

PARLIAMENTARY HANDBOOK ON  
Security Council resolution 1373 (2001)



UNITED NATIONS  
OFFICE OF COUNTER-TERRORISM  
Programme Office in Doha

Parliamentary Engagement  
in Preventing and Countering Terrorism



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United Nations Office of Counter-Terrorism  
United Nations  
New York, NY 10017, United States of America

Email: [OCT-info@un.org](mailto:OCT-info@un.org)

Website: [www.un.org/counterterrorism](http://www.un.org/counterterrorism)

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# Foreword

Terrorism remains a global menace and an affront to humanity that knows no border, nationality or religion. The unanimous adoption by the Security Council of resolution 1373 (2001) marked a watershed moment in recognizing the importance of global cooperation to counter the scourge of terrorism. This resolution provided the basis for an international framework that enables Member States to work together in areas such as intelligence-sharing, law enforcement, judicial cooperation and countering the financing of terrorism.

Resolution 1373 (2001) imposed binding legal obligations on all Member States, requiring them to adopt appropriate legislative measures to counter the flow of resources and arms to terrorists, and to deny them safe havens. It also set the global tone on future counter-terrorism cooperation and served as the basis for several subsequent Security Council resolutions, including those that address the phenomenon of foreign terrorist fighters. Together, these resolutions reflect the shared will of the international community to counter terrorism and violent extremism conducive to terrorism. A concerted effort by Member States to promote and strengthen their implementation remains imperative.

The present *Handbook* recognizes the significant role that parliamentarians worldwide play in implementing these resolutions through their legislative, budgetary and oversight powers. It introduces parliamentarians to the obligations set out in relevant Security Council resolutions and provides insights on how best to approach their domestication

in national law. The *Handbook* is intended to serve as a reference tool for parliamentarians as they set out to propose, discuss, amend and adopt legislation and national strategies related to countering terrorism and violent extremism conducive to terrorism in all its forms. In addition, it addresses some of the key challenges currently facing global counter-terrorism efforts, particularly how to ensure that these efforts do not impinge on national obligations within the framework of international human rights law and international humanitarian law. Furthermore, the *Handbook* provides an overview of the available opportunities for technical assistance in support of Member States' implementation of Security Council resolution 1373 (2001) and subsequent relevant resolutions.

In recognizing the central role of parliamentarians in global efforts to counter terrorism and violent extremism, the Office of Counter-Terrorism (UNOCT), with the support of the Shura Council of the State of Qatar, established the UNOCT Programme Office on Parliamentary Engagement in Preventing and Countering Terrorism, based in Doha, in 2021. We have since implemented the UNOCT Global Programme on Parliamentary Engagement in Preventing and Countering Terrorism to strengthen parliamentary involvement in global counter-terrorism cooperation, in consultation with our partners and key United Nations entities through the Global Counter-Terrorism Coordination Compact.

Among the entities of the Compact, I would particularly like to commend the Counter-Terrorism Committee Executive Directorate (CTED), established by Security

Council resolution 1535 (2004), for its close collaboration with UNOCT and acknowledge its pivotal contribution to the development of this tool. CTED leads the United Nations effort to assess Member States' implementation of resolution 1373 (2001) and subsequent resolutions related to counter-terrorism. One such intended outcome of this *Handbook* is to introduce parliamentarians to and raise awareness of this assessment process.

While the *Handbook* focuses on Security Council resolutions related to 1373 (2001), it also aims to complement the UNOCT "Parliamentary Guide to Facilitate the Implementation of the United Nations Global Counter-Terrorism Strategy", which focuses on the roles of parliaments in implementing General Assembly resolutions on counter-terrorism, including the Global Counter-Terrorism Strategy of 2026 and its subsequent review resolutions.

I would like to thank the Shura Council of the State of Qatar for its generous contribution, which made this *Handbook* possible, as well as CTED and the entities of the Global Counter-Terrorism Coordination Compact, whose inputs were invaluable in the development of this *Handbook*. I would also like to thank parliamentary assemblies as members of the Counter-Terrorism Coordination Mechanism for their valuable inputs into the

development of this *Handbook*, as well as for their active participation in and contribution to the work of the Coordination Mechanism and the UNOCT Global Programme on Parliamentary Engagement in Preventing and Countering Terrorism.

It is my sincere hope that this *Handbook* will lead to increased awareness of Security Council resolution 1373 (2001) and subsequent relevant resolutions among parliamentarians worldwide, and that this awareness will ultimately lead to strengthened international cooperation against the common threats of terrorism and violent extremism.

**Vladimir Voronkov**

Under-Secretary-General for Counter-Terrorism



A handwritten signature in blue ink, appearing to read 'V. Voronkov', written in a cursive style.



# Acronyms and abbreviations

API	advanced passenger information
ASEAN	Association of Southeast Asian Nations
CFT	countering the financing of terrorism
CTC	Counter-Terrorism Committee
CTED	Counter-Terrorism Committee Executive Directorate
FATF	Financial Action Task Force
FIU	financial intelligence unit
GCTCC	Global Counter-Terrorism Coordination Compact
ICT	information and communications technology
IGAD	Intergovernmental Authority on Development
INTERPOL	International Criminal Police Organization
IPU	Inter-Parliamentary Union
OAU	Organization of African Unity
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
PIU	passenger information unit
PNR	passenger name records
PRR	prosecution, rehabilitation and reintegration
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNOCT	United Nations Office of Counter-Terrorism
UNODC	United Nations Office on Drugs and Crime





# Introduction

## BOX 0.1

### Why this *Handbook*?

- To recognize the important contributions by parliaments in preventing and countering terrorism and in strengthening international counter-terrorism cooperation.
- To raise awareness among parliamentarians of Security Council resolutions pertaining to terrorism.
- To encourage parliamentarians to reflect the provisions of Security Council resolutions within comprehensive, whole-of-government and whole-of-society action against terrorism and violent extremism conducive to terrorism.
- To complement the UNOCT “Parliamentary Guide to Facilitate the Implementation of the United Nations Global Counter-Terrorism Strategy”.

1. Parliaments are a crucial branch of government in implementing the international obligations of Member States, including those binding in Security Council resolutions. In many Member States, parliaments are also at the fore of policymaking and legislation related or relevant to counter-terrorism. They are often responsible for monitoring actions taken by the executive branch and ensuring accountability when it comes to adherence to the rule of law. Similarly, parliaments, through their budgetary powers, play a key role in the provision of the necessary resources for counter-terrorism. The aspirations set by the United Nations to stem the scourge of terrorism through national actions and international cooperation cannot, therefore, be fulfilled without the involvement and support of Member State parliaments. Therein lies the purpose of the present *Handbook*.

2. This *Handbook* is the product of the standing collaboration between the United Nations Office of Counter-Terrorism (UNOCT) and the Counter-Terrorism Committee Executive Directorate (CTED), in consultation with key partners, including the United Nations Office on Drugs and Crime (UNODC), the Inter-Parliamentary Union (IPU), the Parliamentary Assembly of the Organization for Security and Cooperation in Europe (OSCE), the Inter-Parliamentary Assembly of Member Nations of the Commonwealth of Independent States, the Parliamentary Assembly of the Mediterranean, and other parliamentary assemblies.

3. The *Handbook* is intended to serve as a reference tool to be used when parliamentarians set out to propose, discuss, amend and adopt legislation and national strategies related to preventing and countering terrorism and violent extremism conducive to terrorism in all its forms. It is meant to complement the UNOCT “Parliamentary Guide to Facilitate the Implementation of the United Nations Global Counter-Terrorism Strategy”, which covers the roles of parliaments in implementing the Global Counter-Terrorism Strategy.

## **A** Background of resolution 1373 (2001)

4. Every anniversary of Security Council resolution 1373 (2001) reminds us of the terrorist attacks of 11 September 2001 perpetrated by Al-Qaida in the United States of America. It was these heinous crimes that precipitated the international community to stand in solidarity and display a united front against the scourge of terrorism. The deaths of nearly 3,000 people of over 90 nationalities on that day marked the largest loss of lives to terrorism in a single day,<sup>1</sup> and merited a strong, unequivocal and global response.

5. On 12 September 2001, the Security Council unanimously passed resolution 1368 (2001), condemning the horrifying terrorist attacks that had taken place a day earlier in New York, Washington, D.C., and Pennsylvania. In that resolution, the Security Council expressed deepest sympathy and condolences to the victims and their families, and further expressed its readiness to take all necessary steps to respond to the attacks of 11 September and to combat all forms of terrorism in accordance with the Council's responsibilities under the Charter of the United Nations. The results of resolute deliberations in the following days were borne out on 28 September 2001, when the Security Council unanimously adopted resolution 1373 (2001).

6. Although addressing acts of terrorism had been on the international agenda for decades earlier, resolution 1373 (2001) ushered in a stronger focus on counter-terrorism, which continued to sharpen throughout the following 20 years. Attention and efforts to implement this and subsequent counter-terrorism resolutions adopted by the Security Council have demonstrated the determination of the international community to honour the memories of victims of terrorism and prevent others from having their lives stolen.

## **B** Significance of resolution 1373 (2001)

### **BOX 0.2**

#### **Why is Security Council resolution 1373 (2001) significant?**

It is:

- A swift international response to the terrorist attacks of 11 September 2001 and the threats posed by terrorism to international peace and security;
- The first thematic Security Council resolution under Chapter VII of the Charter of the United Nations;
- The first Security Council resolution to oblige Member States to pass or amend legislation at a domestic level;

<sup>1</sup> The 9/11 Commission Report, p. 311 (available at [www.9-11commission.gov/report/911Report.pdf](http://www.9-11commission.gov/report/911Report.pdf)).

- Global in scope, unrestricted to a certain Member State or region;
- Unrestricted in application to a specific terrorist group or specific terrorist acts;
- Cognizant of the importance of international cooperation as a sine qua non to counter-terroring terrorism;
- The first in a series of some 20 Security Council resolutions that underpin a robust international response to the evolving terrorist threat;
- A multifaceted instrument that addressed several areas of counter-terrorism;
- Foresighted in establishing a subsidiary body of the Security Council, the Counter-Terrorism Committee (CTC), to monitor the implementation of the resolution.

7. Resolution 1373 (2001) was the first thematic resolution adopted by the Security Council under Chapter VII of the Charter of the United Nations, creating legal obligations on all States. The resolution intentionally started with a global scope, addressing the threat to international peace and security posed by terrorism in all its forms and manifestations, regardless of geography and regardless of the perpetrators and their alleged motivations. The resolution stated that the threat of international terrorism requires resolute, sustained and multilateral action.

8. In addition to maintaining a global scope, the resolution laid the foundation for a comprehensive law enforcement and criminal justice approach to preventing and suppressing terrorism, which would be elaborated on by the Security Council in the following two decades. The resolution obliged States to criminalize terrorism financing and to establish legal or administrative measures by which to freeze funds and assets of terrorist actors; to suppress the recruitment of members by terrorist groups; to eliminate the supply of weapons to terrorists; to deny safe havens to terrorists; and to prevent the movement of terrorist groups by establishing effective border controls. Furthermore, the resolution noted the links between terrorism and organized crime, and the importance of preventing potential acts of terrorism that employ chemical, biological, radiological and nuclear weapons.

9. Of paramount importance is the resolution's obligation upon States to ensure that perpetrators and financiers of terrorism are brought to justice, and that terrorist acts are established as serious criminal offences in domestic laws and regulations, with punishments proportionate to the seriousness of the crime. The resolution not only covered the need for criminalizing acts of terrorism, but also covered the importance of criminalizing preparatory acts and building sufficient capacities to prosecute and penalize them. The resolution also obliged States to afford each other utmost cooperation in criminal investigations, criminal proceedings and the gathering of evidence related to supporting or financing terrorist acts.

10. National legislation had often been thought of as lying within the sole purview and discretion of each individual State, as a matter of national sovereignty. The same idea held true for States' propensity towards bilateral cooperation to bring suspected criminals to justice. In this sense, resolution 1373 (2001) marked a watershed moment of Security Council action,

because it mandated legislation by States and decreed the need for inter-State cooperation to counter terrorism.

### BOX 0.3

#### Which areas of counter-terrorism did Security Council resolution 1373 (2001) address?

- Countering the financing of terrorism.
- Denying safe haven to terrorists.
- Eliminating the supply of weapons to terrorists.
- Suppressing the recruitment of terrorists.
- Strengthening domestic legal and judicial responses to terrorism.
- Calling on Member States to ratify international legal instruments pertaining to terrorism.
- Enhancing international cooperation in information-sharing, investigations and adjudicating terrorist offences.
- Enshrining the standard of *aut dedere aut judicare* (extradite or prosecute) with reference to terrorist actors.
- Noting the threat from chemical, biological, radiological or nuclear terrorism.
- Recognizing the links between terrorism and international organized crime.

## C Subsequent resolutions

11. The legislative and prescriptive agenda set out in Security Council resolution 1373 (2001) was fleshed out and expanded over the following years through subsequent Council resolutions, which stressed the need for further international cooperation and also addressed new and emerging aspects of the threat of terrorism.

12. In resolution 1456 (2003), the Security Council, convened at a ministerial level, calls on Member States to ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular international human rights law, refugee law and international humanitarian law. Security Council resolution 1624 (2005) further entrenched this notion. In later years, the Security Council passed additional resolutions to address new aspects of the terrorist threat. For example, in response to the foreign terrorist fighter phenomenon, the Security Council passed resolutions 2178 (2014), 2322 (2016) and 2396 (2017).

13. Cognizant of the need for inclusive policies to counter and prevent violent extremism conducive to terrorism, the Security Council also brought to the fore the need for gender-



specific approaches within that space, in resolutions 2242 (2015) and 2467 (2019). The Council additionally emphasized the role of civil society, including academia, think tanks, the media, the private sector, women and youth groups, and cultural, educational and religious leaders, in effectively tackling the threats of terrorism. This whole-of-society approach is emphasized in various Security Council resolutions, including 2354 (2017) on developing counter-narrative strategies, and 2178 (2014) and 2396 (2017) on addressing foreign terrorist fighters and implementing prosecution, rehabilitation and reintegration (PRR) programmes.

14. The aforementioned resolutions are only selected examples of how the Security Council built on the legacy of 1373 (2001) in ways that were commensurate with the evolution of the threats of terrorism and violent extremism conducive to terrorism. These resolutions and others will be covered in this *Handbook* in more detail, in order to bring a deeper awareness and understanding of their stipulations to the targeted audience. Table II.1 presents a list of Security Council resolutions that deal with different aspects of the threat from terrorism.

## **D** CTC and CTED

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15. A major strength of resolution 1373 (2001) was its establishment of a robust follow-up mechanism in the form of a subsidiary body of the Security Council. This body, later named CTC, consists of all members of the Security Council and is mandated to monitor the implementation of the resolution. The mandate of CTC was extended and updated throughout the following years to ensure that the implementation of other resolutions pertaining to counter-terrorism would also be closely monitored.

16. Additionally, in 2004 the Security Council established CTED as a “special political mission” to assist the work of CTC and coordinate the process of monitoring the implementation of resolution 1373 (2001). The mandate of CTED has been extended and updated over the years along with that of CTC, and now consists of four main workstreams: (a) monitor and assess Member States’ implementation of 1373 (2001) and other relevant Council resolutions; (b) facilitate the delivery of technical assistance for capacity-building; (c) promote Council and Committee policy papers and guidelines, as well as relevant international codes, standards and recommended practices; and (d) analyse new and emerging trends, threats and challenges, bringing them to the attention of CTC and the Council. The role of CTED is also recognized by the General Assembly in its resolutions on the Global Counter-Terrorism Strategy, which calls upon relevant United Nations entities, Member States, donors and recipients to use expert assessments and recommendations of the Directorate as they design technical assistance and capacity-building efforts.

