeding five years, to a fine not exceeding \$500,000 or both. <p>Criminal Code, Cap. 124 of the 1990 Revised Laws, section 22: A person who incites another to commit a terrorist act or acts can be charged. This provides that the offence of incitement is committed when a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given.</p>

	<p>To deny safe haven:</p> <ul style="list-style-type: none"> • Convention relating to the Status of Refugees, 3 November 1993, excludes individuals from asylum where there are serious reasons for considering that they have committed crimes against peace, war crimes or crimes against humanity or serious non-political crimes outside the country of refuge, or where there are serious reasons for considering that they have been guilty of acts contrary to the purposes and principles of the United Nations. • Protocol relating to the Status of Refugees, 3 November 2003. • Section 4 of the Immigration (Restriction) Act, Cap. 78 of the 1990 Revised Laws of Saint Vincent and the Grenadines classifies certain persons as prohibited immigrants. Section 26: any prohibited immigrant who knowingly and wilfully lands, or suffers himself to be landed, and any person who knowingly lands or procures to be landed, or who aids or assists in landing any prohibited immigrant, contrary to the provisions of the Act, is guilty of an offence. <p>To ensure that measures taken to implement res. 1624 comply with international law: The Constitution of Saint Vincent and the Grenadines guarantees the fundamental rights of all persons in Saint Vincent and the Grenadines, and the breach by the State of any of the rights set forth in the Constitution may be challenged before the Courts.</p>
Samoa	No report available
San Marino	No report available
Sao Tome and Principe	No report available
Saudi Arabia	<p>Prohibition by law & prevention of incitement: Under the provisions of the Shariah, terrorism in all of its forms and manifestations, including incitement to terrorism, which is considered by the Shariah to fuel unrest, is a criminal offence punishable by reprimand.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Seek to include on the Consolidated List of the Al-Qaida and Taliban Sanctions Committee inciters or persons guilty of incitement to commit a terrorist act or acts. • Internal lists of persons wanted for terrorist activities, including inciters of terrorism, which have been disseminated through the audio-visual and print media. • <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Legislation derived from the Quran and the sayings of the Prophet, in accordance with which terrorism is regarded as “mischief on earth”. Incitement to commit a terrorist act is regarded as complicity in that act and the accomplice as a perpetrator of the act. • The Kingdom of Saudi Arabia has acceded to various conventions, including the Arab Convention for the Suppression of Terrorism, pursuant to which incitement to terrorism is a criminal offence. • Under the statutory regulations of the Kingdom of Saudi Arabia, it is prohibited to provide safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct • Council of Ministers Decree No. 207 of 8 Sha`ban A.H. 1426 [12 September A.D.

	<p>2005], Article 3, paragraph 5: approving the establishment of a national human rights organization: “Monitor governmental authorities to ensure that, within their respective fields of competence, they implement the international human rights instruments to which the Kingdom has acceded and to ascertain that they adopt the measures necessary for such implementation.”</p> <ul style="list-style-type: none"> •
Senegal	No report available
Serbia	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • New Criminal Code: 1 January 2006. Also: new Police Law adopted. <p>The Basic Criminal Law</p> <ul style="list-style-type: none"> • Art. 23 (Official Journal of the Republic of Serbia, No. 39/2003) provides for the imprisonment of anyone who intentionally incites another person to commit a terrorist act (cf. resolution 1624 (2005), operative paragraph 1 (a), calling for the adoption of measures to prohibit by law incitement to commit a terrorist act). • Arts. 125 and 155a make terrorism a criminal offence • Art. 23 of the said Law is applicable to any person who incites the commission of terrorist acts. • Art. 134, para. 1, provides for the punishment of any person who incites and stirs up ethnic, racial or religious hatred, discord or intolerance among peoples and ethnic minorities in the Republic of Serbia (cf. resolution 1624 (2005), operative paragraph 3, calling for the adoption of measures to counter incitement of terrorist acts motivated by extremism and intolerance against members of different religions and cultures). • <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Effective mechanism to collect information on illegal migrants in accordance with EUODAC, find and deny safe haven to persons supporting and/or committing terrorist acts • Asylum Law conforms to relevant international conventions and is designed to make an organic whole with the recently adopted Asylum Law of the former state union of Serbia and Montenegro • The Law on the Monitoring of the State Border is meant to provide normative regulation for integrated border management, the aim of which is to prevent transnational crime and to protect the state border. • The Law on Identity Cards: part of the overall international efforts in the fight against terrorism in which an accurate, credible and quick identification of individuals is fundamental. It is also meant to help combat fraudulent travel documents, a frequent recourse of choice of terrorists and terrorist organizations. <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Seychelles	<p>Prohibition by law & prevention of incitement:</p> <p>Prevention of Terrorism Act 2004 (PTA): criminalisation of terrorism is not restricted to terrorist or terrorist organization located in Seychelles only. The act also criminalises the financing of terrorist or terrorist organizations that are located in and outside of Seychelles.</p> <ul style="list-style-type: none"> • Section 5 to 9: creates different offences as regards to the financing of terrorism.

	<ul style="list-style-type: none"> • Section 15 (f): makes it an offence for a person to sponsor the commission of certain acts in a foreign state such as the overthrowing by force or violence the Government of a foreign state. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • PTA: Section 41: the Minister responsible for the subject of immigration may, having regard to the interest of national security and public safety, refuse the application of any person applying for status as refugee if the Minister has reasonable grounds to believe that the applicant has committed a terrorist act or is likely to be involved in the commission of a terrorist act. • Under offender may be extradited under Section 3 (1) (a) and (b) of the Extradition Act and Sections 31 and 33 of the PTA 2004. <p>To ensure that measures taken to implement res. 1624 comply with international law: Necessary steps are taken to ratify the relevant international Instruments. The information relating to the domestication of the Instruments has been covered in Seychelles Reports 1/2/3 and in this 4th Report to the UNSC.</p>
Sierra Leone	No report available
Singapore	<p>Prohibition by law & prevention of incitement: The relevant Singapore agencies are still studying the issue and the requisite legislation.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Singapore maintains a blacklist of the names and particulars of terrorist suspects compiled through, inter alia, our investigation findings, intelligence exchanges with foreign counterparts and UN listings. • The data of in-bound visitors are checked against this blacklist at the checkpoints and those who have a match against the blacklist are dealt with accordingly. • Singapore also imposes immigration requirements that necessitate the application for immigration facilities such as for a Professional Visit Pass to enter Singapore. • <p>To ensure that measures taken to implement res. 1624 comply with international law: Singapore has always ensured that all the measures that are implemented are in accordance with our domestic laws and international agreements that we are party to.</p>
Slovakia	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • New criminal codes, in force since 1 January 2006: goal: to prohibit and prevent the incitement of terrorist acts by law. • Act on Fight Against Terrorism is being prepared (2006) in Slovakia. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Act No. 48/2002 Coll. on the Residence of Foreigners: the Border and Alien Police Office may recommend that persons who pose a risk be rejected visa and even detained and expelled from the Slovak Republic if they have already entered its territory. • Act on Asylum (Act No. 480/2002 Coll). <p>To ensure that measures taken to implement res. 1624 comply with international law:</p>