17. To help ensure consistent analysis of States’ implementation efforts, CTED compiled the Technical Guide to the Implementation of Security Council Resolution 1373 (2001) and Other Relevant Resolutions (henceforth “Technical Guide”). The Technical Guide, first issued in 2009 and periodically updated, addresses the requirements of the Council related to various thematic areas of counter-terrorism. It also draws on the guidance set forth in the CTC guiding principles on foreign terrorist fighters, also known as the Madrid guiding principles (S/2015/939, annex II) and addendum thereto on foreign terrorist fighters (S/2018/1177,

annex). It is suggested that Member States consult these documents as references in their efforts to translate Security Council resolutions into national action. Member States are also advised to refer to the Security Council Guiding Principles on Foreign Terrorist Fighters, which were adopted by the Security Council in 2015 and updated in 2018. The Madrid guiding principles and addendum offer Member States a blueprint on tackling the threat arising from foreign terrorist fighters.

## **E** Global Counter-Terrorism Strategy and UNOCT

18. The Global Counter-Terrorism Strategy was adopted unanimously by the General Assembly in 2006. Since then, it has been reviewed and updated seven times by the General Assembly, by consensus. The Strategy symbolizes a united front against terrorism among the 193 Member States and provides for a comprehensive approach to counter-terrorism based on four distinct pillars (see box 0.4).

### **BOX 0.4**

#### **Four pillars of the United Nations Global Counter-Terrorism Strategy (as adopted by the General Assembly on 8 September 2006)**

- I. Measures to address the conditions conducive to terrorism.
- II. Measures to prevent and combat terrorism.
- III. Measures to build States' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in this regard.
- IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism.

19. More importantly, the Strategy also affirms the need to implement all Security Council resolutions pertaining to terrorism.

20. As the phenomenon of terrorism evolved, Member States' requests for United Nations assistance increased over the years. Consequently, the General Assembly decided in 2017 to establish UNOCT with a mandate to articulate well-coordinated actions and mobilize the resources required to deliver necessary capacity-building measures (see General Assembly resolution 71/291). The Office, headed by an Under-Secretary-General, incorporated the United Nations Counter-Terrorism Centre created in 2011 within the then Department of Political Affairs to provide capacity-building support to requesting Member States in the implementation of the Global Counter-Terrorism Strategy.

21. To supplement the reform of the United Nations counter-terrorism architecture, the Secretary-General launched in 2018 the United Nations Global Counter-Terrorism Coordination Compact (GCTCC) to promote inter-agency coherence, coordination and collaboration on

counter-terrorism within the United Nations system. The GCTCC currently comprises 41 United Nations entities and four non-United Nations entities, namely the International Criminal Police Organization (INTERPOL), IPU, the Financial Action Task Force (FATF) and the World Customs Organization.

22. The Global Counter-Terrorism Strategy and relevant Security Council resolutions underpin the international fight against terrorism led by the United Nations, based on two core principles. The first is adherence to and full respect for the rule of law and international law, including international human rights law, international refugee law and international humanitarian law. The second is a commitment to a comprehensive approach that combines prevention and pursuit, following a whole-of-government and whole-of-society approach, involving also youth, women, religious actors and civil society.

## **F** Outline of the *Handbook*

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23. **Chapter I** provides an overview of the role that parliamentarians can play in the implementation of Security Council resolution 1373 (2001). The chapter also covers the legal nature of Security Council resolutions, and to what extent they contribute to the legal obligations of Member States on counter-terrorism.

24. **Chapter II** details the counter-terrorism requirements placed upon Member States by the Security Council through its resolution 1373 (2001) and relevant, subsequent resolutions, in particular resolution 1624 (2005). The chapter discusses the parliamentary role in transposing these provisions at the domestic level in a way that strengthens national, regional and international counter-terrorism efforts.

25. **Chapter III** covers the phenomenon of foreign terrorist fighters and the specific Security Council resolutions that address this issue, particularly resolutions 2178 (2014) and 2396 (2017).

26. **Chapter IV** discusses cross-cutting challenges in the implementation of Security Council resolutions on counter-terrorism, including adherence to other international obligations, especially those arising from international human rights law, international humanitarian law and international refugee law; devising policies and measures in a way that facilitates a gender-sensitive, whole-of-society approach and the broadest possible national consensus; and how parliaments can help to facilitate international cooperation in counter-terrorism.

27. **Chapter V** outlines opportunities for technical assistance available to Member States at the international level in support of their efforts to implement Security Council resolution 1373 (2001) and subsequent relevant resolutions, particularly the role of the United Nations in this regard. The chapter also discusses regional and interregional channels of cooperation and assistance available to some Member States.





# Chapter I

## **Role of parliaments in the implementation of resolution 1373 (2001) and subsequent resolutions**

### **A Obligations of Member States under Security Council resolutions**

---

1. As a prelude to the implementation of Security Council resolutions, it is imperative to address their legal status, or in other words why and to what extent are Member States of the United Nations bound by them. An understanding should be developed about the legal nature of the Charter of the United Nations and the powers entrusted to the Security Council within that document.
2. The Charter of the United Nations is an international treaty that lays the foundational framework of the United Nations. The Charter sets out the Organization's principles, purposes and functions of its principal organs. The Charter was open for signature on 26 June 1945 and came into force on 24 October of that year. As a treaty, the Charter is an instrument of international law that legally binds States parties, which consequently become Member States of the United Nations.
3. In its preamble, the Charter expresses the determination of Member States to establish conditions in which respect for the obligations arising from treaties and other sources of international law can be maintained. This determination extends to the obligations arising from the Charter itself. The supremacy of the Charter among international treaties is established under Article 103 of the Charter, which affirms that in the event of a conflict between the obligations of the Members of the United Nations under the Charter and their obligations under any other international agreement, their obligations under the Charter shall prevail.
4. According to the Charter, the Security Council is one of the principal organs of the United Nations and is the one given the primary responsibility for the maintenance of international peace and security. Under Article 24 of the Charter, Members of the United Nations confer upon the Security Council this primary responsibility and agree that, in carrying out its duties, the Security Council acts on behalf of the Members. Article 25 of the Charter gives the Security Council powers to adopt decisions, and affirms that Member States agree to accept and carry out these decisions. Security Council decisions are expressed within Security Council resolutions pertaining to issues of which the Council is seized.

5. Chapter VII of the Charter (Articles 39–51) covers actions that the Security Council is authorized to take when it determines the existence of any threats to the peace, breaches of the peace or acts of aggression. In Article 39, the Security Council is given the authority to make recommendations or take decisions. Recommendations and decisions are both expressed in the operative clauses of Security Council resolutions. According to prevalent legal interpretations, only the Council’s decisions are a subject of the commitment laid out in Article 25 of the Charter, and these are denoted by operative clauses that begin with “decides”. A violation by a Member State of a Security Council decision is therefore considered a violation of that Member State’s treaty obligations under international law. Security Council decisions are binding even to Member States that are not members of the Security Council, and even to Member States that are in the Council but might have voted against the resolution.<sup>1</sup>

### BOX I.1

## Key articles in the Charter of the United Nations outlining the nature and powers of the Security Council

### Article 24

In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf ...

### Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

### Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

### Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

<sup>1</sup> The International Court of Justice issued several advisory opinions on the binding nature of Security Council resolutions. The hallmark of these opinions rests in its 1971 opinion on legal consequences for States of the continued presence of South Africa in Namibia, and its 1949 opinion on reparation for injuries suffered in the service of the United Nations.

### Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

6. When the Security Council determines a threat to, or breach of, international peace and security, it may resort to certain measures under the Charter. Article 41 is often referred to when explaining the powers of the Security Council to issue sanctions. However, sanctions are cited in that article as an example of “measures not involving the use of armed force” that can be used to give effect to the Council’s decisions. Article 41 was not intended to limit the measures which the Council could evoke in cases in which it had determined that a threat to peace or a breach of the peace existed. For example, in the case of resolution 1373 (2001) and subsequent resolutions, the Security Council took decisions that required Member States to expand national sanctions regimes pertaining to terrorists, but the Council also took other forms of decisions that aimed at strengthening global legislative and regulatory measures to counter terrorism and violent extremism conducive to terrorism. The implementation of these decisions can hardly be achieved without the active participation and involvement of parliamentarians.

7. Council recommendations should not be viewed as merely couched in exhortatory language with no legal bearing. The resolutions are declarations made by the principal organ of the United Nations responsible for maintaining international peace and security. Therefore, recommendations included within these resolutions are normative declarations made on behalf of the entire membership of the United Nations containing best guidance and practices to address issues threatening international peace and security. They form an anthology of tried and tested Member State approach in counter-terrorism that was deemed to produce effective results. Moreover, these recommendations have the strong potential of developing into Security Council decisions in the future.<sup>2</sup>

8. It is also important to note that when the Security Council considers specific action on counter-terrorism and countering violent extremism conducive to terrorism, it is aware of the differences in Member State capacities available for implementation. This awareness frequently guides the Council to propose the action in the form of a recommendation rather than a decision. Within their respective mandates, United Nations entities, including CTED, UNOCT and UNODC, then carry out the important function of identifying needs and providing opportunities for Member States to upgrade their regulatory, institutional and human capacities to implement the Council’s recommendations. Member States have the discretion to avail themselves of technical assistance and other available capacity-building opportunities. As an integral part of government, parliaments play a role in the effective uptake and implementation of these recommendations and best practices.

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<sup>2</sup> An example of Security Council recommendations that became decisions include the obligations to collect advanced passenger information (API) and passenger name records (PNR) in order to prevent the cross-border movement of terrorists. These were made as recommendations of the Council in resolutions 2178 (2014) and 2309 (2016) before becoming obligations under resolution 2396 (2017). For more information on these resolutions, see chapter III.

**B**

## **Roles of parliamentarians in implementing Security Council resolutions**

9. As a principal branch of government, parliaments have a share of responsibility in ensuring the effective implementation of Security Council resolutions, in line with their functions under the respective constitution of Member States. Most constitutions provide parliaments with roles that check and balance the executive branch of government, in line with the principle of separation of powers between the executive, legislative and judicial branches of government. These roles are discussed below, and they give parliaments substantial authority in shaping and monitoring policy relating to preventing and countering terrorism and violent extremism conducive to terrorism.

### **BOX I.2**

#### **Roles of parliamentarians in counter-terrorism and countering violent extremism that leads to terrorism**

##### **Defenders of principles**

Parliaments are national bastions of democracy, the rule of law, human rights and government accountability to the people.

##### **Legislators**

Parliaments transpose treaties, Security Council decisions and recommendations into law. A comprehensive approach to counter-terrorism and preventing and countering violent extremism conducive to terrorism must be embedded in a legal framework.

##### **Representatives of the public**

Parliamentarians ensure that their constituents are represented in policy debates of national importance, particularly those related to national security. They should ensure input and representation from all groups. Their grass-roots links are an important pillar of prevention.

##### **Promoters of comprehensiveness and integration**

Parliamentarians have the vision to ensure that the entire body of law, as well as the State's socioeconomic policy, aid the core vision of uprooting causes of terrorism and violent extremism.

##### **Dispensers of resources**

Parliaments allocate resources, prioritize government spending and monitor the dispensation of resources according to the principles of good governance, accountability and transparency.

##### **Bridges of cooperation and understanding**

Parliamentarians are connectors of peoples across borders. Through interparliamentary forums and exchanges, they are conduits of reciprocal empathy and collaboration in areas of global concern.



# 1. Defenders of principles

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10. Parliaments should have the power to monitor and evaluate the administration of government by the executive. Parliamentarians are provided the constitutional powers by which to guide and, when necessary, to challenge the executive branch of government in devising and implementing policy, as well as in the enactment and implementation of law. These powers are exerted through various means within the reach of parliaments, including passing legislation, setting and affirming national budgets and questioning government officials on their performance. In many constitutions, parliaments are given the primary responsibility to uphold the principles and values of the State enshrined in the constitution. These values can include the supremacy of the rule of law, the protection of human rights, the preservation of democracy, and government accountability. Parliaments, therefore, have an essential role in ensuring that these principles are upheld in the context of preventing and countering terrorism and violent extremism conducive to terrorism.

11. A manner in which parliaments ensure such principles are upheld is through their power to exercise civilian oversight over the security sector and law enforcement agencies. This power is considered at the heart of democratic governance and ensures that security institutions are accountable to the elected representatives of the people. In exercising oversight, parliaments verify that the executive branch is exercising its powers in compliance with national and international law. Parliamentary oversight may be conducted in several ways, some of which are listed in box I.3. The oversight function of parliament lends to more effective measures by law enforcement and security agencies and imbues their actions on counter-terrorism with a necessary degree of public credibility, trust and acceptance.

## BOX I.3

### Parliamentary oversight over security sector institutions and law enforcement agencies

How does parliament exercise its oversight capacity?

- Parliament examines, modifies and passes laws pertaining to the conduct of these institutions/agencies. They also have the power to question government officials on regulations deemed ineffective or counterproductive.
- Parliament can determine the level and content of security sector and law enforcement expenditure.
- Parliament can hold hearings, inviting law enforcement and security officials, to ascertain that certain policies or operations are compliant with national and international law and achieving the stated desired outcomes.

### BOX I.3 (CONTINUED)

- Parliament might have the authority, depending on relevant laws and constitutional provisions, to appoint or relieve senior officials.
- Parliament is usually conferred with the power to endorse and to end declarations of war or states of emergency.
- Through hearings, fact-finding missions, special committees and other oversight mechanisms that take into account input from a wide range of stakeholders and civil society representatives, parliaments should ensure that actions undertaken by security institutions/law enforcement agencies:
  - Are not inadvertently harming marginalized or vulnerable groups or otherwise causing counterproductive effects that exacerbate existing roots of terrorism;
  - Are compliant with national law and the Member State's obligations under international law;
  - Are commensurate with approved expenditure guidelines.

12. Conducting counter-terrorism within the confines of international law, including international human rights law, is a requirement that the Security Council and the General Assembly have repeatedly and unequivocally stressed in relevant resolutions. Besides being a legal imperative, upholding the rule of law and human rights is essential for States to address the conditions conducive to terrorism and to counter the narratives of terrorists that often portray themselves as victims and the State as the violator, and trying to provoke States into over-reacting and taking measures that disregard their international obligations.

## 2. Legislators

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13. Although most laws concerning counter-terrorism and countering violent extremism will be initiated by the executive branch of government, parliaments will debate, amend and eventually adopt bills and draft laws. In carrying out these legislative duties, parliaments act as a safeguard to ensure that counter-terrorism laws do not infringe on rights and freedoms, in line with the domestic constitution and States' international law obligations.

14. According to some constitutions, parliaments also play a central role in the process of ratifying or acceding to a treaty. In this regard, the Security Council has called on States to become parties as soon as possible to all relevant international conventions and protocols relating to terrorism.<sup>3</sup> There is a difference between the "dualist tradition" and the "monist tradition" in constitutional law. In the former, international treaties have no domestic application

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<sup>3</sup> Security Council resolutions 1373 (2001), para. 3(6), and 2322 (2016), para. 11. More information on the specific international conventions and protocols and how Member States are required to transpose them domestically is in chapter II.

until they are incorporated in domestic law by an act of the legislative authority. In the latter, once a treaty is ratified, its provisions automatically become part of the domestic canon. While parliament's role in the dualist tradition is obvious, in the monist tradition, parliaments may need to pass legislation in order to fulfil non-self-executing elements of a treaty or convention. An example of this is the need to pass specific legislation setting specific penalties for offences covered by international counter-terrorism instruments.<sup>4</sup>

15. Laws passed by parliaments are thus at the cornerstone of the whole-of-society and whole-of-government approach to counter-terrorism, as they ground a State's response within the rule of law and human rights principles entrenched in constitutions. Parliaments are therefore required to carry out some due diligence to ascertain that these laws are necessary, and that they will produce the aspired effect. However, the legislative role of parliaments does not end when the law is passed. Parliamentarians may also be expected to continuously monitor implementation and should periodically evaluate existing legislation and consider amendments that may be needed or make recommendations to the government to improve effective implementation. When evaluating legislation, whether in the draft stage or post-enactment, parliaments should use all the means at their disposal to gather supporting evidence and information, including parliamentary debates, committee and public hearings, oral and written questions, interpellations, parliamentary inquiries and fact-finding missions.

16. Sound counter-terrorism legislation is characterized by its compliance with the constitutional framework of the Member State and with international law, including human rights law, international humanitarian law and international refugee law. The language of the legislation should comply with the principle of legality by being clear and concise and leaving no room for abuse or misinterpretation. For instance, the legislation should provide for a specific and narrow definition of terrorism or acts of terrorism. Legislation should be based on evidence that supports its necessity, proportionality and potential effectiveness. This evidence could be gathered locally and from international experiences and good practices, in particular from comparable contexts, where possible. Sound counter-terrorism laws will allow for increased international cooperation and should be passed with a view to endorsing bilateral and multilateral efforts against terrorism and violent extremism conducive to terrorism.

17. Enough time should be allocated by parliaments to debate any piece of counter-terrorism legislation so as to avoid hasty passage of laws that do not comply with constitutional and international standards. Time allotted for debate should allow, in particular, for the consultation of affected groups and other stakeholders. Legislation on counter-terrorism is only as effective as the level of public buy-in to the measures it proposes to impose. Parliamentarians must also ascertain that there are sufficient financial and human resources to implement the law or that there are clear avenues by which to raise the resources required, whether domestically or through international assistance.

18. When considering proposed counter-terrorism laws, parliaments are encouraged to see to it that the aforementioned criteria are met and that certain questions are sufficiently

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<sup>4</sup> The implementation of international counter-terrorism instruments will be covered in more detail in chapter II.

answered. They should undertake a similar exercise during post facto evaluations of laws. Some of the questions are shown in table I.1.

Table I.1  
**Questions to ask when reviewing laws related to counter-terrorism**

<b>Criteria of sound counter-terrorism legislation</b>	<b>Before the law is passed</b>	<b>After the law is passed</b>
Compliant with the constitution	Does the letter of the law conflict with any of the principles and rights enshrined in the constitution?	Have the interpretative notes, regulations and measures to implement the law adhered to the letter of the law?
Clearly and precisely drafted	Is the language of the law clear and concise? Do the offences as they are spelled out open room for abuse? Are the penalties described proportionate and reflecting the seriousness of the acts?	Have there been difficulties in legal interpretations of the law's provisions by the judiciary? Has the law been abused by actors or agencies of the executive?
Compliant with international human rights law, international humanitarian law and international refugee law	Does the law comply with obligations of Member States under tenets of international law?  Is it commensurate with legal instruments of international human rights law, international humanitarian law and international refugee law to which the Member State is party?	Did the implementation of the law result in negative impacts on human rights, in particular human rights violations?  Did the implementation of the law result in adverse effect on humanitarian actors and humanitarian action, including medical actors and activities?  Did the implementation of the law result in adverse effect on refugees and asylum-seekers, in particular violations of international refugee law, such as the principle of non-refoulement?
Evidentially supported	Is there sufficient evidence to justify measures proposed by the law as necessary and proportionate? Is it based on good practices observed elsewhere or comparable Member State experience?	What evidence has accrued from the law's implementation that it is effective in achieving its stated goal?
Economically feasible	What are the financial costs of the law and are there sufficient material and human resources available for implementation?	What were the actual costs of implementation? Were there unforeseeable costs?

Criteria of sound counter-terrorism legislation	Before the law is passed	After the law is passed
Thoroughly debated	Was there sufficient time allocated to discuss the draft within parliament to avoid hasty passage?	Has enough time passed to evaluate the after-effects and consequences of the law?
Inclusive	How are public consultations going to be carried out before passing the law? Which groups are affected by the law? Are inputs needed from professional groups, civil society organizations or the private sector?	How has the law impacted vulnerable and target communities? Which civil society and private sector actors can provide evidence on the effects of the law? Have they been provided opportunities to have their voice heard in parliament?
Strengthens international counter-terrorism cooperation	Does the law adhere to the international obligations of the Member State, including international law, international instruments, Security Council resolutions and the Member State's commitments under the Global Counter-Terrorism Strategy?	Has the law improved cooperation on counter-terrorism and countering violent extremism conducive to terrorism with other Member States, regional and international organizations? Has available international assistance been sufficiently tapped?

### 3. Representatives of the public

19. Parliaments reflect the will of their respective citizens and thus play an important role as the link between the citizenry and their government. They provide an avenue through which civil society and subject matter experts are brought into the fold of national discussions on policy and legislation. Parliaments in this regard are central to achieving principles of representation and inclusion for whole-of-society participation on issues of national concern. They should help to build national consensus around policies and laws by engaging with communities and hearing directly from the people they represent and stakeholders, including from youth, women, remote communities and stakeholders often marginalized in policy-forming and decision-making processes.

20. Parliaments play a critical role through their engagement with the public, particularly with affected groups and individuals. Bringing different communities into the fold of national discussions when formulating laws ensures that a broad range of concerns and opinions are taken into account, thereby defusing arguments that government policy lacks transparency and deliberately excludes specific groups.

21. The importance of engagement with civil society has been reiterated in several Security Council resolutions. The Security Council stressed in the preamble to resolution 1624 (2005)

the importance of the role of the media, civil and religious society, the business community and educational institutions in efforts to enhance understanding, broaden dialogue and foster an environment that is not conducive to the incitement of terrorism. Resolution 2354 (2017) stressed that efforts to counter terrorist narratives could benefit through engagement with a wide range of actors, including youths, families, women, victims of terrorism, religious, cultural and education leaders, and other concerned groups of civil society, and that States should consider engaging, where appropriate, with religious authorities and community leaders with relevant expertise in crafting and delivering effective counter-narratives. In its resolution 2395 (2017), the Security Council further recognized the importance of civil society, including community-based civil society, the private sector, academia, think tanks, the media, youth, women, and cultural, educational and religious leaders, in increasing awareness about the threats of terrorism and tackling them more effectively.

22. Civil society should be engaged continually and at different stages of a Member State's counter-terrorism efforts. This entails the importance of civil society participation when developing a national counter-terrorism and/or preventing and countering violent extremism strategy, when devising counter-narrative, prevention, rehabilitation and reintegration programmes, when making, reviewing or amending relevant laws, and when exercising parliamentary oversight. The rights, needs and concerns of youth and women should be given due attention at these various stages, through the representation of and engagement with the concerned groups and individuals in parliamentary activities.

## **4. Promoters of comprehensiveness and integration**

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23. Because of their broad experience in various issues of policy and administration, and because they are very familiar with local-level conditions, parliamentarians are often adept at recognizing thematic linkages and accounting for them through legislation. Therefore, parliaments are expected to play an important role in the prevention of violent extremism conducive to terrorism and in addressing the root causes of terrorism through their work in many areas, including socioeconomic development. For example, the work parliaments do in enhancing and reforming education systems should consider the need to incorporate important values such as tolerance and coexistence in order to eradicate conditions conducive to violent extremism. The same holds true for parliamentary work addressing topics such as employment, gender equality and youth empowerment.

24. Similarly, when discussing counter-terrorism and countering violent extremism, there are certain topics that should be consistently considered. These include, for example, adherence to obligations of international human rights and humanitarian law, gender mainstreaming and facilitating international cooperation.

## 5. Dispensers of resources

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25. When discussing budgetary allocation for proposed security measures, parliaments are actively combining their legislative role with their role as representatives of the public, promoters of integration and defenders of constitutional principles.

26. Counter-terrorism policies and action have direct and indirect costs, and it is up to parliaments in their role as allocators of state budgets to ensure that these resources are available and justifiable. Direct costs refer to the tangible burdens proposed counter-terrorism measures may have on the state budget. Indirect costs include the opportunity cost of the proposed measure, or in other words how this might affect spending on other areas and whether there are other alternatives that can be considered. Indirect costs also refer to intangible or hard-to-measure costs such as the likely impingement of a measure on rights and freedoms and possible effects on investment and economic activity.

27. In this regard, budgetary decisions should be based on evidence of existing conditions and the likely effects of proposed measures, and it is within the purview of parliaments to ensure that this evidence and arguments in support of the measures are well presented, accurately and sufficiently, by the executive branch. Parliaments should corroborate this evidence by subject-matter experts and are encouraged to involve the public in the national debate on eventual direct and indirect costs. Because setting budgets is an iterative process, cyclically repeated, parliaments should be able to utilize each iteration as an opportunity to re-evaluate policies and measures using the tools at their disposal to elicit information from the executive and from other stakeholders within the public. In other words, parliaments should leverage their position as dispensers of resources to carry out their oversight role over security institutions and law enforcement agencies.

28. Accordingly, when discussing the budgetary implications and worthiness of a counter-terrorism measure, parliament should go through the considerations illustrated in box I.4. This should assist parliaments in deciding whether a measure is worth the cost and whether resources can be optimized to ensure its proper implementation. Parliamentarians should require their governments to make sure that its proposals for counter-terrorism measures meet the criteria in this list as much as possible before presenting them to parliament.

### BOX I.4

#### Considerations when approving resources for counter-terrorism

When deciding to fund a counter-terrorism measure, parliament must check that due diligence has been undertaken to ensure that the proposed measure is:

##### **Legal**

The measure or policy is compliant with existing domestic laws and with a Member State's international obligations under international human rights, humanitarian and refugee law,

## BOX I.4 (CONTINUED)

Security Council decisions and other legally binding international instruments to which the State is party. Measures that fail the criteria of legality could be ineffective, possibly counterproductive, and thus lead to a squandering of State resources.

### **Inclusive**

Before the measure has been proposed, sufficient input has been sought and considered from a wide range of actors, who would either be affected by the measure or whose expertise is relevant for proper implementation. The measure is based on sufficient evidence provided by sound research and credible threat assessments. The measure also takes into account gender and age-specific considerations.

### **Synergetic**

Implementing the measure can be done through technical assistance opportunities available from partner Member States or relevant international or regional organizations. The government has put in the effort to secure sources of assistance so as to not add unnecessary burden on the public purse. The government has sought ways in which to include the private sector, if applicable, in the implementation. This is particularly important if the private sector is directly involved in the implementation, as with measures related to monitoring and policing the Internet or measures related to providing security to critical infrastructure. The measure also facilitates information-sharing and expertise across borders, and the proposal includes mechanisms to enhance international cooperation in counter-terrorism.

### **Tenable**

The State can secure sufficient technical, human and financial resources to ensure that the proposed measure is sustainable, implementable and can mitigate the specific threat for which it is designed. The proposal includes campaigns for awareness-raising to ensure thorough implementation by the public or relevant entities. The proposed measure contains a built-in monitoring and review mechanism, which allows parliament to exert an appropriate degree of oversight.

## **6. Bridges of cooperation and understanding**

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29. As a consequence of their representative, legislative and budgetary functions, parliaments are in a prime position to strengthen international coordination and cooperation on topics of transnational interest, including counter-terrorism and countering violent extremism. Through people-to-people contacts, and within international and regional parliamentary forums, parliamentarians can come together to exchange practices and experiences and to lay grounds amenable for common understandings of complex problems. These inter-parliamentary dialogues are also important for cross-cultural dialogues and aid in dissipating myths and stereotypes that can impede international cooperation.



30. According to IPU, there are currently about 45,000 members of parliament who represent a microcosm of all ethnicities, races and religious beliefs. Annual IPU assemblies can attract up to a thousand participants and are therefore a periodic exercise in cross-cultural dialogue and understanding. With this in mind, UNOCT, UNODC and IPU co-organized the first Global Parliamentary Summit on Counter-Terrorism in 2021 to advance peace and sustainable development, particularly in regions devastated by terrorist groups and socioeconomic fragility.

## C

### **International recognition of the role of parliamentarians in counter-terrorism**

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31. Governments, parliaments and the United Nations have been working together for decades on the issues of counter-terrorism in different formats and forums. For instance, IPU, as one of the oldest international organizations in existence, was given observer status to the United Nations in 2002 to expand areas of cooperation between the organizations, including on issues of international peace and security. The framework of cooperation between both organizations on counter-terrorism and prevention of violent extremism was set up in 2017, when IPU, at the conference in Saint Petersburg, approved a proposed joint programme between IPU, UNOCT and UNODC.

32. With the establishment of the UNOCT Programme Office on Parliamentary Engagement in Preventing and Countering Terrorism in June 2021, in Doha, Qatar, cooperation with parliamentarians and their assemblies on counter-terrorism and prevention of violent extremism has been further strengthened. The UNOCT Parliamentary Engagement Office serves as a global centre to support and build the capacity of parliamentarians worldwide in their efforts to counter terrorism through the United Nations Global Programme on Parliamentary Engagement in Preventing and Countering Terrorism, implemented by UNOCT, in partnership with international and regional parliamentary assemblies, as well as with other United Nations entities and international organizations. The Global Programme seeks to enhance parliamentary contribution to policies, strategies and action plans; support parliaments to fill the gaps in the implementation of international legal and other instruments related to terrorism; support parliaments in promoting a balanced implementation of the Global Counter-Terrorism Strategy; and provide parliaments with the necessary tools and resources to achieve these goals.

33. In December 2021, UNOCT, in cooperation with the Shura Council of the State of Qatar, organized the first Counter-Terrorism Coordination Meeting of Parliamentary Assemblies in Doha. As a result, UNOCT and participating parliamentary assemblies agreed to establish a joint strategic coordination mechanism to improve coordination and promote cooperation among parliamentary assemblies, as well as with the United Nations and parliamentary bodies. The new Coordination Mechanism aims to support and further develop the existing initiatives and efforts on the promotion of cooperation between parliamentary assemblies in the area of counter-terrorism and prevention of violent extremism through the organization of joint events

and projects. The new Coordination Mechanism<sup>5</sup> also supports the critical work conducted by parliamentary assemblies in counter-terrorism and prevention of violent extremism, especially in terms of promoting policy convergence among parliamentarians from different Member States, as well as coordinating and supporting the efforts of national parliaments in implementing the international legal framework for counter-terrorism and prevention of violent extremism.