	<ul style="list-style-type: none"> • Constitution of the Slovak Republic, Article 1 (2): “the Slovak Republic acknowledges and adheres to general rules of international law, international treaties by which it is bound, and its other international obligations.” <p>Legislative measures related to the prevention and countering of terrorism and incitement of terrorism:</p> <ul style="list-style-type: none"> • The new Penal Code • Act on Asylum • Act on the Residence of Foreigners (No. 48/2002 Coll.)
Slovenia	<p>Prohibition by law & prevention of incitement:</p> <p>Penal Code:</p> <ul style="list-style-type: none"> • Article 355: ‘internal’ terrorism • Article 388: international terrorism • Article 388 (new article, after amendment penal code): Financing terrorist acts • Article 26: covers incitement for all crimes, including terrorism. “(1) Whoever in a premeditated manner solicits another to commit a crime shall be punished as if he had committed such crime himself. (2) Whoever in a premeditated manner solicits another to commit a criminal act for which under the law three years of imprisonment or a more severe punishment may apply, shall be punished in the same manner as for an attempted crime, even if the act was not actually attempted.” • Article 27: “(1) Any person who deliberately supports another person in the committing of a criminal offence shall be punished as if he himself had committed it, although he may also receive a lighter sentence. (2) Support in the committing of a criminal offence shall be deemed to be constituted, in the main, by the following: counselling or instructing the perpetrator on how to carry out the offence; providing the perpetrator with instruments of a crime; the removal of obstacles for the committing of a crime; a priori promises to conceal the crime or any traces thereof; concealment of the perpetrator, instruments of crime or objects gained through the committing of crime. • Launch of an initiative for starting the procedure to amend and supplement Articles 388 and 355 of the Penal Code: criminalising the extolling of terrorism, appeals for and incitement to terrorism, the activity of recruiting for the needs of terrorist organisations or attacks, and criminalising the training and serving of paramilitary units. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Alien Act: entry is denied to any alien for whom there are grounds to suspect that their stay in the country might be linked to the perpetration of terrorist or other violent acts. Possible threats to public order and the safety of the country as well as potential terrorist threats posed by applicants are also checked in every procedure for the issuing of alien residence permits. This may result in a denial of a residence permit or in the cancelling of a permit already issued. • Slovenian legislation considering the entry and residence of aliens, is harmonised with that of the EU. • Asylum Act, Article 4: the right to asylum is not granted to persons for whom there are reasonable grounds to suspect: <ul style="list-style-type: none"> ○ That they have committed crimes against peace, war crimes or crimes against humanity as defined by international acts ○ That they have committed grave crimes of a non-political nature outside Slovenia before being accepted into the country as refugees

	<ul style="list-style-type: none"> ○ That they have committed acts counter to the aims and principles of the UN ○ <p>To ensure that measures taken to implement res. 1624 comply with international law: Slovenian Constitution: Chapter II: Human rights and fundamental freedoms:</p> <ul style="list-style-type: none"> • Article 20: duration of detention • Article 21: protection of human personality and dignity • Article 27: presumption of innocence • Article 28: principle of legality in criminal law • Article 29: legal guarantees in criminal proceedings <p>Since the Criminal Procedure Act does not prescribe any special procedures with regard to terrorism acts, persons are governed by the same standards of protection of rights within procedures, same standards for evidence, and same conditions for ordering detention</p> <ul style="list-style-type: none"> • Ratified and incorporated all the major international documents in the legislation, in the area of human rights
Solomon Islands	No report available
Somalia	No report available
South Africa	<p>Prohibition by law & prevention of incitement: POCDATARA Act, Section 14: criminalises threatening, attempting, conspiring, aiding, abetting, inducing, inciting, instigating, instructing, commanding, counselling and procuring for terrorism.</p> <p>To deny safe haven: Information regarding persons affiliated to or adhering to organisations utilising terrorism is received from government agencies and Interpol and is inserted into the Visa and Entry Stoplist of the Department of Home Affairs.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: South Africa is party to the key human rights treaties including:</p> <ul style="list-style-type: none"> ○ The International Convention on the Elimination of All Forms of Racial Discrimination, 1966; ○ The International Covenant on Civil and Political Rights, 1966; ○ The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 ○ The Convention relating to the Status of Refugees, 1951. • Constitution of the Republic of South Africa, 1996: includes a comprehensive Bill of Rights that protects and entrenches <i>inter alia</i> equality, human dignity, freedom and security of the person, privacy, freedom of religion, belief and opinion, freedom of expression, freedom of assembly, freedom of association, political rights, freedom of movement and residence and rights for arrested, detained and accused persons. • These rights may only be limited if reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. • The courts are required, to prefer an interpretation that is consistent with international law.
Spain	<p>Prohibition by law & prevention of incitement: Penal Code: prohibits “incitement to terrorism”</p> <ul style="list-style-type: none"> • Article 18.1 : provocation and <i>apologie</i> (as a form of provocation); an attempt

	<p>to induce another person to commit an actual offence: “Provocation shall mean direct incitement, through the press, radio or any other similarly effective means of publicity, or before a group of individuals, to the perpetration of an offence. “<i>Apologie</i>, for the purposes of this Code, shall mean the expression, before a group of individuals or by any other means of communication, of ideas or doctrines that extol crime or glorify the perpetrator thereof. <i>Apologie</i> shall be criminalised only as a form of provocation and if its nature and circumstances are such as to constitute direct incitement to commit an offence.”</p> <ul style="list-style-type: none"> • Article 579.1: “Provocation, conspiracy and solicitation to commit the offences referred to in articles 571 to 578 (terrorist offences) shall be punishable by a penalty one or two degrees below that which applies, respectively, to the acts referred to in those articles”. • Organic Law No. 7/2000 of 22 December: reformed article 578 of the Penal Code: defined a new criminal offence (glorification of terrorism): “glorification or justification, through any form of public information or communication, of the offences referred to in articles 571 to 577 hereof or of persons having participated in their perpetration, or the commission of acts tending to discredit, demean or humiliate the victims of terrorist offences or their families, shall be punishable by one to two years’ imprisonment. The judge may also impose as part of the sentence, for such time as the judge may specify, any or all of the prohibitions provided for in article 57 hereof”. <p>To deny safe haven: Organic Law No. 4/2000: (Royal Decree No. 2393/2004):</p> <ul style="list-style-type: none"> • Article 10: grounds for refusing admittance to aliens and barring their access to Spanish territory: persons whose entry has been expressly prohibited by a decision of the Minister of the Interior as a result of their having engaged in activities that are contrary to the interests of Spain or in violation of human rights, or of their having well-known connections with national or international criminal organizations or of other legal or administrative circumstances warranting the adoption of such a measure, without prejudice to their detention, where appropriate. • Article 54: a very serious offence can result in expulsion following appropriate administrative proceedings, participation in activities that undermine the external security of the State or that may be detrimental to Spain’s relations with other countries. Aliens can also be expelled, following appropriate proceedings, if they are convicted, in Spain or elsewhere, of fraud, which in our country is punishable by at least one year’s imprisonment, unless the person’s criminal record has been expunged. <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Sri Lanka	No report available
Sudan	No report available
Suriname	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Suriname does not yet have in place specific anti-terrorist laws. • A study in this regard was conducted which resulted in a draft bill. • A special commission was established by the Minister of Justice and Police, which is headed by the Attorney General of Suriname. This commission has the task