34. It is clear that an international consensus exists on the role of parliamentarians in strengthening efforts to counter terrorism and violent extremism conducive to terrorism. Parliamentarians are encouraged to entrench this consensus through exhibiting ongoing and active involvement and interest in these areas of national security, and to participate in ongoing efforts to raise parliamentary capacity and awareness of the global evolution of the threats and ways in which different Member States are trying to mitigate those threats. Areas meriting capacity-building work include raising awareness on the global obligations, standards and good practices being set by the Security Council in this field. The following chapter will dive into the various counter-terrorism resolutions passed by the Security Council, with a focus on resolution 1373 (2001) as the cornerstone of the Council's work in this area.

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<sup>5</sup> As at January 2024, 15 parliamentary assemblies joined the Coordination Mechanism: the Arab Parliament, the Arab Inter-Parliamentary Union, the African Parliamentary Union, the Asian Parliamentary Assembly, the Inter-Parliamentary Assembly of the Association of Southeast Asian Nations (ASEAN), the Inter-Parliamentary Assembly of Member Nations of the Commonwealth of Independent States, the Parliament of the Economic Community of West African States, the Latin American and Caribbean Parliament, the Parliamentary Assembly of the Organization for Security and Co-operation in Europe, the Parliamentary Assembly of the Council of Europe, the Parliamentary Assembly of the Mediterranean, the Parliamentary Assembly of the Black Sea Economic Cooperation, the Parliamentary Union of the Organization of Islamic Cooperation Member States, the Southern African Development Community Parliamentary Forum, and the Parliamentary Assembly of Turkic States.



## Chapter II

# Concrete involvement of parliaments in implementing resolution 1373 (2001) and subsequent resolutions

### **A** Overview of resolution 1373 (2001) and subsequent resolutions, and introduction to the CTED Technical Guide

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1. Resolution 1373 (2001) was passed by the Security Council at a unique moment of international cooperation brought about by the events of 11 September 2001. The gravity of the moment was reflected in the strength of the language of the resolution, as well as in the breadth of counter-terrorism issues it covered. The resolution established the Security Council's agenda on counter-terrorism and countering violent extremism conducive to terrorism for the following years, and the Council actively passed a series of subsequent resolutions that aimed to meet the challenges of the evolving threat. Table II.1 lists these resolutions.
2. Resolutions which were passed under Chapter VII of the Charter of the United Nations include Security Council decisions that furnish obligations on Member States. Other resolutions, those that were not passed under Chapter VII of the Charter, contain recommendations that Member States are encouraged or called upon to implement to strengthen the international response to terrorism and violent extremism conducive to terrorism.
3. It should be reiterated that while resolution 1373 (2001) was issued in response to the events of 11 September, its scope was made intentionally universal by the Security Council. The provisions of this resolution do not strictly apply to Member State responses to particular terrorist groups or solely to groups, entities and individuals proscribed by the Security Council. The obligations under the resolution apply to Member State responses to all forms of terrorism, irrespective of motivation, whenever and by whomsoever committed. Member States are expected to carry out these obligations and to transpose them into their domestic laws and criminal codes without any exceptions based on justifications of a political, religious or ideological nature.

Table II.1

**Resolution 1373 (2001) and subsequent follow-up resolutions issued by the Security Council**

Resolution	Year	Date	Chp VII	Main theme
1373*	2001	28 September	Y	Covers a wide range of counter-terrorism themes; establishes CTC
1535	2004	26 March	N	Establishes CTED
1540*	2004	28 April	Y	Preventing the acquisition of chemical, biological, radiological and nuclear weapons by terrorist groups
1566	2004	8 October	Y	Monitoring implementation of resolution 1373; CTC to begin visits to Member States
1624*	2005	14 September	N	Countering terrorist narratives
2117	2013	26 September	N	Small arms and light weapons
2129	2013	17 December	N	Extension and expansion of the CTED mandate
2133	2014	27 January	N	Kidnap for ransom
2178*	2014	24 September	Y	Foreign terrorist fighters
2195	2014	19 December	N	Transnational organized crime and terrorism
2220	2015	22 May	N	Small arms and light weapons
2242	2015	13 October	N	Women, peace and security, and terrorism
2309	2016	22 September	N	Aviation security
2322	2016	12 December	N	International judicial and law enforcement cooperation
2331*	2016	20 December	N	Human trafficking, sexual and gender-based violence and terrorism
2341*	2017	13 February	N	Critical infrastructure
2347*	2017	24 March	N	Cultural property
2354	2017	24 May	N	Countering terrorist narratives
2370	2017	2 August	N	Countering the provision of weapons to terrorists
2379	2017	21 September	N	Establishes the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (UNITAD)
2388	2017	21 November	N	Human trafficking and terrorism
2395	2017	21 December	N	Extension and expansion of the CTED mandate
2396*	2017	21 December	Y	Foreign terrorist fighters
2462*	2019	28 March	Y	Countering finance of terrorism
2467	2019	23 April	N	Sexual and gender-based violence and terrorism
2482	2019	19 July	N	Transnational organized crime and terrorism
2617	2021	30 December	N	Extension and expansion of the CTED mandate to 31 December 2025

\* Resolution calling for the criminalization of certain conduct. Criminalization clauses should be incorporated into domestic legislation.

## Paragraph 1 of Security Council resolution 1373 (2001)

In this paragraph the Security Council decides that States shall:

- a) Prevent and suppress the financing of terrorist acts;
- b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;
- c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;
- d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons.

4. In the resolution, the Security Council declares that “acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations”. The declaration serves to stress that the Security Council shall not accept any justifications to acts of terrorism and, moreover, that the Council would continue to be seized of the issue of terrorism as one that poses a continuous and grave threat to international peace and security wherever it occurs and regardless of the affiliation of its perpetrators. Additionally, this declaration within paragraph 5 of the resolution reflects a conviction which has since been developed further in subsequent resolutions, that preparatory acts also constitute a threat to international peace and security and must be addressed by domestic laws and codes.

5. This chapter will explain the various resolutions, aided by the Technical Guide. The Technical Guide is a document prepared by CTED as part of its mandate to assist CTC to monitor, facilitate and promote the implementation of 1373 (2001) and subsequent resolutions.

6. The Technical Guide is not meant to impose obligations on Member States apart from those already existing by virtue of the different Security Council resolutions. It is, however, meant to be used as a tool to highlight the requirements of the relevant resolutions to Member States. It is also meant as a reference to help to ensure consistent analysis of Member State implementation efforts and to help to identify where gaps exist that require attention. The

Guide can be used by Member States as a self-assessment tool when they are laying down their strategies, legislative frameworks and executive measures to counter terrorism and violent extremism conducive to terrorism to ensure that their actions are always compliant with relevant Security Council resolutions and principles of human rights and inclusion embodied therein.

7. The latest update of the Technical Guide was issued on 27 December 2019 (S/2019/998) and takes into account resolutions relevant to counter-terrorism issued from 2001 to 2019, covering the broad range of areas addressed by these resolutions, including countering the financing of terrorism (CFT), enhancing law enforcement capabilities, addressing the foreign terrorist fighter phenomenon, improving border security, information-sharing, criminal justice responses to terrorism and international cooperation, as well as the human rights and gender aspects of counter-terrorism and countering violent extremism.

8. The Technical Guide is composed of four chapters. The first three cover Member State obligations under each of the first three paragraphs of resolution 1373 (2001). The fourth chapter covers the obligations of Member States under resolution 1624 (2005). The chapters of the Technical Guide also incorporate discussion of other obligations and recommendations made by the Security Council in separate resolutions.<sup>1</sup> The Guide also draws on the guidance set forth in the CTC guiding principles on foreign terrorist fighters, also known as the Madrid guiding principles (S/2015/939, annex II) and addendum thereto on foreign terrorist fighters (S/2018/1177, annex).<sup>2</sup>

## **B Criminalization and suppression of terrorism financing: paragraph 1 of resolution 1373 (2001)**

9. The opening paragraph of Security Council resolution 1373 (2001) indicates the Council's mindfulness of terrorism financing as a significant preparatory act that must be criminalized and suppressed in order to uproot the threat of terrorism. Therefore, according to the provisions of this Security Council decision, Member States are obliged to ensure that their domestic law meets certain criteria regarding the criminalization of terrorism financing:

- a) Terrorism financing must be a stand-alone offence that is separate from committing, planning, attempting or facilitating the perpetration of a terrorist act.
- b) Criminalization of terrorism financing must be absolute and without exception, meaning that the act cannot be justified by considerations of a political, philosophical, ideological, racial, ethnic or religious nature.

<sup>1</sup> The Technical Guide addresses individual paragraphs of resolutions 1373 (2001) and 1624 (2005) and identifies critical provisions of resolutions 2178 (2014) and 2396 (2017) that focus on addressing the foreign terrorist fighter phenomenon. The Technical Guide also takes into account the requirements set forth in resolutions 2129 (2013), 2133 (2014), 2178 (2014), 2195 (2014), 2220 (2015), 2242 (2015), 2253 (2015), 2309 (2016), 2322 (2016), 2331 (2016), 2341 (2017), 2347 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2379 (2017), 2388 (2017), 2462 (2019), 2467 (2019) and 2482 (2019), in order to reflect the additional elements prescribed in these resolutions.

<sup>2</sup> Chapter III of this *Handbook* discusses the Madrid guiding principles and addendum thereto.

- c) Terrorism financing offences should apply to any funds, whether derived from legitimate or illegitimate sources. The domestic law or criminal code must contain a broad definition of funds and assets and ensure that this definition also covers economic resources. The law must also criminalize and contain provisions to freeze and confiscate funds that are used on behalf of terrorists but not directly controlled by them. Box II.2 contains some useful information on the definitions of assets, economic resources and indirect control, which should be taken into account when drafting relevant domestic laws.
- d) States must criminalize the wilful provision or collection, by any means including by electronic means, of funds by their nationals or by persons within their jurisdiction with the knowledge or the intention that these funds will be used for a terrorist organization or individual terrorists.

## BOX II.2

### Definition of assets and economic resources

Funds and other financial assets should be understood to include:

- cash, cheques, claims on money, drafts, money orders, bearer instruments, Internet-based payment instruments such as virtual currencies and other payment instruments;
- deposits with financial institutions or other entities and balances on accounts, including but not limited to fixed or term deposit accounts, balances on share trading accounts with banks, brokerage firms or other investment trading accounts;
- debts and debt obligations, including trade debts, other accounts receivable, notes receivable, and other claims of money on others;
- equity and other financial interest in a sole trader or partnership; publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- credit, right of set-off, guarantees, performance bonds or other financial commitments;
- letters of credit, bills of lading, bills of sale; notes receivable and other documents evidencing an interest in funds or financial resources and any other instruments of export-financing;
- insurance and reinsurance;
- digital or virtual currencies.

Economic resources should be understood to include assets of every kind, whether tangible or intangible, movable or immovable, actual or potential, that potentially may be used to obtain funds, goods or services, such as land, buildings or other real estate; equipment, including computers, computer software, tools and machinery; vessels, aircraft and motor vehicles; inventories of goods; works of art, cultural property, precious stones, jewellery or gold; commodities, including oil, minerals or timber; patents, trademarks, copyrights, trade names, franchises, goodwill and other forms of intellectual property; Internet hosting or



## BOX II.2 (CONTINUED)

related services; and digital representations of economic resources, such as non-fungible tokens.

Funds or other financial assets or economic resources made available to or for the benefit of a listed party are not always held directly by them; they may be held by others on the listed party's behalf or acting at the listed party's direction. In this case Member States must ensure that any funds or negotiable benefit arising from this property is also frozen. In identifying such funds and benefits, Member States should be alert to the possibility that property owned or controlled indirectly by the listed party may not be immediately visible, and that the listed party may have arranged the indirect ownership or control in order to conceal an interest in the property.

10. It is important to note that the obligation on Member States is not only to criminalize, but also to suppress terrorism financing. In this sense Member States are expected to:

- a) Pass laws indicating dissuasive punishments to the offence of financing terrorism;
- b) Build sufficient capacities that allow the monitoring, detection and prosecution of individuals and groups that commit or attempt to commit these crimes. It is expected, therefore, that Member States direct sufficient resources to strengthen their financial intelligence units (FIUs), and to strengthen the capacity of law enforcement agencies and other relevant authorities to monitor and detect terrorist efforts to raise, use, move, store, manage and obscure their funds.

## BOX II.3

### References for criminalization of terrorism finance

When laying down or amending the definition of terrorism finance in domestic law and criminal codes, legislators are advised to consider international obligations derived from the following sources:

- Resolution 1373 (2001)
- Resolution 2178 (2014), paragraph 6
- Resolution 2462 (2019), paragraph 5
- International Convention for the Suppression of the Financing of Terrorism (General Assembly resolution 54/109)
- FATF recommendations 5 and 6 and their relevant interpretive notes
- Other pertinent resolutions or conventions adopted by relevant regional organizations



11. When discussing the issue of criminalizing terrorism finance within domestic criminal codes, two other important Security Council resolutions must be taken into account: resolutions 2178 (2014) and 2462 (2019). Both of these resolutions oblige Member States to modify the definition of the offence of terrorism finance to include specific aspects:

- a) In resolution 2178 (2014), dedicated to preventing and suppressing the foreign terrorist fighter phenomenon, the Security Council decided that States shall criminalize the travel or attempted travel of individuals under their jurisdiction for the purpose of joining terrorist groups or to perpetrate acts of terrorism. In this regard the Council also decided that States shall criminalize the wilful collection of funds to finance the travel of foreign terrorist fighters.
- b) In resolution 2462 (2019), the Security Council reiterated its decision that Member States of the United Nations must criminalize terrorism financing in the manner set out in previous resolutions beginning with 1373 (2001). Moreover, resolution 2462 (2019) also stressed that States shall criminalize terrorism finance, and prosecute and penalize perpetrators thereof, even in the absence of a link between funds identified and a specific act of terrorism.

12. When criminalizing terrorism, Member States are also called upon, in resolution 2341 (2017), to ensure that they have established criminal responsibility for terrorist attacks intended to destroy or disable critical infrastructure, as well as the planning of, training for financing of and logistical support for such attacks.

13. Paragraph 1(c) of resolution 1373 (2001) places an obligation on Member States to freeze without delay funds and other financial assets that have been used, or can be used, in acts of terrorism, whether these funds and assets belong to natural persons, or legal persons controlled by the terrorists or people associated with them or acting on their behalf. To effectively implement this paragraph, Member States must ensure the following:

- a) Legal and administrative mechanisms must exist that enable freezing these assets and funds. Entities responsible for the implementation of these freezing orders, whether they are part of the public or private sector, must be made fully aware of any orders emanating from these mechanisms and should be capable of and accountable for their proper implementation.
- b) These mechanisms that Member States put in place must allow for the implementation of any freezing orders “without delay”. While resolution 1373 (2001) and subsequent Security Council resolutions do not define the term “without delay”, the FATF clarifies that “for the purposes of S/RES/1373(2001), the phrase without delay means upon having reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, one who finances terrorism or a terrorist organisation”.<sup>3</sup>
- c) Member States should create means and databases by which to facilitate the identification of beneficial ownership and control structures of all legal persons,

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<sup>3</sup> FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation* (FATF, Paris, 2023), p. 138.

including through ensuring the proper collection and compilation of this information during establishment, registration and onboarding processes. This means that financial institutions and registries must be obliged to implement proper and regularly updated customer due diligence procedures.

- d) The ability to freeze assets and funds belonging to designated individuals and entities involved in terrorist acts must extend to any funds whether derived from legitimate or illegitimate sources. It is expected that the definition of funds within the domestic law should be broad enough to include assets that may be used to obtain goods and services, including non-fiat representations of value, trade resources and economic resources.<sup>4</sup>
- e) In addition to these considerations, Member States must ensure that mechanisms to freeze assets and funds comply with due process and fair treatment requirements and that there is a clear path for legal redress to which designated persons can revert (for example, authorized exemptions such as basic or extraordinary expenses, ability for an affected individual or entity to challenge an asset-freezing decision, periodic review of asset-freezing decisions). Member States should also assess, avoid and mitigate potential human rights harms caused by CFT legislation, including any gender-disproportionate effects on women and women's rights organizations.<sup>5</sup>

14. Member States must not only criminalize the collection of funds for the benefit of persons who commit, plan, attempt or facilitate acts of terrorism, but also suppress the provision of funds to such persons through monitoring and criminalization. This means that States must have proper controls over all money and value transfer services that include exchange houses and money service businesses that are used for the cross-border transfer of money. Member States must also ensure that they have proper controls over informal money transfer systems such as cash couriers and hawaladars. Controls could include obligations such as registration, licensing and reporting requirements. Controls to suppress the use of cash couriers by terrorists and other illicit actors include the establishment of a disclosure or declaration system for travellers, and the introduction of capabilities that can be used to detect or monitor the physical cross-border transportation of cash. To curb all potential for misusing these money and value transfer systems, the State must enact dissuasive penalties against those who fail to comply with its controls and preventive measures.

15. In recent years, new technologies have taken up an increasingly bigger role in the global movement of money and value across borders. While resolution 1373 (2001) does not explicitly refer to these technologies, it is understood that its mandate is technology neutral and applies to all manners of assets and funds that can be used or moved for the purposes of committing terrorist acts. Member States must ensure that considerations, prohibitions and measures cited in the resolution are applied to rules and laws governing the use of new technologies by

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<sup>4</sup> A definition of funds and economic resources that the State should be able to freeze must include categories mentioned in Security Council resolutions 2161 (2014), 2199 (2015), 2253 (2015), as well as digital and virtual representations of value (see box II.2).

<sup>5</sup> The report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/46/36) indicates the need to consistently incorporate gender-specific perspectives into counter-terrorism law and policy across all areas, including sanctions.

persons under their jurisdiction. These technologies include, but are not limited to, credit cards, prepaid cards, mobile payment systems, virtual assets, crowdfunding sites, money transfer applications on social networking sites, and banks and investment funds that now exist solely as mobile applications. Member States could ensure that their laws are technology neutral and apply to the widest possible range of applications related to the storage and transfer of money without explicitly enumerating them. Furthermore, Member States must ensure that their law enforcement agencies and FIUs have the requisite human and technical capacities to monitor the potential abuse of these technologies by illicit actors. Member States must have the capacity and legal framework to enable cross-border cooperation with other Member States on crimes that make use of these technologies.

16. In addition to the obligations on terrorism financing set out in the first paragraph of resolution 1373 (2001), the resolution calls upon Member States to become parties, as soon as possible, to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999. Presently, 190 States have ratified this Convention.<sup>6</sup> The Convention provides a legal definition of terrorism and terrorism finance and constitutes a legal floor for when States parties to the Convention enact laws to criminalize these offences. The Convention also obliges States parties to build the proper capacities and mechanisms that allow for the identification, freezing and seizure of funds allocated for terrorist activities. The Convention eliminates bank secrecy as a justification for refusing to cooperate domestically and internationally on issues related to financing of terrorism.

17. Central to international cooperation in suppressing terrorism financing is the role played by FATF in setting standards and promoting the legal, regulatory and operational measures for combating terrorist financing, money-laundering and financing nuclear proliferation. The FATF recommendations are a list of 40 continuously updated guidelines on how States should counter, among other crimes under its purview, the financing of terrorism. These recommendations include measures on legislation, regulation and international cooperation that should apply to Member States, law enforcement and intelligence agencies, FIUs and private sector entities. The Security Council acknowledged repeatedly the importance of Member States adherence to FATF recommendations in order to bolster international efforts on countering terrorism finance. In Security Council resolution 2462 (2019), Member States were strongly urged to implement the FATF recommendations, and to conduct terrorism finance risk assessments in line with FATF standards. Member States that have not already done so were also urged to establish separate FIUs according to the FATF guidelines. Accordingly, parliaments are strongly encouraged to actively integrate the FATF recommendations in their legislation and ascertain that the executive branch is taking measures to regulate the financial sector and others which can be abused for the purposes of terrorism finance, in accordance with the FATF standards. Box II.4 lists key documents that should be consulted when seeking to integrate FATF standards in national legislation. Table II.2 provides an overview of the 40 FATF recommendations.

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<sup>6</sup> The full text and the status of ratification of the 1999 International Convention for the Suppression of the Financing of Terrorism can be found on the UNODC SHERLOC portal (<https://sherloc.unodc.org>).

## BOX II.4

### Key texts to consider when integrating FATF recommendations in national law

FATF, “International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation” (and their interpretive notes)

FATF, “Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems”

FATF, “Consolidated Strategy on Combating Terrorist Financing” (and its operational plan)

FATF, “Guidance on Criminalising Terrorist Financing”

FATF, “Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers”

UNODC, “Guidance Manual for Member States on Terrorist Financing Risk Assessments”

Table II.2

#### FATF recommendations by theme

Rec. No.	Theme	Principal requirements
1, 2	Anti-money-laundering and combating the financing of terrorism policies and coordination	<ul style="list-style-type: none"><li>• Countries must conduct money-laundering/terrorism finance risk assessments.</li><li>• Countries must adopt a risk-based approach to mitigate those risks.</li><li>• Countries must codify inter-agency cooperation.</li></ul>
3, 4	Money-laundering and confiscation	<ul style="list-style-type: none"><li>• Countries must criminalize money-laundering and be legally able to confiscate the proceeds of crime.</li></ul>
5–8	Terrorism finance and proliferation finance	<ul style="list-style-type: none"><li>• Criminalization of terrorism finance in line with international standards.</li><li>• Countries must implement targeted sanctions and have the ability to designate terrorists and terrorist entities locally.</li><li>• Countries must comply with Security Council resolutions on terrorism finance and proliferation finance.</li></ul>
9–23	Preventive measures (action for the private sector)	<ul style="list-style-type: none"><li>• Countries must ensure that the private sector takes measures to prevent criminals from misusing the financial system.</li><li>• This applies to financial institutions, designated non-financial businesses and persons and virtual asset service providers.</li><li>• Some measures include identifying customers and keeping records, monitoring business relations, submitting suspicious transaction reports to competent FIUs.</li></ul>
24, 25	Transparency and beneficial ownership of legal persons and arrangements	<ul style="list-style-type: none"><li>• Ownership structures of legal persons and arrangements must be transparent.</li><li>• Countries must make sure that these persons/arrangements are not misused for money-laundering, terrorism finance and proliferation finance.</li><li>• Information on owners and leadership/control structures must be available to competent authorities.</li><li>• Creating beneficial ownership registries.</li></ul>

Rec. No.	Theme	Principal requirements
26–28	Regulation and supervision of financial institutions	<ul style="list-style-type: none"> <li>• Countries should ensure that financial institutions are adequately regulated and supervised in their implementation of the FATF recommendations.</li> <li>• Regulators and supervisors must have access to information from any financial institution upon demand, and must have the power to impose disciplinary action in cases of non-cooperation and non-compliance.</li> <li>• Regulation and supervision must be extended to other institutions involved in money or value transfer, and currency exchange. Also, non-financial businesses and professional services that can be abused in money-laundering or terrorism financing must fall under similar regulatory supervision.</li> </ul>
29–35	Powers and responsibilities of competent authorities	<ul style="list-style-type: none"> <li>• Countries must create FIUs that collect suspicious transaction reports.</li> <li>• Countries must create regulatory bodies to supervise financial institutions, virtual asset service providers and designated non-financial business and persons.</li> <li>• They must have law enforcement agencies designated to investigate money-laundering and terrorism finance.</li> <li>• Countries must have a competent border authority to stop dirty money from crossing its borders.</li> </ul>
36–40	International cooperation	<ul style="list-style-type: none"> <li>• Sharing information.</li> <li>• Providing legal assistance.</li> <li>• Countries should ensure the ability to confiscate/freeze funds upon request from third parties.</li> <li>• Countries should provide the widest possible range of mutual legal assistance for money-laundering and terrorism finance offences.</li> <li>• Executing extradition requests in relation to money-laundering, terrorism finance and proliferation financing is not part of the recommendations.</li> </ul>

## **C** Suppressing the recruitment of terrorists and eliminating the supply of weapons to terrorists: paragraph 2(a) of resolution 1373 (2001)

18. The first paragraph of the resolution was dedicated to eliminating terrorists' sources of finance. The second paragraph begins with addressing two other key resources, manpower and weaponry.

19. Criminalization of terrorist recruitment is a key component of fulfilling the obligations befalling Member States under this paragraph. Recruitment should be criminalized as a separate offence and should not be linked to the perpetration of a specific act of terrorism. In addition to criminalization, Member States are expected to develop national strategies to prevent recruitment and to counter negative narratives used by terrorists to gather followers. Such strategies should encompass any necessary educational reform and should integrate contributions from civil society stakeholders, women, cultural and educational community leaders and other figures of authority and respect, as well as addressing the gendered pathways of radicalization to violence. Law enforcement and other pertinent agencies should be able to detect and deter recruitment efforts whether emanating from within the State's borders or abroad.

20. Recognizing the importance of non-violent means to suppress the recruitment of terrorists, the Security Council tasked CTC to present a proposal for an international framework to counter terrorist narratives which would also be compliant with international standards on human rights. The result was a document entitled “Comprehensive International Framework to Counter Terrorist Narratives” (S/2017/375, annex), which included guidelines and good practices to effectively counter the ways that certain terrorist groups use narratives to encourage, motivate and recruit others to commit terrorist acts. This document was formally welcomed by the Security Council in its resolution 2354 (2017). In that resolution, the Security Council stressed that Member States should follow certain guidelines when developing their national or regional strategies to counter terrorist narratives used to recruit individuals to terrorist groups or to recruit foreign terrorist fighters. The comprehensive international framework to counter terrorist narratives consists of three elements: legal and law enforcement measures; public-private partnerships; and counter-narratives. Box II.5 lists recommendations to Member States adopted by the Security Council in resolution 2354.

## BOX II.5

### Main provisions of Security Council resolution 2354 (2017) on counter-narratives

In this resolution, the Security Council stressed that Member States and United Nations entities should follow certain guidelines, including:

- Action in the field of countering terrorist narratives should be based on the Charter of the United Nations, including the principles of sovereignty, territorial integrity and political independence of all Member States.
- Member States have the primary responsibility of countering terrorist acts and violent extremism conducive to terrorism.
- Relevant United Nations entities should ensure greater coordination and coherence with donors and beneficiaries, with a view to strengthening national ownership of capacity-building programmes.
- Counter-narrative programmes should be specifically tailored to the context and circumstances of every Member State and community.
- Counter-narrative efforts must comply with obligations under international humanitarian law, international human rights law and international refugee law.
- Counter-narrative efforts can benefit from engagement with a wide range of actors, including youth, women, religious, cultural and educational leaders, and other civil society groups.
- Counter-narratives must not only aim to rebut terrorists’ messages, but also provide credible alternatives and address the grievances of vulnerable audiences.

- States should raise public awareness regarding counter-narrative efforts through education and the media.
- Counter-narratives should take into account gender dimensions and address the specific concerns and vulnerabilities of different genders.
- Counter-narrative efforts should be based on continuous research into the drivers of terrorism and violent extremism.

21. Because terrorists are now heavily engaged in recruitment through the Internet, efforts by Member States to suppress terrorist recruitment must take into account the importance of strengthening national capacities to monitor, detect and prevent terrorism recruitment online, and also to strengthen regional and international cooperation in countering the use of the Internet, social media and encrypted messaging applications for terrorist purposes. Member States are expected to develop the necessary legal and operational capacity that allows them to block, filter or remove malicious content online in cooperation with private sector partnerships and in a manner consistent with obligations under international human rights law.

22. Eliminating the supply of weapons to terrorists is an obligation under resolution 1373 (2001), and subsequent resolutions of the Security Council elaborated on the actions Member States can take to achieve this obligation. At the fore of this is the obligation of Member States, by resolutions issued under Chapter VII of the Charter of the United Nations, to enforce an arms embargo on individuals, entities and groups designated under the Security Council 1267 sanctions regime against Al-Qaida in Iraq (ISIL, also known as Daesh). The provisions of this arms embargo are set forth in more detail under the most recent Security Council resolution on the Al-Qaida/ISIL sanctions regime, resolution 2610 (2021).<sup>7</sup> It is worth reiterating here that the proscription in resolution 1373 (2001) on supplying terrorists with weapons is universal and does not specifically apply to United Nations designated terrorist organizations but to all individuals and organizations involved in terrorist acts. Resolution 2370 (2017) was adopted by the Security Council to make specific recommendations to Member States on the issue of preventing terrorists from acquiring weapons. The first of these recommendations was to call upon all States to “consider becoming party to the related international and regional instruments” that can facilitate the elimination of the supply of weapons to terrorists. While resolution 2370 does not list them, box II.7 enumerates instruments and conventions that Member States could consider in order to help to eliminate the supply of weapons to terrorists, including strengthening international cooperation in this regard. Parliaments should ensure that weapons-related international and regional instruments to which their States have acceded are duly reflected in their domestic laws, regulations and administrative procedures to exercise effective control over the production, export, import, brokering, transit or retransfer of small arms and light weapons within their areas of jurisdiction.

<sup>7</sup> Particular references to arms embargo obligations under resolution 2610 (2021) can be found in paragraphs 1(c), 2(b) and 31.



## Paragraph 2 of Security Council resolution 1373 (2001)

In this paragraph the Security Council *decides* that States shall:

- a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;
- b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;
- c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;
- d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;
- e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;
- f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;
- g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents.

23. In addition, paragraph 6 of Security Council resolution 2370 (2017) and paragraphs 10–12 of Security Council resolution 2482 (2019) make several recommendations to Member States on preventing terrorists from acquiring weapons. Parliaments have a role to play if Member States are to effectively implement these recommendations which cover passing proper laws and regulations commensurate with the international obligations of States, and ensuring that law enforcement, border control and other relevant agencies have the sufficient capacities, including financial and human resources, to exercise effective control of small arms and light weapons, strengthen the physical security and the management of stockpiles of arms and explosives, that the State can implement a robust marking and tracing system, and that judicial, law enforcement and border control authorities have the sufficient capacity to curb the illicit flow of arms and possible diversion of arms, explosives and materiel to terrorists. Furthermore, resolution 2370 (2017) calls upon Member States to raise awareness of the threats of improvised explosive device components and enhance the institutional capabilities



and resources for preventing and countering such threats, including by collaborating with the private sector. In resolution 2617 (2021), the Security Council noted with concern the increasing global misuse of unmanned aerial systems by terrorists to conduct attacks.<sup>8</sup>

## BOX II.7

### Legal instruments related to countering the supply of weapons to terrorists

1. Obligations of Member States under Security Council resolution 1267 (1999) and its subsequent iterations related to implementing the sanctions regime against Al-Qaida and ISIL
2. Obligations of Member States under Security Council resolution 1540 (2004) on countering the supply of weapons of mass destruction to terrorists
3. Legislative and regulatory recommendations passed by the Security Council under resolution 2370 (2017), and paragraphs 10, 11 and 12 of resolution 2482 (2019)
4. 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection
5. 1997 International Convention for the Suppression of Terrorist Bombings
6. 2001 Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
7. 2001 Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition
8. 2005 International Convention for the Suppression of Acts of Nuclear Terrorism
9. 2005 International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons
10. 2013 Arms Trade Treaty

24. The obligation under resolution 1373 (2001) to suppress the recruitment of members to terrorist groups and to eliminate the supply of weapons to terrorists is complemented by the obligation on Member States, set out within paragraph 5 of resolution 2178 (2014), to prevent and suppress the recruiting and equipping of foreign terrorist fighters.