	<p>to revise the Code of panel of Suriname.</p> <p>To deny safe haven: Any persons with respect to whom there is credible and relevant information that is giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts can and will be denied visa to enter Suriname.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Swaziland	No report available
Sweden	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Section 4 of the Act /2003:148/ on Criminal Responsibility for Terrorist Crimes, together with sections 2 and 4, chapter 23 of the Penal Code makes incitement to commit a terrorist offence a punishable act. Punishment for aiding and abetting may be imposed on anyone who furthers the punishable act by advice or deed. • Incitement to commit a crime can also be punished according to the rules on inciting rebellion and unlawful threat in section 5, chapter 16 of the Penal Code: A person who orally, before a crowd or congregation of people, or in a publication distributed or issued for distribution , or in other message to the public, urges or otherwise attempts to entice people to commit a criminal act, evade a civic duty or disobey public authority, shall be sentenced for inciting rebellion to a fine or imprisonment for at most six months. • Publicly inciting others to commit criminal acts may be regarded as an implicit threat to commit the act. A person who threatens to commit a criminal act, in such a manner that the nature thereof evokes in the threatened person a serious fear for the safety of his own or someone else's person or property, shall be sentenced for unlawful threat. If an unlawful threat is committed with terrorist intent, as defined in the Act of Criminal Responsibility for Terrorist Crimes, the offence is considered a terrorist offence according to this act. • Sweden is a signatory to the Council of Europe Convention on the Prevention of Terrorism, which contains several articles on the subject of incitement to terrorism. Sweden is currently in the process of considering ratification of the convention. • In the year 2000, the Swedish Institute in Alexandria was inaugurated and given the specific task of furthering increased social, cultural and other contacts between Sweden and the Middle East and North Africa. The Institute's mandate includes dialogue between the EU and the Middle East. The institute serves both as a forum Swcdish-sponsored dialogue activities, including intracultural dialogues, and as a co-host, together with the Egyptian Alexandria Library, of the Anna Lindh Euro-Mediterranean Foundation for Dialogue between Cultures. This endeavour strengthens the Euro-Mediterranean partnership in social, cultural and other human issues with particular emphasis on the development of human resources and the promotion of understanding among cultures. The Foundation functions as the focal point for 35 national networks and pursues activities mainly to further contacts between representatives of civil society. A similar institute was created in 2000 in the form of a special centre at the Swedish Consulate-General in Istanbul ("Section for Turkish-Swedish Cooperation"). The centre's particular audience is EU candidate Turkey but its activities also reach much of the Muslim world such as Central Asia. • The Swedish national approach to combating terrorism includes welfare and integration policies, as well as measures in the field of the enhancement of

	<p>democracy and participation, urban development, education and promotion of cultural diversity, etc.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • According to the Swedish Act on Special Control in respect of Aliens (1991:572) an alien may be expelled if it is necessary for reasons of national security or if it may be feared, in view of what is known about the alien’s previous activities and other circumstances, that he will commit or aid and abet a terrorist offence according to section 2 in the Act on Criminal Responsibility for Terrorist Offences (2003:148) or attempt, prepare or conspire to commit such an offence <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Sweden’s counterterrorism policy is based on the respect for international law. All measures taken nationally by Sweden in countering terrorism through legislation comply with the Swedish Constitution and Sweden’s obligations under international law, in particular international human rights law, refugee law and humanitarian law, and are ultimately subject to judicial review. Furthermore, all enforcement measures taken by Swedish authorities are in accordance with the principle of proportionality and subject to independent review by the Swedish Courts, the Ombudsman of Justice and the Chancellor of Justice.
<p>Switzerland</p>	<p>Prohibition by law & prevention of incitement:</p> <p>Swiss Penal Code:</p> <ul style="list-style-type: none"> ○ Article 24: incitement: A person who knowingly incites another to commit an offence such as a terrorist act. It is immaterial whether there is a clearly identified victim or conduct. ○ Article 24, Par 2: any attempt to incite the commission of a terrorist act is punishable in all circumstances. ○ Article 259: Any person who publicly incites others to commit a felony or an offence involving violence, such as a terrorist act, is punishable (indirect incitement). ○ With regard to direct incitement, the inciter must have intended to exert influence regardless of whether his utterance is understood or even simply heard. Such incitement is punishable irrespective of whether a terrorist act was consummated or attempted. ○ Article 135: the representation, through sound or visual recordings, of images, other objects or representations, of acts of cruelty against human beings, is punishable. <ul style="list-style-type: none"> • On 23 November 2005, the Federal Council extended until 31 December 2008 the ban on the Al-Qaida terrorist group • Order of 7 November 2001 concerning the extension of the duty to inform and right to report to the relevant authorities, agencies and organizations responsible for internal and external security. • All the activities of Al-Qaida are banned as are any propaganda activities aimed at inciting violence in support of Al-Qaida. The ban also extends to Al-Qaida cover and affiliated groups and to groups whose leaders, goals and means are identical to those of Al-Qaida or who act at its direction. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Article 1F of the Convention relating to the Status of Refugees adopted on 28

	<p>July 1951</p> <ul style="list-style-type: none"> • Swiss Federal Act on Asylum. Article 53: provision on ineligible asylum seekers and refugees in reviewing individual applications for asylum where the legal requirements are met. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • General Assembly resolution 57/219: duty to protect citizens against all violent acts and to prosecute the perpetrators of such acts, but must do so in compliance with human rights law, refugee law and humanitarian law as well as with its other commitments under international law. • Switzerland is party to many international conventions in these fields, including the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Geneva Conventions for the Protection of Victims of War. • Principle of due process and the principle of proportionality. • All the actions taken to implement Security Council resolution 1624 (2005) are in compliance with the Federal Constitution and Switzerland's international commitments. • Constitution: Article 36: any limitation of a fundamental right requires a legal basis, must be justified by public interest, must be proportionate to the goals pursued and must not violate the essence of fundamental rights. Any person whose rights are so violated, may seek redress by filing an appeal with the Federal Court and then with the European Court of Human Rights at Strasbourg. • A norm of international law takes precedence over the domestic norm.
<p>Syrian Arab Republic</p>	<p>Prohibition by law & prevention of incitement:</p> <p>Penal Code:</p> <ul style="list-style-type: none"> • Article 305, paragraph 2: every terrorist act entails a penalty of 15 to 20 years hard labour and that the penalty is death if the act results in [material] destruction or causes the death of a person. • Article 217: a person who incites a crime shall be subject to the penalties of the crime, irrespective of whether the crime was actually committed or was planned, or was inadequately worked out. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • The search for a wanted person is publicized and when he is arrested he is duly referred to the judiciary • If the person is outside the country and is Syrian, an order to detain him is issued. • If he is of any other nationality, an order to prevent him from entering, and, if necessary, to watch for his arrival is issued so he can be arrested and so that the necessary legal measures can be taken with respect to him. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Prime Ministerial Decision No. 2989 of 2 June 2004, later superseded by Decision No. 1081 of 7 March 2005: established: National Committee for International Humanitarian Law. • The Committee is tasked with sponsoring and coordinating national action to raise awareness of international humanitarian law, harmonizing national legislation, monitoring violations of human rights and enhancing knowledge of such violations, in particular the awareness of human rights in the armed forces and the internal