<sup>8</sup> When implementing Security Council resolution 2370 (2017), parliamentarians and Member States are encouraged to consult the Technical Guidelines to Facilitate the Implementation of Security Council Resolution 2370 (2017) and Related International Standards and Good Practices on Preventing Terrorists from Acquiring Weapons (launched in March 2022 by CTED, UNOCT and the United Nations Institute for Disarmament Research).

**D****Denying safe havens and pursuing preparatory acts: paragraph 2 of resolution 1373 (2001)**

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25. Perpetrators of the attacks of 11 September 2001 were abetted by the availability of a safe haven where terrorists were able to plan, raise funds and coordinate their assaults. The international community was committed, through resolution 1373 (2001), to take necessary measures to eliminate such safe havens for terrorists in future.

26. The first step in implementing this aspect of the resolution would be to ensure that Member State legislation clearly criminalizes and penalizes the act of concealing or hindering the apprehension of a person who has committed, or is planning to commit, a terrorist act or one who is a member of a terrorist organization. Moreover, acts of executing and planning acts of terrorism must be criminalized whether perpetrators carried out or planned to carry out a crime within or outside of their current jurisdiction. Member States should ensure that the principle of subjective territoriality should apply in cases of terrorism, meaning that the State should always retain the capacity to investigate, adjudicate and prosecute crimes related to terrorism which have originated, fully or in part, within its jurisdiction, even if the act itself happened or was planned to happen abroad.

27. Other than the ability to investigate and adjudicate terrorist crimes planned to take place abroad, Member States must develop the legal and operational capacity to share information with other Member States to ensure that they will not be used as a safe haven for terrorists. Parliaments should play a role in facilitating the enactment of legislation that makes it easy to share information relevant to imminent acts of terrorism, widely and in a timely manner, among domestic institutions and authorities and between national authorities and their international counterparts.

28. The obligation in paragraph 2(d) of resolution 1373 (2001) requiring Member States to prevent the financing, planning and facilitation of terrorist acts from within their borders is complemented by the obligation under paragraph 6(c) of resolution 2178 (2014) to criminalize and prosecute the facilitation or organization of travel of foreign terrorist fighters to other Member States.

29. Parliaments should also make sure that law enforcement and intelligence agencies have the ability to take necessary measures to investigate and curtail the use of States' territory to conduct terrorist acts abroad. This should be done through parliamentary oversight of these agencies and through enabling adequate funds to be provided to help them to achieve this objective. Box II.8 provides a list of areas where the capacity of law enforcement and intelligence agencies must adequately be raised to ensure a Member State's ability to prevent the use of its territory as a safe haven for terrorists and as a point of origin or transit for foreign terrorist fighters.

## Role of parliaments in denying safe haven to terrorists through law enforcement and intelligence agencies

To ensure a Member State's ability to prevent its territory from being used as a safe haven for terrorist activity and from being used as a point of origin or transit of foreign terrorist fighters, parliaments must ascertain, through oversight and the provision of adequate resources, that:

- a) The executive branch has a robust counter-terrorism strategy that includes both "prevent" and "pursue" aspects, and that the prevent measures include national law enforcement agencies that are able to detect and combat the use of fraudulent travel documents.
- b) Law enforcement at points of entry has the ability to collect, receive and analyse, when necessary, PNR and API.
- c) Legal measures are in place to allow the gathering and dissemination of information, among relevant national institutions and with relevant international counterparts. In this regard, legislation might be needed to designate a national agency to serve as the focal point for the international exchange of information regarding terrorism investigations.
- d) Legal frameworks and sufficient operational capacity are present to allow cooperation on border security with neighbouring Member States.
- e) Legislation on asylum and refugee status ensures that these rights afforded under international refugee law, international human rights law and international humanitarian law are not extended to persons to whom there are serious reasons to believe that they have been involved in acts of terrorism, incitement to terrorism or facilitating travel to join a terrorist group.
- f) Legal measures and sufficient human capacity are available to facilitate cooperation between Member State agencies and international organizations with tools and databases that can help in detecting and investigating terrorist activity, such as INTERPOL, the Egmont Group and the World Customs Organization.
- g) Dedicated investigative units are set up to gather, analyse and disseminate information related to financing of terrorism.
- h) Law enforcement and intelligence agencies are continuously updating their threat assessments on terrorism and are reacting sufficiently to developing typologies in terrorism and terrorism finance, and to shifts in international and regional trends related to terrorism.
- i) Law enforcement and intelligence agencies have the capacity and the legal authority to conduct special investigative techniques when needed and when legally justifiable.
- j) Parliaments always ensure that law enforcement and intelligence agencies are carrying out their duties with full regard to the Member State's obligations under international human rights law, international humanitarian law, refugee law and other relevant domestic legislation to prevent potential human rights abuses.

**E****International cooperation and counter-terrorism: paragraphs 2(f) and 3 of resolution 1373 (2001)****BOX II.9****Paragraph 3 of Security Council resolution 1373 (2001)**

In this paragraph, the Security Council calls upon all States to:

- a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;
- b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;
- c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;
- d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;
- e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);
- f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;
- g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists.

30. One of the most important aspects of Security Council resolution 1373 (2001) is the obligation placed on Member States under paragraph 2(f) to “afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings”. This obligation is reiterated in

many subsequent Security Council resolutions,<sup>9</sup> as well as operative paragraph 3 of Security Council resolution 1373 (2001), quoted in box II.9, which elaborates on the modes of potential collaboration between Member States in this regard.

31. Security Council resolution 2322 (2016) expanded on the explanation of paragraph 3 of resolution 1373 (2001), and it was the first resolution to focus specifically on enhancing the development of broad law enforcement and judicial cooperation in relation to counter-terrorism by trying to elaborate on ways and means by which Member States should meet their obligation to afford one another the greatest measure of assistance. Furthermore, in resolution 2322 (2016), the Council recognized the proven effectiveness of I-24/7, INTERPOL’s secure global communication system, as well as its array of investigative and analytical databases, and its system of notices in the framework of the fight against terrorism, and encouraged States to increase the capacity of their national central bureaux to utilize them. Table II.3 lists the recommendations of this resolution, compiled under five areas of cooperation: legislation; accession to and implementation of international treaties; mutual legal assistance; law enforcement cooperation and information-sharing; and technical assistance, which can be sought from relevant United Nations bodies to implement the resolution. Parliaments may find the table useful as a checklist of tasks that could be used as an indicator of whether the State is fulfilling its Security Council obligations to afford other Member States the greatest measure of assistance in investigating and adjudicating acts of terrorism.

Table II.3  
**Security Council resolution 2322 (2016) on enhancing international law enforcement and judicial cooperation on counter-terrorism**

Area of cooperation	Necessary Member State action
Legislation	<ul style="list-style-type: none"> <li>• Enact and review counter-terrorism legislation in view of the constantly evolving threat.</li> <li>• Enact legislation that establishes as a serious crime financing terrorism including recruitment, training and travel of terrorist fighters, even without a link to specific terrorist acts.</li> <li>• Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts.</li> <li>• Enact, review and update extradition and mutual legal assistance laws in connection with terrorism-related offences, consistent with international obligations, including obligations under international human rights law.</li> <li>• Consider reviewing national mutual legal assistance laws and mechanisms related to terrorism and updating them as necessary to strengthen their effectiveness, especially in the light of the substantial increase in the volume of requests for digital data.</li> <li>• Introduce effective national measures at the legislative levels, in accordance with obligations and commitments under international law and national instruments, to prevent and combat trafficking in cultural property and related offences, including considering to designate such activities that may benefit terrorists or terrorist groups, as a serious crime in accordance with article 2 of the United Nations Convention against Transnational Organized Crime.</li> </ul>

<sup>9</sup> The obligation is reiterated in various resolutions, including 1624 (2005), 2178 (2014), 2195 (2014), 2253 (2015), 2322 (2016), 2341 (2017), 2354 (2017), 2368 (2017) and 2370 (2017). Security Council resolutions 2178 (2014) and 2396 (2017) recall this provision of resolution 1373 (2001) specifically with respect to investigations or proceedings involving foreign terrorist fighters.

Table II.3 (continued)

Area of cooperation	Necessary Member State action
Accession to and implementation of international, regional and bilateral legal instruments and treaties	<ul style="list-style-type: none"> <li>• Become party to relevant international counter-terrorism conventions and protocols and to implement their obligations under those to which they are party.</li> <li>• Consider, as a matter of priority, ratifying, acceding to and implementing other relevant international conventions to support international cooperation in criminal matters, such as the United Nations Convention against Transnational Organized Crime and the protocols thereto.</li> <li>• Consider strengthening implementation and, where appropriate, reviewing possibilities for enhancing the effectiveness of their respective bilateral and multilateral treaties concerning extradition and mutual legal assistance in criminal matters related to counter-terrorism.</li> </ul>
Mutual legal assistance	<ul style="list-style-type: none"> <li>• Consider the possibility of allowing, through appropriate laws and mechanisms, the transfer of criminal proceedings, as appropriate, in terrorist-related cases.</li> <li>• Ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists.</li> <li>• Use applicable international instruments to which they are parties as a basis for mutual legal assistance and, as appropriate, for extradition in terrorism cases.</li> <li>• In the absence of applicable conventions or provisions, cooperate, when possible, on the basis of reciprocity or on a case-by-case basis.</li> <li>• Consider simplifying extradition and mutual legal assistance requests in appropriate terrorism-related cases, within the framework of the implementation of existing applicable international legal instruments, while recognizing the need for due consideration, in the light of the need to uphold relevant legal obligations.</li> <li>• Designate mutual legal assistance and extradition central authorities or other relevant criminal justice authorities and ensure that such authorities have adequate resources, training and legal authority, in particular for terrorism-related offences.</li> <li>• Take measures, where appropriate, to update current practices on mutual legal assistance regarding acts of terrorism, including considering the use of electronic transfer of requests to expedite the proceedings between central authorities or other relevant criminal justice authorities.</li> <li>• Consider developing and participating in regional mutual legal assistance cooperation platforms and developing and enhancing arrangements for expeditious cross-regional cooperation for terrorism-related offences.</li> </ul>
Law enforcement cooperation and information-sharing	<ul style="list-style-type: none"> <li>• Consider establishing appropriate laws and mechanisms that allow for the broadest possible international cooperation, including the appointment of liaison officers and police-to-police cooperation.</li> <li>• Consider, where appropriate, the creation of joint investigation mechanisms and enhanced coordination of cross-border investigations in terrorism cases.</li> <li>• Increase, where appropriate, the use of electronic communication and universal templates, in full respect for fair trial guarantees of the accused.</li> <li>• Encourage sharing of information about foreign terrorist fighters, including biometric information.</li> </ul>

Area of cooperation	Necessary Member State action
	<ul style="list-style-type: none"> <li>• Consider, where appropriate, downgrading intelligence threat data to facilitate the provision of this information to other concerned States and relevant international organizations.</li> <li>• Cooperate in the implementation of targeted financial sanctions under resolution 1373 (2001) by sharing information with relevant Member States and international organizations about such individuals and groups.</li> <li>• Cooperate in the implementation of targeted financial sanctions against individuals, entities and organizations listed under the 1267/1989/2253 sanctions regime, by sharing information with relevant Member States and international organizations about such individuals and groups.</li> <li>• Develop broad law enforcement and judicial cooperation in preventing and combating trafficking in cultural property and related offences that benefit or may benefit terrorists or terrorist groups, and to introduce effective measures at the operational level to prevent and combat trafficking in cultural property and related offences.</li> <li>• Act cooperatively to prevent terrorists from recruiting, and to counter violent extremist propaganda and incitement to violence on the Internet and social media, including by developing effective counter-narratives, in cooperation with civil society and the private sector, in a gender-sensitive manner, while respecting human rights and fundamental freedoms and in compliance with obligations under international law.</li> <li>• Extend access to and, where appropriate, integrate into national systems, the INTERPOL I-24/7 police information network beyond the national central bureaux to other national law enforcement entities at strategic locations such as remote border crossings, airports, customs and immigration posts or police stations.</li> <li>• Increase the capacity of INTERPOL national central bureaux to utilize the INTERPOL I-24/7 police information network, and designate a 24/7 point of contact for this network, and take necessary measures to ensure adequate training in using the network to counter terrorism and foreign terrorist fighters.</li> <li>• Consider the possibility of developing 24/7 networks at national and regional levels to counter terrorism while taking into account other existing arrangements for cooperation.</li> <li>• Explore ways to exchange information and to cooperate actively in the prevention, protection, mitigation, preparedness, investigation, response to and recovery from terrorist attacks planned or committed against critical infrastructure, as per paragraph 4 of resolution 2341 (2017)</li> </ul>
Technical assistance	<ul style="list-style-type: none"> <li>• Consider providing UNODC with information for its repository database with contacts and other relevant details of designated authorities, to facilitate interaction and communication between Member States.</li> <li>• Make use of UNOCT, UNODC and CTED expertise to facilitate the implementation of the international conventions and protocols related to the prevention and suppression of terrorism and of relevant United Nations resolutions.</li> <li>• Seek assistance from UNOCT, UNODC and CTED on means to enhance international cooperation in criminal matters related to terrorism, including foreign terrorist fighters, especially with issues of extradition and mutual legal assistance.</li> </ul>

Table II.3 (continued)

Area of cooperation	Necessary Member State action
Technical assistance (continued)	<ul style="list-style-type: none"> <li>Utilize CTED country assessments and analysis on capacity gaps to seek training of prosecutors, judges and other relevant officials involved in international cooperation on counter-terrorism.</li> <li>Cooperate with UNOCT, UNODC, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and INTERPOL, when appropriate, on establishing law enforcement and judicial cooperation in preventing and combating trafficking in cultural property and related offences.</li> </ul>

Table II.4

**International legal instruments related to counter-terrorism, to which Member States are strongly urged to be party**

<b>Civil aviation</b>	1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft 1970 Convention for the Suppression of Unlawful Seizure of Aircraft 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation 2010 Protocol to the 1970 Convention 2014 Protocol to the 1963 Convention
<b>Maritime safety</b>	1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf 2005 Protocol to the 1988 Convention 2005 Protocol to the 1988 Protocol
<b>Nuclear terrorism</b>	1980 Convention on the Physical Protection of Nuclear Material 2005 Amendments to the 1980 Convention on the Physical Protection of Nuclear Material 2005 International Convention for the Suppression of Acts of Nuclear Terrorism
<b>Protected persons</b>	1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents 1979 International Convention against the Taking of Hostages
<b>Terrorist bombings</b>	1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection 1997 International Convention for the Suppression of Terrorist Bombings
<b>Countering terrorism finance</b>	1999 International Convention for the Suppression of the Financing of Terrorism



32. As resolution 1373 (2001) and subsequent resolutions call upon Member States to become parties, as soon as possible, to relevant international conventions and protocols relating to terrorism, it is important that parliamentarians are aware of all the conventions and protocols and of the status of their State vis-à-vis these instruments. To date, there are 19 international conventions and protocols related to terrorism, a list of which is provided in table II.4. Parliamentarians are encouraged to expedite the ratification of these instruments if they have been signed, or seek clarification from the executive on reasons why they have not been signed if that is the case. Parliamentarians should also ensure that the instruments are duly incorporated into national laws once the State becomes party to them. A useful tool in this regard is the UNOCT model legislative provisions, guidance and manuals, as well as UNODC model laws, which were developed to assist Member States with the domestic legislative incorporation of the international legal counter-terrorism instruments. The SHERLOC portal is also useful for looking up the texts of these instruments and finding the status of accession and ratification for each of the conventions.