	<p>security forces.</p> <ul style="list-style-type: none"> • With respect to international refugee law, the Prime Minister issued Decision No. 3175 of 9 July 2006 which concerns the formation of a national committee charged with drafting the refugees act of the Syrian Arab Republic as soon as possible.
Tajikistan	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Act “On combating terrorism”, article 10: knowingly financing or otherwise assisting a terrorist organization or terrorist group is regarded as terrorist activity. • Criminal Code of the Republic of Tajikistan: <ul style="list-style-type: none"> ○ Articles 35 to 37: Persons who are guilty, directly or indirectly, of providing or collecting funds for the commission of terrorist acts are criminally liable for offences committed by terrorists as accomplices to those offences. ○ Article 36, paragraph 1; a person who organizes, instigates or abets an offence is deemed an accomplice to that offence, alongside the perpetrator. ○ Article 37, paragraph 1: the liability of the accomplices to an offence is determined by the nature and degree of the actual participation of each of them in its commission, and they are liable for committing specific offences under the same article of the Criminal Code as perpetrators of terrorist acts. The very fact of collecting funds for the commission of such offences is thus sufficient grounds for the criminal prosecution of the guilty party. • Programme to Combat Terrorism and Other Manifestations of Extremism: (period 2006 to 2010) and a Counter-Terrorism Concept have been developed by the Ministry of Security and approved by the Government. <p>Decision of the Supreme Court of Tajikistan of 30 March 2006: organisations that are terrorist and forbidden: Al-Qaida; The Taliban; The Muslim Brotherhood; The East Turkestan Islamic Movement; The Islamic Party of Turkestan (formerly the Islamic Movement of Uzbekistan); Lashkar-e-Tiba; The Islamic Group (Jamiat-i-Islam-Pakistan); Jamiat-e-Tablic; The religious missionary organization Sozmoni Tablig (Call to Islam); Free Tajikistan (Tochikistoni Ozod, founded by the leaders of the anti-constitutional forces).</p> <p>To deny safe haven:</p> <p>Act “On combating terrorism”, article 15; the following are prohibited:</p> <ul style="list-style-type: none"> ○ The entry into, departure from or transit through the territory of Tajikistan of persons who have taken part in terrorist activity; ○ The granting of residence permits to persons who have taken part in terrorist activity; ○ The granting of Tajikistan citizenship to foreign citizens who have taken part in terrorist activity. <ul style="list-style-type: none"> • Act “On refugees”, article 3: persons in respect of whom there is information about a possible connection with international terrorist organizations or drug trafficking structures may not be granted refugee status. • In accordance with paragraph 2 of Security Council resolution 1624 (2005): units of the Government Committee for the Protection of the State Border are carrying out effective monitoring at exit and entry points of individuals whose entry into the country has been duly prohibited. • The Committee for the Protection of the State Border also carries out passport and visa checks, and monitors foreign citizens’ and stateless persons’ entry into, stay in and departure from Tajikistan. Screening is carried out to detect persons suspected of terrorist activities.

	<p>Act “On refugees”, article 3, Paragraph 2: There is a restriction on the granting of refugee status in the Republic of Tajikistan to the following persons:</p> <ul style="list-style-type: none"> – Persons in respect of whom there are adequate grounds for believing that they have committed a crime against the peace, a military crime or a crime against humanity as defined by the international instruments concluded with a view to the adoption of measures in relation to such crimes; – Persons in respect of whom there are adequate grounds for believing that they have committed a grave crime of a non-political nature outside of the Republic of Tajikistan before arrival in its territory and who are applying for refugee status; – Persons in respect of whom there is information about a possible connection with the secret service bodies of the State of which they are nationals, international terrorist organizations, or drug-trafficking structures; – Persons in respect of whom there are adequate grounds for believing that they are guilty of committing acts that run counter to the purposes and principles of the United Nations and the Organization for Security and Cooperation in Europe. <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Tanzania	No report available
Thailand	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Thai Penal Code amended on 9 August 2003: includes new provisions criminalising terrorist acts, including terrorist financing. • Penal Code, Article 135/1: Anyone who threatens to commit an offence; collects manpower or stockpiles weapons; provides or complies property; organizes, conspires abets or is aware of and conceals an act of terrorism, commits terrorist offences and is subject to penalties. Anyone who is a member of a group and any organizations that have committed terrorist offences are also subject to penalties (death penalty, life imprisonment, imprisonment and fines). • Anti-Money Laundering Act B.E. 2542 (1999) amended on 9 August 2003: terrorist offences under the Penal Code as predicate offences for money-laundering. • Emergency Decree on Government Administration in States of Emergency, B.E. 2548 (2005) on 16 July 2005: aim to restoring the security of the State, the safety of lives, and the safety of rights and liberties of the people. Upon a Declaration of States of Emergency, the Prime Minister shall have the following powers: <ul style="list-style-type: none"> (i) to issue a Notification that a competent official shall have the power of arrest and detention over persons suspected of having a role in causing the emergency situation, or being an instigator, a propagator, a supporter of such act or concealing relevant information relating to the act which caused the emergency situation, provided that this should be done to the extent that is necessary to prevent such person from committing an act or participating in the commission of any act which may cause a serious situation or to foster cooperation in the termination of the serious situation; (ii) to issue a Notification that a competent official shall have the power to summon any person to report to the competent official or to give an oral statement or submit any documents or evidence relating to the emergency situation; (iii) to issue a Notification that a competent official shall have the power to seize or attach arms, goods, consumer products, chemical products or any other materials in the case where there are reasonable grounds to suspect that such objects have been used or will be used to commit or support an act which causes an emergency situation; (iv) to issue a Notification that a competent official shall have the power to issue a

	<p>warrant for the search, removal, withdrawal or demolition of buildings, structures or obstructions as necessary for the exercise of functions in order to promptly terminate a serious situation where a delay might render the situation beyond control;</p> <p>(v) to issue a Notification that a competent official shall have the power to issue an order to inspect letters, books, printed matters, telegraphic transmissions, telephone communications or any other means of communication as well as to cancel or suspend any contact or communication in order to prevent or terminate the serious incident provided that the rules prescribed in the law on special investigation are complied with <i>mutatis mutandis</i>;</p> <p>(vi) to issue a Notification regarding the prohibition of any act or any instruction to perform an act to the extent that is necessary for maintaining the security of the State, the safety of the country or the safety of the people;</p> <p>(vii) to issue a Notification that a competent official shall have the power to issue an order to prohibit any person from leaving the Kingdom where there are reasonable grounds to believe that the departure from the Kingdom will affect the security of the State or the safety of the country;</p> <p>(viii) to issue a Notification that a competent official shall have the power to instruct an alien to leave the Kingdom in the case where there are reasonable grounds to believe that such person is a supporter in causing the emergency situation, provided that the law on immigration shall apply <i>mutatis mutandis</i>;</p> <p>(ix) to issue a Notification that the purchase, sale use or possession of any arms, goods, medical products, consumer products, chemical products or any equipment which may be used for causing unrest or terrorism shall be reported to or permitted by the competent official or comply with any conditions set by the Prime Minister;</p> <p>(x) to order the use of military force in order to assist administrative officials or police officers in terminating the serious situation or controlling the situation so as to promptly secure order, provided that the performance of functions by military officers shall be made pursuant to identical powers and duties of a competent official under this Emergency Decree, whereas the scope of the use of such powers and duties of the military shall be in accordance with the conditions and time condition prescribed by the Prime Minister but shall not exceed the powers under martial laws in the case where martial laws apply.</p> <ul style="list-style-type: none"> • Under this decree, the Prime Minister can declare a State of Emergency for not more than 3 months in some area or all areas of the country, with the approval of the Cabinet. If necessary, the Prime Minister can extend the enforcement for another 3 months each time, with the Cabinet's approval. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Increased information sharing and establishing systems for information-sharing. • Increased immigration security. • The signing of the Thai-US Memorandum of Intent puts into motion the Personal Identification Secure Comparison and Evaluation System (PISCES), a programme of enhancing immigration measures that may serve as the nucleus of a nationwide Terrorist Interdiction Program Border Control System. • Act on Mutual Assistance in Criminal Matters (1992). • Extradition Act (1929). <p>To ensure that measures taken to implement res. 1624 comply with international law: Thailand assures that all measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all its obligations under international law, in</p>
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	particular international human rights law, refugee law, and humanitarian law.
The former Yugoslav Republic of Macedonia	No report available
Timor-leste	No report available
Togo	No report available
Tonga	No report available
Trinidad and Tobago	No report available
Tunisia	<p>Prohibition by law & prevention of incitement: Act No. 2003-75 of 10 December 2003;</p> <ul style="list-style-type: none"> ○ Article 11: “Anyone who incites the commission of a terrorist offence or conspires to commit such an offence, or intends to commit such an offence, where that intention is accompanied by any act preparatory to the commission of such an offence, shall be guilty of a terrorist offence.” ○ Article 12: a penalty of imprisonment for a term of 5 to 12 years and a fine of 5,000 to 20,000 dinars for anyone who, by any means, incites the commission of terrorist offences or encourages membership of an organization or entry into an agreement relating to terrorist offences, or who uses a name, term, symbol or any other sign for the purpose of advocacy for a terrorist organization, one of its members or its activities. <ul style="list-style-type: none"> ● Child Protection Code, Article 19: prohibits the exploitation of children in various forms of organized crime, including inculcating fanaticism and hatred in children and inciting them to commit acts of violence or terror. ● Organic Act No. 93-85 of 2 August 1993 amending the Press Code, Article 42 : anyone who, through the press or by any other intentional means of dissemination, directly incites the perpetrator or perpetrators to commit a serious or minor offence, where such incitement results in the commission of such an offence, shall be considered an accomplice to said offence. This provision shall also be applicable where the incitement results only in an attempt to commit an offence, as established in article 59 of the Criminal Code. <p>Press Code:</p> <ul style="list-style-type: none"> ○ Article 44 of the establishes a penalty of imprisonment for a term of two months to three years and a fine of 1,000 to 2,000 dinars (US\$ 1 = 1.32 D) for anyone who, by the means mentioned in article 42, directly incites hatred among races, religions or peoples, the dissemination of opinions based on racial segregation or religious extremism, the commission of the offences set out in article 48 of this Code, or the infringement of national laws. ○ Article 54, paragraph 4 (new), of the Press Code provides that, where the offence is committed by the means mentioned above against a group of persons who belong by origin to a particular race or religion and for the purpose of inciting hatred among citizens or inhabitants, the penalty shall be imprisonment for a maximum of one year and a fine of 1,200 dinars. <p>Constitution of the Republic of Tunisia:</p> <ul style="list-style-type: none"> ○ Article 5: guarantees fundamental freedoms and human rights in the universal, global, complementary and interdependent sense.

o Article 8 of the Constitution provides that political parties shall commit themselves to prohibiting all forms of violence, fanaticism, racism and discrimination. Political parties may not base their principles, purposes, activities or programmes fundamentally on any religion, language, race, sex or region.

- Organic Act No. 88-32 of 3 May 1988: Article 2: the organization of political parties provides that political parties shall act within the bounds of the Constitution and the law. They shall also prohibit all forms of violence, as well as fanaticism, racism and all other forms of discrimination. Political parties may not base their principles, activities or programmes fundamentally on any religion, language, race, sex or region.

To deny safe haven:

- Incitement to commit a terrorist act or acts constitutes a terrorist offence under articles 11 and 12 of the 2003 Act mentioned above. Thus, under article 59 of the Act, it is not considered a political offence, and the perpetrator may not, therefore, benefit from the right of asylum.
- Article 60 of the 2003 Act: terrorist offences shall be extraditable in accordance with the provisions of article 308 et seq. of the Code of Criminal Procedure, where they are committed outside the territory of Tunisia by a person who is not a Tunisian subject against an alien or foreign interests or a stateless person, if the perpetrator is on Tunisian territory.

To ensure that measures taken to implement res. 1624 comply with international law:

- Article 1 of the 2003 Act: the law shall guarantee the right of society to live in security and peace, protected from anything that may undermine its stability, and to reject all forms of deviance, violence, fanaticism, racial segregation and terrorism that threaten the peace and stability of societies. It also contributes to supporting the international effort to combat all forms of terrorism, tackling the sources of financing of terrorism and suppressing money-laundering within the framework of the international, regional and bilateral conventions ratified by the Republic of Tunisia and in compliance with constitutional guarantees.
- The 2003 Act did not establish special courts: ordinary courts retain jurisdiction over terrorist offences.
- Periods of custody and preventive detention are the same as for other offences; they have not been increased, and the rights of the defence are guaranteed.
- Decree No. 91-54 of 7 January 1991: The Higher Committee on Human Rights and Fundamental Freedoms; responsible for working for the promotion and protection of human rights and fundamental freedoms.
- Establishment in 2002 of the post of General Coordinator for Human Rights within the Ministry of Justice and Human Rights has consolidated Tunisia's commitment to human rights.
- Decree No. 2006-1051 of 20 April 2006: established the National Commission on International Humanitarian Law. Responsibility for the following:
 1. Submitting proposals and studies on the implementation of international humanitarian law at the national level;
 2. Submitting the proposals necessary to adapt national legislation to the rules of international humanitarian law;
 3. Proposing an annual plan for the dissemination and national application of international humanitarian law culture, and coordination with the relevant bodies to ensure that the proposed plan is implemented;
 4. Ensuring cooperation with humanitarian committees, associations and