## **F** Links between terrorism and transnational organized crime: paragraph 4 of resolution 1373 (2001)

### **BOX II.10**

#### **Paragraph 4 of Security Council resolution 1373 (2001)**

The Security Council “notes with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security”.

33. The United Nations had recognized the link between international terrorism and transnational organized crime long before the events of 11 September 2001. For example, the declaration on measures to eliminate international terrorism, adopted by the General Assembly in December 1994 (resolution 49/60), expressed concern at the growing and dangerous links between terrorist groups, drug traffickers and paramilitary gangs. The typologies of links between transnational organized crime and terrorism evolved over the years and the concern articulated in Security Council resolution 1373 (2001) was further reiterated in several

subsequent resolutions.<sup>10</sup> The most recent resolution comprehensively covering the links between international terrorism and transnational organized crime was resolution 2482 (2019), which pointed to possible synergies between terrorist groups and criminal organizations, whether domestic or transnational, involved in drug trafficking, synthetic drug manufacturing, human trafficking, arms smuggling, illicit trade in natural resources, illicit trade in cultural goods, money-laundering and other forms of financial crime. The resolution also recognized the links between good governance and countering corruption and efforts to suppress such links as they exist between terrorism and organized crime. There was also an acknowledgement of the role that civil society and the private sector could play in the disruption of these links. The resolution highlighted important aspects of international cooperation and capacity-building measures that Member States should pursue in the context of global imperative for preventing terrorists from benefiting from criminal organizations and vice versa. Finally, resolution 2482 (2019) also urged States to take into account the potential effects of counter-terrorism measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law. Table II.5 covers some of the recommendations of resolution 2482.

Table II.5  
**Security Council resolution 2482 (2019) on disrupting the links between international terrorism and transnational organized crime**

Area of action	Necessary measures by Member States
Legislation	<ul style="list-style-type: none"> <li>• Ratify and implement the United Nations Convention against Transnational Organized Crime (2000), the United Nations Convention against Corruption (2003) and the International Convention for the Suppression of the Financing of Terrorism (1999).</li> <li>• Pass legislation and regulations that enable the freezing, seizure and confiscation of criminal assets and proceeds of crime, and enact other necessary legislation and regulations to implement the international standards set by FATF.</li> <li>• Establish trafficking in persons as a serious crime. Review, amend and implement legislation for acts of sexual and gender-based violence.</li> <li>• Establish as criminal offences the illegal manufacture, possession and stockpiling of all types of explosives, as well as trafficking of military and dual-use materials and equipment that could be used for the illegal manufacture of arms, armaments and explosive devices. And adopt legislation to prohibit the illegal manufacturing of unmarked or inadequately unmarked small arms and light weapons and the illicit falsification, obliteration or removal of these markings.</li> </ul>
Capacity-building recommendations	<ul style="list-style-type: none"> <li>• Create capabilities within law enforcement, investigative agencies and prosecution to enable the investigation, disruption and dismantling of networks involved in human trafficking.</li> <li>• Strengthen compliance with FATF standards and increase the capacity to conduct proactive financial investigations.</li> <li>• Enhance the ability of law enforcement to detect links between natural resources and terrorists, and to end illicit trade thereof.</li> </ul>

<sup>10</sup> See Security Council resolutions 1566 (2004), 2117 (2013), 2133 (2014), 2195 (2014), 2220 (2015), 2331 (2016), 2388 (2017) and 2482 (2019).

Area of action	Necessary measures by Member States
	<ul style="list-style-type: none"> <li>• Implement obligations to implement and analyse API and PNR (obligations under Security Council resolution 2396 (2017)) and ensure that the data are shared and collected in compliance with human rights and fundamental freedoms.</li> <li>• Develop expertise of FIUs and encourage their cooperation with international counterparts.</li> <li>• Develop capabilities of law enforcement and investigative agencies to detect and eliminate the use of online markets, consignment carrier shipments and international mail systems for the illicit sale of drugs and synthetic drugs.</li> <li>• Participate in national, regional and global initiatives that aim to build capacity to prevent and counter the illicit trafficking, including through seaports and at sea, of natural resources, arms, drugs, artefacts and cultural property, as well as trafficking in persons, in order to prevent and counteract the linkages between terrorism at sea and organized crime, whether domestic or transnational.</li> <li>• Increase the awareness, training and capacity of practitioners in correctional systems on the linkages between terrorism and organized crime, including where perpetrators of petty crime may be exploited or recruited by terrorists.</li> </ul>
Law enforcement cooperation and information-sharing	<ul style="list-style-type: none"> <li>• Enhance cooperation between border management authorities, and encourage their direct access to INTERPOL's I-24/7 network of databases, and make the best use of INTERPOL policing capabilities, including its array of investigative and analytical databases.</li> <li>• Strengthen border cooperation and information-sharing between law enforcement agencies and customs export and import licensing authorities.</li> <li>• Develop international and regional platforms for cooperation on countering narcotic drugs and psychotropic substances and precursor chemicals.</li> <li>• Enhance, when appropriate, the exchange of information between public authorities and relevant private sector entities.</li> </ul>
Addressing root causes	<ul style="list-style-type: none"> <li>• Engage relevant local communities and non-governmental actors in developing strategies to counter violent extremism as and when conducive to terrorism, as well as strategies to counter organized crime.</li> <li>• Address the conditions conducive to the spread of violent extremism, which can be conducive to terrorism, and organized crime, whether domestic or transnational, that may fund terrorism, including empowering youth, families, women, and religious, cultural and education leaders, as well as all other concerned groups of civil society.</li> <li>• Take appropriate actions to maintain a safe and humane environment in prisons, and develop tools that can help to address radicalization to violence and terrorist recruitment, and prevent, within prison systems, radicalization to violence.</li> <li>• Promote rehabilitation and reintegration of convicted terrorists, and impede cooperation and transfer of skills and knowledge between terrorists and other criminals.</li> </ul>
Technical assistance	<ul style="list-style-type: none"> <li>• Make requests as appropriate to UNOCT, UNODC and other United Nations entities engaged in counter-terrorism, to provide technical assistance and capacity-building on the response to the linkages between international terrorism and organized crime.</li> <li>• Make use of regional and subregional organizations and mechanisms, to deepen the assessment of threats and contribute to the effective implementation of Security Council resolutions by strengthening the capacities of respective Member States, and by facilitating technical assistance and information-sharing.</li> </ul>

34. Resolution 1624 (2005) is prominent in the Security Council's oeuvre on counter-terrorism for several reasons. The resolution addressed one of the important issues on which there had been a dearth of Security Council action in resolution 1373 (2001): incitement to commit acts of terrorism. Resolution 1624 (2005), which came out in the same year as the Global Counter-Terrorism Strategy, was a forerunner of Security Council action in addressing conditions conducive to terrorism, including political and religious intolerance, and a lack of social cohesion and inclusiveness. The resolution was also important in unequivocally stressing that Member States are required to ensure that measures taken to implement Security Council resolutions must comply with all obligations under international law, in particular human rights, refugee and humanitarian law. Furthermore, it was one of the earliest Security Council resolutions on counter-terrorism to provide a clear role for civil society and non-governmental actors in counter-terrorism. Box II.11 provides the key points of the resolution.

**BOX II.11****Key points covered in Security Council resolution 1624 (2005)**

In this resolution, the Security Council calls on Member States to:

1. Adopt necessary and appropriate measures in accordance with obligations under international law to:
  - a) Legally prohibit incitement to commit an act of terrorism
  - b) Prevent such incitement
  - c) Deny safe haven to persons who might be guilty of such incitement.
2. Cooperate with other Member States to enhance cross-border security, including by combating fraudulent documents and enhancing passenger screening.
3. Enhance international dialogue and broaden understanding among civilizations.
4. Ensure that all measures taken to implement the resolution comply with obligations under international human rights, refugee and humanitarian law.

35. Resolution 1624 (2005) calls on Member States to issue laws that prohibit incitement to terrorism and to prohibit extremist and intolerant discourse that may lead to such acts. Member States are further called on to extend their international cooperation efforts to curb the spread of incitement, particularly when there is credible and relevant information giving reason to believe that persons have been guilty of such incitement.

36. The resolution further calls upon Member States to take necessary legislative and regulatory action against the misuse of information and communications technology (ICT) in spreading incitement to terrorism and violent extremism conducive to terrorism, within the framework of each Member State's obligations under international human rights law. In

order to properly address the misuse of ICT, Member States must prevent terrorists from using this technology and all online platforms for the purposes of incitement, recruitment, training, procurement, planning, sharing of information and raising funds. Online platforms would include mainstream social media and smaller social media services, as well as open and encrypted messaging services, and all services on the dark web. Member States, in partnership with the private sector and civil society, must develop the capacity to monitor these services, gather and analyse information, and create actionable intelligence that can be used to curtail their misuse by terrorists, whether they are acting within the jurisdiction of that Member State or abroad.

37. Counter-narratives are an important aspect of countering incitement to terrorism. In 2016, the Security Council requested CTC, in close consultation with CTED and other entities, to present a proposal to the Council by 30 April 2017 on a “comprehensive international framework” (see S/PRST/2016/6), with recommended guidelines and good practices to effectively counter the narratives of ISIL, Al-Qaida, and associated individuals, groups, undertakings and entities. The proposed comprehensive international framework (S/2017/375, annex) outlines three main elements, namely (1) legal and law enforcement measures in accordance with obligations under international law and consistent with United Nations resolutions; (2) public-private partnerships; and (3) counter-narratives. The principles proposed in the comprehensive international framework were later referenced in Security Council resolution 2354 (2017), which, *inter alia*, stresses that Member States have the primary responsibility to counter terrorism, that to be more effective, counter-narrative measures should be tailored to the specific circumstances of different contexts on all levels, and that counter-narratives should aim not only at rebutting terrorists’ messages, but also at amplifying positive narratives, providing credible alternatives and addressing issues of concern to vulnerable audiences who are subject to terrorist narratives.

38. Resolution 1624 (2005) should also be read with paragraph 16 of resolution 2178 (2014), in which the Security Council encouraged Member States to engage local communities and relevant civil society actors, including by empowering youth and women, in developing counter-extremist narratives, as well as with the section in resolution 2396 (2017) on developing risk assessment tools, and intervention and deradicalization programmes. Box II.12 contains questions that parliaments should be able to address when assessing their legislative compliance with the counter-narrative and counter-incitement aspects of resolution 1624 (2005).

39. While 1624 (2005) was not explicit in mentioning the need for specific gender-specific counter-narrative strategies, resolutions 2242 (2015) and 2395 (2017) called upon Member States to ensure that outreach to civil society allowed the participation of women groups in the whole-of-society effort to develop such strategies, and the resolution also encouraged the collection of gender-sensitive research on drivers of radicalization for women in order to develop gender-specific responses to violent extremism and radicalized narratives. More importantly, both resolutions urged the collection of gender-sensitive research and data on the impacts of counter-terrorism strategies on women’s human rights and women’s organizations.

40. Parliaments, in their roles as bridges of cooperation and understanding, have a definitive role to play in countering the spread of terrorist narratives and in addressing religious and political misunderstanding and intolerance that remain one of the root causes of global

terrorism and violent extremism. In this role, parliaments should be active participants in international dialogues among civilizations and should engage in formulating subregional and regional counter-narrative strategies. Each member of parliament also has a duty to encourage community awareness of drivers of radicalization and ways in which the State, in partnership with civil society, has resolved to address them. Parliamentarians are expected to play a crucial role in bridging communications between their constituents, the government and law enforcement on local grievances that might be drivers of radicalization, or might have been caused by insensitive counter-terrorism measures.

41. Under resolution 1624 (2005), the denial of safe haven to terrorists stipulated in resolution 1373 (2001) was also extended to those who preached malign ideologies leading to and inciting people to commit acts of terrorism. The resolution called upon Member States to deny the exploitation of refugee status by terrorists in order to incite acts of terrorism against other countries. Other laws by which Member States were obliged to deny safe haven to terrorists, previously discussed under resolution 1373 (2001), must also be extended to those who are guilty of incitement to terrorist acts. These measures include conducting fraudulent travel documents, screening of passengers and transborder cooperation to ensure the inability of those guilty of incitement to travel freely.

#### BOX II.12

### Questions for parliamentarians to gauge compliance with the legislative requirements of Security Council resolution 1624 (2005) on counter-incitement and counter-narratives

1. Does the Member State have in place clear and precise legislation prohibiting the incitement to commit terrorist acts?
2. Does that legislation comply with the Member State's obligations under human rights law, particularly article 19 of the International Covenant on Civil and Political Rights?
3. Has the Member State passed laws and regulations to prevent terrorists from misusing ICT?
4. Are there clear modalities for the sharing of information and judicial and investigative cooperation with other Member States in cases of incitement to violence?
5. Have partnerships been formed with the private sector and civil society to facilitate the monitoring and analysis of terrorist and violent extremist content transmitted online or through any other form of communication, and have these partnerships been able to assist the work of law enforcement agencies?
6. Does the Member State have adequate laws and procedures to permit the use of information obtained from online sources as evidence in judicial cases related to terrorism?



## Chapter III

# Foreign terrorist fighter phenomenon

### **A** Rise of the foreign terrorist fighter phenomenon and summary of international action to address it

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1. The rapid influx of foreigners into areas controlled by ISIL to join the group and commit acts of terrorism led the Security Council to take serious action to curtail this phenomenon. By 2015, approximately 40,000 individuals from over 120 countries had travelled to Iraq and the Syrian Arab Republic, swelling the ranks of ISIL in that period to over 100,000 fighters. These fighters included men, women, children and individuals with special needs, and they posed a significant security concern not only to the countries of destination, but also to the countries from which they travelled, where they still had personal and familial links and to which it was possible that they might one day return. Indeed, as ISIL began losing territory in 2017, many foreigners who had previously joined the group returned to their countries of residence or origin, or opted to relocate to third countries.
2. The Security Council first addressed the problem of foreign terrorist fighters in resolution 2170 (2014), in which the Council condemned the recruitment by ISIL and groups associated with Al-Qaida of foreign terrorist fighters, and called upon Member States to suppress the flow of such individuals to Iraq and the Syrian Arab Republic, while encouraging Member States to take action necessary to discourage such travel.
3. Forty days later, on 24 September 2014, the Security Council unanimously passed resolution 2178 (2014) under Chapter VII of the Charter of the United Nations. The resolution placed clear obligations on Member States to counter the flow of foreign terrorist fighters. It provided a definition of foreign terrorist fighters as “individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training”. The resolution obliged Member States to prevent and suppress the recruitment, organizing, transportation, training, financing or equipping of such individuals.
4. As per the definition of foreign terrorist fighters provided in resolution 2178 (2014), the Security Council did not explicitly link the phenomenon, and the obligations of Member States to suppress it, to a particular terrorist group. Under resolution 2178 (2014) and subsequent relevant Security Council resolutions, “foreign terrorist fighters” refers to all individuals who travel or attempt to travel to join groups involved in acts of terrorism, regardless of their geographic location and ideological affiliation. Also, under the definition provided in the

resolution, the obligation of Member States to establish as a serious criminal offence the travel or attempted travel of foreign terrorist fighters should not be linked to their participation or involvement in a particular act of terrorism. Their travel or attempted travel to join, or receive training from, a group involved in acts of terrorism should present enough grounds to prosecute such individuals under domestic laws.