	<p>organizations active in the field of international humanitarian law.</p> <ul style="list-style-type: none"> • Tunisian Constitution, Article 17: right of asylum: prohibits the extradition of political refugees. • Ratification of the Convention relating to the Status of Refugees of 28 July 1951 and the Protocol thereto on 2 June 1955 and 27 July 1968 respectively.
Turkey	<p>Prohibition by law & prevention of incitement: Law No. 3713 on Fight against Terrorism, 12 April 1991. Article 7: ‘(...) Those who aid to members of the organisation mentioned above or propagandize to incite violence and other terrorist methods shall also be sentenced to one to five years of imprisonment and heavy fine (...)’.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Article 1, paragraph F of the 1951 Convention relating to the Status of Refugees (the provisions of the Convention shall not apply to any person with respect to whom there are serious reasons for considering their committing of certain crimes) • “Those foreigners who do not merit international protection” (those who committed crimes against humanity and peace as defined in paragraphs a, b and c of the Article 1): the protective provisions of the Convention are not implemented and these foreigners are excluded from refugee status. <p>To ensure that measures taken to implement res. 1624 comply with international law: Turkey has given full support to international efforts aiming at enhancing dialogue and broadening understanding among civilizations. Contribution to such efforts has been among the priorities of the Turkish foreign policy.</p>
Turkmenistan	<p>Prohibition by law & prevention of incitement: Act of Turkmenistan on community associations (2003): prohibits the formation and operation of community associations whose aim is to change by force the constitutional order of Turkmenistan; to disrupt the security of the State; to allow the use of violence; to interfere with the constitutional rights and freedoms of citizens; to incite war, or racial, national, social or religious enmity or to harm the health or morals of the population. It also prohibits the establishment of armed units.</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Article 214 of the Criminal Code (illegal crossing of the State border of Turkmenistan) provides for criminal liability. • Act of Turkmenistan on community associations (2003). <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
Tuvalu	No report available
Uganda	No report available
Ukraine	<p>Prohibition by law & prevention of incitement: In implementation of Security Council resolution 1624 (2005) of 14 September 2005, the law enforcement agencies of Ukraine are undertaking efforts to:</p> <ul style="list-style-type: none"> • Prohibit incitement to commit terrorist acts and prevent actual terrorist acts against diplomatic missions in Ukraine;

	<ul style="list-style-type: none"> • Prevent the use of the Ukrainian segment of the Internet by terrorist organizations for the purpose of disseminating propaganda, by drawing up a list of features whose presence or absence points to the use of Internet channels for illicit purposes, and by establishing legal mechanisms for the appropriate search operations. • The Security Service of Ukraine, together with the executive bodies concerned, has drafted a bill on the organizational and legal basis for countering extremism, which is under negotiation. <p>To deny safe haven: Not answered</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Not answered</p>
<p>United Arab Emirates</p>	<p>No report available</p>
<p>United Kingdom</p>	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Terrorism Act 2006: Section 1: to publish a statement which directly or indirectly incites or encourages others to commit acts of terrorism or certain specified offences if, at the time, the defendant intends to encourage terrorism or a specified offence, or is reckless as to whether persons will be so encouraged, will be punished. Indirect encouragement includes the glorification of terrorism or the specified offences, where it can reasonably be inferred that the conduct that is glorified should be emulated in existing circumstances. Offences committed through electronic means are included. Corporate bodies and natural persons can both be guilty of the offence. It is also an offence at common law for a person to incite another to commit an offence. There is no need for the offence to be attempted or committed. • The Secretary of State for the Home Department has the power to exclude (i.e. prohibit from entering) or deport any foreign national from the United Kingdom. The Secretary of State may decide to exclude or deport any individual where he decides that their presence in the United Kingdom is unacceptable. This power is used where an individual is judged to pose a threat to national security, public order, the rule of law, or the UK's relations with a third country, although its use is not confined to those sorts of cases. The Secretary of State has also indicated an intention to exclude or deport individuals who have demonstrated specific unacceptable behaviour. Unacceptable behaviour would include using any means or medium to express views which: foment, justify or glorify terrorist violence in furtherance of particular beliefs; seek to provoke others to terrorist acts; foment other serious criminal activity or seek to provoke others to serious criminal acts; or foster hatred which might lead to inter-community violence in the United Kingdom. In exercising this power, the Secretary of State must act reasonably, proportionately and consistently. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • 1951 Geneva Convention relating to the Status of Refugees excludes individuals from asylum where there are serious reasons for considering that they have committed crimes against peace, war crimes or crimes against humanity or serious non-political crimes outside the country of refuge; or where there are serious reasons for considering that they have been guilty of acts contrary to the purposes and principles of the United Nations. The United Kingdom has long used these

	<p>exclusion clauses to deny asylum to terrorists.</p> <ul style="list-style-type: none"> • Section 54 of the Immigration, Asylum and Nationality Act 2006: statutory backing to this long established practice. The section interprets Article 1F (c) of the Refugee Convention as it relates to acts of terrorism. It provides that “acts contrary to the purposes and principles of the United Nations” shall be taken as including acts of committing, preparing or instigating terrorism together with acts of encouraging or inducing others to commit, prepare or instigate terrorism. • Section 17 of the Terrorism Act 2006: courts have jurisdiction over acts that amount to the offence under section 1 of the Act, even if the act occurs outside the United Kingdom and regardless of the nationality of the person doing the act. Section 17 also confers jurisdiction on the United Kingdom courts in respect of acts outside the United Kingdom that amount to the offences of conspiracy to commit an offence under section 1, inciting such an offence, attempting such an offence and aiding, abetting, counselling or procuring such an offence. • Section 19 of the Terrorism Act 2006; requires the consent of the Director of Public Prosecutions to all prosecutions, and of the Attorney General in a case in which it appears that an offence has been committed for a purpose wholly or partly connected with the affairs of a country other than the United Kingdom. <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Police and Criminal Evidence Act 1984 and its associated Codes of Practice. • Treatment must also meet the standards of the European Convention on Human Rights as implemented by the Human Rights Act 1998. • Section 2 of the Asylum and Immigration Appeals Act 1993 provides that nothing in the Immigration Rules shall lay down provisions which would be contrary to the Refugee Convention 1951.
United States	<p>Prohibition by law & prevention of incitement:</p> <p>Measures taken: (1) criminalisation of solicitation to violence, seditious conspiracy, and advocacy of the overthrow of Government and criminalisation of certain “inchoate crimes” that permit prosecution of preparatory acts to substantive criminal conduct, including acts of terrorism; (2) designation of terrorist organizations with the resulting legal consequences; and (3) making inadmissible to the U.S. aliens who have either incited terrorist activity with the intention to cause death or serious bodily injury, or endorsed or espoused terrorist activity, or persuaded others to endorse or espouse terrorist activity.</p> <ul style="list-style-type: none"> • Consideration must be given to whether measures appropriately takes into account the right of freedom of expression: Article 19 of the ICCPR, which provides (in pertinent part) that “[e]veryone shall have the right to freedom of expression” and that this right may be restricted only where provided by law and necessary “for the rights or reputations of others, or for the protection of national security or public order, or of public health or morals.” • Article 20 ICCPR: “any advocacy of national or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”; “does not authorize or require legislation or other action by the United States that would restrict the right of free speech and association protected by the Constitution and laws of the United States.” • First Amendment to the Constitution; “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

The federal criminal solicitation statute:

- 18 U.S.C. § 373: a crime is “with intent that another person engage in [the] conduct,” to “solicit, command, induce, or otherwise endeavour to persuade [an]other person to engage in”. 18 U.S.C. § 373(a): the use, or threatened use of physical force against property or against the person of another in violation of the laws of the United States.
- 18 U.S.C. § 2332(b): acts of terrorism, such as murder, maiming, or kidnapping, transcending national boundaries
- 18 U.S.C. § 2332f: bombings of places of public use
- 49 U.S.C. § 46502: aircraft piracy
- 18 U.S.C. § 2384 prohibits seditious conspiracy; plotting to use force to overthrow the government.
- 18 U.S.C. § 2385 proscribes teaching or advocating the duty or necessity of overthrowing or destroying the government of the United States by force or violence; publishing or circulating literature which so teaches or advocates; joining or organizing any group which so teaches or advocates, knowing the purposes thereof; or conspiring to do any of the foregoing.
- 18 U.S.C. § 2384: If two or more persons (...) conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined under this title or imprisoned not more than twenty years, or both.
- 18 U.S.C. § 2385: Whoever knowingly or wilfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or the government of any State, Territory, District or Possession thereof, or the government of any political subdivision therein, by force or violence, or by the assassination of any officer of any such government; or Whoever, with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence, or attempts to do so; or Whoever organizes or helps or attempts to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof— Shall be fined under this title or imprisoned not more than twenty years
- 18 U.S.C. § 2384: prohibiting aiding, abetting, counselling, commanding and inducing an offense
- 18 U.S.C. § 2339B(a)(1) prohibit knowingly or intentionally providing, attempting to provide, or conspiring to provide material support or resources to a terrorist organization, defining the term “material support or resources” to include “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials.” 18 U.S.C. § 371 prohibiting conspiring to commit an offense against the United States

- 18 U.S.C. § 842(p): prohibiting teaching or demonstrating the making or use of, or distributing information pertaining to the manufacture or use of, explosives, destructive devices and weapons of mass destruction with the intent or knowledge that the information will be used to commit a crime of violence
- 18 U.S.C. § 956 prohibiting conspiring to kill, kidnap, injure or maim a person outside the U.S.
- 18 U.S.C. § 2332b prohibiting conspiring to commit an act of terrorism that transcends national boundaries.
- 49 U.S.C. § 46502(a): prohibiting conspiring to and attempts to commit aircraft piracy.
- U.S. law provides that incitement to commit a terrorist act (under circumstances indicating an intention to cause death or serious bodily injury) is a basis for designating a group as either a “foreign terrorist organization” under 8 U.S.C. § 1189 or as a terrorist organization for immigration purposes under 8 U.S.C. § 1182(a)(3)(B)(vi)(II), provided that other relevant legal criteria are met.
- If a group has not been formally designated, such incitement will automatically result in its treatment as a terrorist organization for immigration purposes under 8 U.S.C. § 1182(a)(3)(B)(vi)(III).
- If a group is designated or treated as a foreign terrorist organization under 8 U.S.C. § 1189 then its financial assets are frozen, it becomes unlawful knowingly to provide that group material support, and aliens having certain associations with the group (including persons who knowingly provide material support to the group) become inadmissible to and deportable from the United States.
- If a group is designated or treated as a terrorist organization for immigration purposes under 8 U.S.C. § 1182(a)(3)(B)(vi)(II) or (III), aliens having certain associations with the group (including persons who knowingly provide material support to the group) become inadmissible to and deportable from the United States.
- Executive Order 13224: blocks the property and prohibits transactions with, among others, persons who (1) have committed or pose a significant risk of committing acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy or economy of the United States; or (2) assist in, sponsor, or provide financial, material or technological support for, or financial or other services to or in support of those persons determined to be subject to E.O. 13224. Although incitement is not a specific basis for designation under E.O. 13224, media outlets and others may be designated on the grounds that they are owned or controlled by, or provide support to, terrorist organizations that have already been designated under E.O. 13224.
- Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (“Patriot Act”), Pub. L. No. 107- 56, 115 Stat. 272 (2001): strengthens the ability to restrict terrorist travel.
- The Patriot Act broadened the terrorism-related grounds for alien inadmissibility and removability and expanded the definitions of “terrorist organization” and “terrorist.”
- Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief of 2005 (“REAL ID Act”), at Sections 103 and 104 of Division B.
- U.S. immigration laws currently make inadmissible to the United States aliens who, under circumstances indicating an intention to cause death or serious bodily harm, have incited terrorist activity: see 8 U.S.C. § 1182(a)(3)(B)(i)(III) and (iv)(I), as well as making inadmissible aliens who endorse or espouse terrorist activity or

	<p>persuade others to endorse or espouse terrorist activity. See 8 U.S.C. § 1182(a)(3)(B)(i)(VI); see also, 8 U.S.C. §§ 1158(b)(2)(A)(v), 1227(a)(4)(B).</p> <p>To deny safe haven:</p> <ul style="list-style-type: none"> • U.S. immigration law makes inadmissible to the United States aliens who, under circumstances indicating an intention to cause death or serious bodily harm, have incited terrorist activity. See 8 U.S.C. § 1182(a)(3)(B)(i)(III) and (iv)(I). • A separate provision renders inadmissible anyone who endorses or espouses terrorist activity. 8 U.S.C. § 1182(a)(3)(B)(i)(VI). <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • U.S. constitutional law provides protections for free expression more robust than those called for in the International Covenant on Civil and Political Rights. • New legislation is reviewed for consistency with the ICCPR and other human rights treaties to which the U.S. is party, the Protocol Relating to the Status of Refugees, and other U.S. treaty obligations. • The United States recently reported in detail to the respective treaty bodies on its compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with the ICCPR.
Uruguay	No report available
Uzbekistan	<p>Prohibition by law & prevention of incitement: Uzbek Criminal Code</p> <ul style="list-style-type: none"> ○ Article 28: organizers, instigators and accomplices of such acts are deemed to be perpetrators of and accessories to a criminal offence. ○ Article 30 those organizers, instigators and accomplices incur liability under the same article of the Special Section of the Criminal Code as the perpetrator. ○ Article 155: Individuals involved in terrorist acts, including the instigation of such acts, not only to persons directly involved in the commission of terrorist acts but also for activities designed to secure the continued existence, operation and funding of terrorist organizations, the preparation and performance of terrorist acts, the direct or indirect provision of resources of any kind or the collection of such resources and the provision of other services to terrorist organizations or to persons abetting or participating in terrorist activities. ○ Added: article 2 of Act No. 167-II on combating terrorism, of 15 December 2001 states that incitement to terrorist acts is itself a form of terrorist activity. • Act on combating terrorism, article 29: In the event that an organization is deemed to have been guilty of terrorist acts, including incitement to commit terrorist acts, pursuant to which the property of an organization deemed to be terrorist in nature is, upon dissolution of the organization, confiscated and converted into State property. • The voluntary refusal of an organizer, instigator or accomplice to perform such acts will release that person from liability for criminal complicity if he or she acted in good time to take every step within his or her power to prevent the offence. <p>To deny safe haven:</p> <ul style="list-style-type: none"> • Act on combating terrorism, article 5: no foreign citizens or stateless persons involved in terrorist activities are permitted to enter Uzbekistan. Also applies to persons guilty of inciting others to the commission of terrorist acts. • With the framework of the Shanghai Cooperation Organization (SCO),

	<p>Uzbekistan is taking part in measures to detect and block the routes by which persons involved in terrorist, separatist and extremist activities enter the territory of SCO member States.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law:</p> <ul style="list-style-type: none"> • Currently no obligations pertaining to upholding the rights of refugees, as not acceded either to the 1951 United Nations Convention relating to the Status of Refugees or to its Protocol relating to the status of refugees, of 18 November 1966. • Measures taken to suppress terrorism, while at the same time upholding the constitutional rights of its citizens, are governed by corresponding laws and regulations which have been subject to expert appraisal by human rights institutions, including that of the Human Rights Commissioner of the Supreme Council of the Republic of Uzbekistan. • Uzbekistan's international obligations relating to observance of the standards of humanitarian law are based on the four conventions which it has ratified.
Vanuatu	No report available
Venezuela	No report available
Vietnam	<p>Prohibition by law & prevention of incitement: Penal Code of the Socialist Republic of Viet Nam, adopted by the National Assembly on 21 December 1999:</p> <ul style="list-style-type: none"> • Article 84. Terrorism <ol style="list-style-type: none"> 1. Those who intend to oppose the people's administration and infringe upon the life of officials, public employees or citizens shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment. 2. In the case of committing crimes by infringing upon physical freedom and/or health, the offenders will be sentenced to between five and fifteen years of imprisonment. 3. In the case of committing crimes by threatening to infringe upon life or committing other acts of moral intimidation, the offenders shall be sentenced to between two and seven years of imprisonment. 4. Those who terrorize foreigners in order to cause difficulties to the international relations of the Socialist Republic of Viet Nam shall also be penalized according to this Article." <p>Even though there is no provision in the Penal Code specifically addressing incitement to commit terrorist acts, such an act is subject to severe punishments. The legal basis for such punishment is the combination of Article 84 on Terrorism and Article 20 on Complicity, which also covers the act of incitement. Article 20 of the Penal Code stipulates that:</p> <ul style="list-style-type: none"> • Article 20. Complicity <p>... 2. Organizer, executor, instigators and helpers are all accomplices.... The instigators are those who incite, induce and encourage other persons to commit crimes...."</p> <ul style="list-style-type: none"> • An individual who is guilty of incitement to commit a terrorist act or acts, will be considered terrorist accomplice and shall be punished in accordance with Article 84 of the Penal Code. • To date, though there is no legal document on counter-terrorism, many existing provisions under relevant legal documents (Penal, Criminal Proceedings, Administration etc.) have created a fairly comprehensive and effective legal corridor for the prevention and suppression of terrorism as well as for regional and international cooperation in this area.

- Considering drafting a Law on Terrorism Prevention and Suppression.
- The Vietnamese Prime Minister is also expected to issue a Directive on Counter-Terrorism Activities in the New Context.

To deny safe haven:

Viet Nam has a consistent policy not to allow any terrorist to find a safe haven in Viet Nam.

- Article 313. Concealing offences
1. Those who, without prior promise, conceal one of the offences defined in the following articles shall be sentenced to non-custodial reform for up to three years or between six months and five years of imprisonment.

- Article 78 to Article 91 on Crimes of infringing upon national security;...”

- Article 314. Failing to denounce crimes
1. Those who have full knowledge of one of the crimes defined in Article 313 of this Code, which is being prepared, is being or has been committed, but fail to denounce it, shall be subject to warning, non-custodial reform for up to three years or a prison term of between three months and three years.”

- Article 6. The effect of the Penal Code on criminal acts committed outside the territory of the Socialist Republic of Viet Nam

1. Vietnamese citizens who commit offences outside the territory of the Socialist Republic of Viet Nam may be subject to penal liability in Viet Nam according to this Code.

This regulation is also applied to stateless people permanently residing in the Socialist Republic of Viet Nam.

2. Foreigners who commit offences outside the territory of the Socialist Republic of Viet Nam may be subject to penal liability according to the Penal Code of Viet Nam in circumstances provided for in the international treaties which the Socialist Republic of Viet Nam has concluded or acceded to.”

- Criminal Procedure Code of Viet Nam (Part Eight) provides for international cooperation in criminal procedure; Mutual judicial assistance in criminal matters, and extradition and handover of files, documents and evidences of the cases in Chapters XXXVI and XXXVII respectively.
- Drafting of a Law on Mutual Judicial Assistance and Extradition in order to lay down domestic legal basis for the realization of its international commitments in the fields of mutual judicial assistance and extradition.

To ensure that measures taken to implement res. 1624 comply with international law:

Constitution of the Socialist Republic of Viet Nam Chapter V of the 1992: Human rights

- Article 3: all offenders are equal before the law, regardless of their sex, nationalities, beliefs, religion, social class and status
- Article 5: guarantees equality of all citizens before the law
- Article 7: citizens’ right to physical inviolability
- Article 7: the rights to life, health, honour, dignity, and property
- Article 8: inviolability of residency, safety and secrecy of correspondence
- Article 9: right to presumption of innocence
- Article 11: right to self-defence or to defence counsel

Promulgated the Law on Conclusion of, Accession to and Implementation of international Treaties:

- Article 3: Viet Nam shall comply with the international treaties to which it is a party.
- Article 6: provides that international treaties shall prevail when conflicting with

	domestic laws.
Yemen	<p>Prohibition by law & prevention of incitement:</p> <ul style="list-style-type: none"> • Council of Arab Ministers of Justice has decided to amend article 1, paragraph 3, of the Arab Convention for the Suppression of Terrorism, signed on 22 April 1998, which now provides: A terrorist offence is any offence or attempted offence committed in furtherance of a terrorist objective in any Contracting State, or against the property or interests of such a State or against the nationals thereof or their property, that is punishable under the domestic law thereof, or incitement to terrorist offences or the promotion or approbation thereof or the printing, dissemination or possession of writings, printed materials or recordings, regardless of their nature, if they have been prepared for distribution or for viewing by others and include promotion or approbation of such offences. The offering or collection of funds, irrespective of their nature, for the financing of terrorist offences, in the knowledge that such is the case, is also considered a terrorist offence. • Yemen, which is a party to the Convention, is currently in the process of completing the constitutional formalities for ratification of the amendment to the said Convention. <p>To deny safe haven: Yemen does not permit aliens to enter its territory without having first obtained an entry visa from its embassies or consulates in the home country of such persons, with the exception of nationals of certain States, namely those of North America, the European Union and the Gulf Cooperation Council and some other countries on the basis of bilateral agreements signed with them, to whom the Department of Immigration, Passports and Citizenship and its branches in the governorates are authorized to grant entry visas at airports, seaports and other entry points.</p> <p>To ensure that measures taken to implement res. 1624 comply with international law: Yemen has ratified, especially conventions pertaining to international human rights law, refugee law, and international humanitarian law. It has taken pains to organize symposiums and workshops for law enforcement authorities in order to create awareness of human rights and as an embodiment of Yemen's concern with human rights, it has created a Ministry of Human Rights.</p>
Zambia	No report available
Zimbabwe	No report available