5. Specifically, resolution 2178 (2014) obliged Member States to criminalize the following actions as serious offences: travel and attempted travel of foreign terrorist fighters as defined in the resolution; the wilful provision or collection by any means of funds used to finance travel of foreign terrorist fighters; and the wilful organization or facilitation of travel, including through recruitment of foreign terrorist fighters (para. 6). The resolution also explicitly placed an obligation on Member States to prevent the entry and transit of foreign terrorist fighters into and through their territories (para. 8).

6. Recommendations on international cooperation in border security and sharing information, as well as on countering violent extremism and countering recruitment efforts, were also laid out in the resolution. In order to assist Member States in sharing good practices in implementing this resolution, the CTC of the Security Council, in a process facilitated by CTED and with participation from Member States, intergovernmental organizations and civil society organizations from every region of the world, compiled a list of 35 guiding principles which were intended as a practical tool for use and consideration by Member States in their efforts to implement resolution 2178 (2014). These became collectively known as the Madrid guiding principles and were formally adopted by the Security Council (S/2015/939). The guiding principles covered areas where Member States were expected to fill legislative and regulatory gaps, build their capacity and enhance cooperation with other States.

7. By 2017, there was a palpable change in the direction of travel of foreign terrorist fighters. With ISIL on the back foot and beginning to lose large swathes of territory, the international community's concern with foreign terrorist fighter returnees and relocators to third countries was steadily rising. There was also a need to expand obligations on Member States to enhance international cooperation and information-sharing and to strengthen border security measures to prevent the travel of foreign terrorists. These concerns led to the unanimous adoption of Security Council resolution 2396 (2017), which expanded measures previously adopted in resolution 2178 (2014). The new resolution covered three aspects where Member States were expected to fill legislative and capacity gaps: border security and information-sharing; judicial measures and international cooperation; and PRR. The resolution also directed United Nations entities to provide assistance to Member States in this regard in order to assist them in the full and effective implementation of the resolution. Subsequently, the Security Council amended the Madrid guiding principles in order to capture the new obligations and the evolving best practices from Member States (S/2018/1177). The 2015 Madrid guiding principles, along with the 2018 addendum, can be categorized under three main areas:

- a) Criminalization, investigation and prosecution of foreign terrorist fighters;
- b) Border security, passenger screening and information-sharing;
- c) PRR strategies, and prevention by addressing root causes of radicalization.



8. Each of the following sections in the present chapter will cover a different set of measures that Member States are supposed to carry out, and ways in which the United Nations and its entities have sought to assist.

## **B** Criminalization, investigation and prosecution of foreign terrorist fighters

9. Member States are obliged to update their legislations to criminalize the travel, attempted travel and facilitation of travel of foreign terrorist fighters as per resolutions 2178 (2014) and 2396 (2017). As with the criminalization obligations under resolution 1373 (2001), discussed in the previous chapter, Member States are required to include in their codes the criminalization of preparatory acts, including recruitment, financing or otherwise facilitating or abetting the travel of foreign terrorist fighters. States must ensure that the offences are clearly defined and compliant with other obligations under international human rights and humanitarian law.

### **BOX III.1**

#### **Battlefield evidence: useful resources for parliamentarians and national authorities**

- CTED, in collaboration with other United Nations entities, compiled military evidence guidelines to facilitate the use and admissibility as evidence in national courts of information collected and handled by the military to prosecute terrorist offences.
- UNODC developed a technical assistance programme to strengthen cooperation and coordination between the military and criminal justice officials to collect admissible evidence from the battlefield. These programmes could be delivered to Member States upon request. The outcomes of the programme include the development of standard operating procedures between the military, law enforcement and the judiciary on the admissibility and use of battlefield evidence that are specific to the context of the beneficiary Member State, as well as practical training sessions on forensic management for soldiers and first responders to a terrorist incident.
- Other resources include:
  - European Union Agency for Criminal Justice Cooperation, *2020 Eurojust Memorandum on Battlefield Evidence*
  - International Institute for Justice and the Rule of Law, “Non-Binding Guiding Principles on Use of Battlefield Evidence in Civilian Criminal Proceedings”
  - North Atlantic Treaty Organization, “Battlefield Evidence Policy and NATO Practical Framework for Technical Exploitation”

### BOX III.1 (CONTINUED)

- Global Counterterrorism Forum, “Abuja Recommendations on the Collection, Use and Sharing of Evidence for Purposes of Criminal Prosecution of Terrorist Suspects”

10. In order to be able to prosecute these offences, Member States should ensure that they have suitable frameworks that allow for the permissibility of a broad range of evidence in criminal proceedings, or that this evidence if not permissible can at least be used as a basis to initiate criminal investigations that could in turn generate permissible evidence. A broad range of sources include information gathered from:

- Battlefields, by military forces.** Box III.1 contains some useful resources for Member States when developing legislation and policies enabling the use of evidence collected, preserved and handled by military forces in the prosecution of terrorism cases in national courts.
- Online platforms and open-source intelligence.** In this regard, Member States should seek partnerships with the private sector and civil society groups to enhance capacity to monitor such platforms and analyse information gathered. Box III.2 includes resources that parliamentarians and ICT regulatory authorities might find useful.
- Special investigative techniques.** These include electronic surveillance, interception of telephone and online communications, and undercover operations. Box III.3 includes resources that could be useful for legislating and devising training on the use of special investigative techniques in terrorism cases within the confines of human rights law.
- Financial investigations.** These can be carried out by dedicated FIUs or other competent national authority. Box III.4 contains a non-exhaustive list of some of the resources that parliamentarians can consult when legislating and assessing national capacities to conduct financial investigations. Parliamentarians are strongly recommended to ensure that their national authorities comply in this regard with the FATF recommendations mentioned in the previous chapter.
- Investigations using travel information compiled from API and PNR systems.** These can be carried out by dedicated passenger information units (PIUs) or other competent national authority.
- Other Member States providing information voluntarily or upon request.**

11. Prosecutors should be trained on building judicial cases against those suspected of terrorism offences, particularly those involving travelling to join terrorist groups or to commit acts of terrorism. In this regard, UNODC has compiled dedicated training manuals for judicial training institutes in several languages as a tool to support Member State capacities in response to foreign terrorist fighters.<sup>1</sup> These manuals provide an overview of the special

<sup>1</sup> See UNODC, *Investigation, Prosecution and Adjudication of Foreign Terrorist Fighter Cases for South and South-East Asia* (Vienna, 2018); UNODC, *Foreign Terrorist Fighters: Manual for Judicial Training Institutes South-Eastern Europe* (Vienna, 2019); and UNODC, *Foreign Terrorist Fighters: Manual for Judicial Training Institutes – Middle East and North Africa* (Vienna, 2021).

investigative techniques, and online and battlefield evidence that can be employed in such cases, with information on the role of private companies and civil society actors in helping to bring foreign terrorist offenders to justice.

### BOX III.2

#### Digital data and evidence related to terrorism cases: useful resources for parliamentarians and national authorities

- Madrid guiding principles 26 and 44
- General Assembly resolution 73/179 on the right to privacy in the digital age
- CTED and UNODC, *Practical Guide for Requesting Electronic Evidence across Borders* (available to Member States' criminal justice officials through the UNODC SHERLOC portal)
- UNODC, *The Use of the Internet for Terrorist Purposes*
- Global Counterterrorism Forum, "Zurich-London Recommendations on Preventing and Countering Violent Extremism and Terrorism Online"
- Global Counterterrorism Forum, "Abuja Recommendations on the Collection, Use and Sharing of Evidence for Purposes of Criminal Prosecution of Terrorist Suspects"
- Laws allowing the monitoring and collection of online evidence must be compliant with international human rights law. Special consideration must be given to obligations under the International Covenant on Civil and Political Rights, particularly article 19.

### BOX III.3

#### Special investigative techniques: useful resources for parliamentarians and national authorities

- UNODC training module on privacy, investigative techniques and intelligence gathering in counter-terrorism cases
- Global Counterterrorism Forum, "Abuja Recommendations on the Collection, Use and Sharing of Evidence for Purposes of Criminal Prosecution of Terrorist Suspects"
- 2017 Report of the Special Rapporteur of the Human Rights Council on the right to privacy (A/72/540)
- OSCE, *Human Rights in Counter-Terrorism Investigations: A Practical Manual for Law Enforcement Officers*

## Financial investigations: useful resources for parliamentarians

- International Convention for the Suppression of the Financing of Terrorism (1999)
- FATF recommendations and their interpretive notes, particularly recommendations 29 to 35 on the competencies of FIUs and other relevant agencies
- FATF Anti-Money Laundering and Counter Terrorist Financing for Judges and Prosecutors, which is a manual explaining tools, best practices and necessary legal frameworks for the investigation and prosecution of money-laundering, terrorism financing and the necessary legal and regulatory frameworks needed to enable the seizure, confiscation and freezing of assets and international cooperation thereon.
- The repository of resources and capacity-building tools devised by UNODC's Global Programme against Money Laundering, Proceeds of Crime and the Financing of Terrorism, and available to Member States upon request.
- Resources and training material curated by the Egmont Centre of FIU Excellence and Leadership, available to Member States of the Egmont Group upon request.

12. It must be stressed that the obligation on Member States stipulated in resolution 1373 (2001) to afford one another the greatest measure of assistance in connection with criminal investigations or proceedings also applies in cases related to foreign terrorist fighters, and that this "greatest measure of assistance" extends to the sharing of evidence, as well as to the obligation under international law to prosecute or extradite persons who support, facilitate or perpetrate offences which Member States must criminalize under resolutions 2178 (2014) and 2396 (2017). Resolution 2396 (2017) also recalls the need for Member States to strengthen international judicial cooperation as outlined in resolution 2322 (2016), discussed in the previous chapter.

## C

## Border security, passenger screening and information-sharing

13. Resolution 2178 (2014) calls upon Member States to require that airlines operating in their territory provide API to the appropriate national authorities to detect the travel of foreign terrorist fighters. Resolution 2309 (2016) further calls upon Member States, as part of their efforts to prevent terrorist threats to civil aviation, to require airlines operating in their territory to collect API.

14. Resolution 2396 (2017) strengthened the measures which Member States should take in identifying and countering the movement of terrorists, including foreign terrorist fighters.

The resolution is one of the strongest in terms of requirements placed on Member States for the inclusion of the following obligations under Chapter VII of the Charter of the United Nations:

- a) Member States shall establish API systems and they must require airlines operating in their territory to provide this information to appropriate national authorities (para. 11).
- b) Member States shall develop the capability to detect, process and analyse PNR data and ensure that they are shared with all relevant authorities (para. 12). PNR comprise personal data that are provided by passengers when travelling, and include passenger name and other identifiers, as well as itinerary details, contact details and information on means of payment. The amount of information within PNR data can be a powerful tool for detecting and investigating the movement of terrorists and foreign terrorist fighters. It is especially important for the pre-arrival or pre-departure risk assessment of passengers.
- c) Member States shall develop watch lists or databases of known and suspected terrorists including foreign terrorist fighters for use by law enforcement, customs and border security officials in, inter alia, traveller screening (para. 13).
- d) Member States shall develop and implement systems to collect biometric data, including fingerprints, photographs, facial recognition and other relevant identifying biometric data to responsibly and properly identify terrorists, including foreign terrorist fighters (para. 15).

15. These obligations on Member States to prevent the travel of foreign terrorist fighters should be implemented in furtherance of the standards established by the International Civil Aviation Organization, and with full respect for human rights and fundamental freedoms, taking into account gender and age sensitivities.

16. The need for information-sharing reiterated in resolutions 2178 (2014) and 2396 (2017) complements the requirements under resolution 2322 (2016) on judicial cooperation in counter-terrorism between Member States. In resolution 2322 (2016), the Security Council calls upon Member States to share information according to their domestic law and encourages them to consider developing real-time information-sharing networks at the regional and subregional levels.

17. Adequate channels of information-sharing, such as establishing direct contact between designated contact points, should be established with other countries and international or regional organizations, to allow the sharing of information in a timely manner and when relevant, particularly with Member States of the origin, residence and nationality of suspected terrorists and foreign terrorist fighters and with countries of destination or transit. When compiling watch lists and databases and considering ways in which to share relevant information with other countries, Member States should ensure that input is included from all relevant law enforcement agencies and sources of information, so that the lists and databases are comprehensive. A national mechanism should also be set up to ensure the timely sharing of information between relevant domestic authorities, particularly between customs authorities, border officials at points of entry, and law enforcement and intelligence agencies.

18. In order to ensure the collection and availability of this information, parliaments should enact necessary legislation to allow the gathering of this information and the appropriate access to competent national authorities and with other Member States. This legislation must integrate concerns about avoiding and mitigating gendered harms, and be compliant with States' obligations under human rights law. In this regard, parliaments, in collaboration with the executive authorities, must ascertain that there is a robust legal and regulatory framework and specific protocols in place for the use, review, retention, deletion and sharing of this information and that the data collected are secured and used only for the purposes for which they were collected, so as to avoid unauthorized extension of scope and access. Some Member States will share personal data only with countries that have passed clear and comprehensive laws that govern personal data protection within a framework of human rights law and in a manner that preserves fundamental freedoms and the right to privacy. Parliaments should be aware of this link between personal data protection laws and the ability to collect, preserve, use and share information in the context of countering terrorism and foreign terrorist fighters. Box III.5 contains some elements that should be considered when drafting personal data protection laws or other laws that enable the collection of personal data, including related to travel, to ensure that the laws do not infringe on individual rights and freedoms.

#### BOX III.5

### Personal data protection laws: good practices to ensure that legislation complies with human rights law

- Data subjects (individuals whose data are being collected) must be clearly informed about the collection of their data and about the purpose for which the data will be used. PNR data should be collected only for the explicit and sole purpose of preventing, detecting, investigating and prosecuting terrorism, terrorism-related offences and other serious crimes.
- Data should always be collected, preserved and analysed in a manner that is non-discriminatory. This includes addressing potential gendered assumptions in automated decision-making based on API/PNR data in border protection and watch-list contexts.
- A clear time limit should be specified on the ability to hold collected data.
- Data should be depersonalized after a relatively short period of time and may only be re-personalized following strict conditions.
- National authorities, airline carriers and other entities dealing with personal data should each appoint a data protection officer responsible for the preservation and handling of the data according to national legislation and regulations and should be accountable for breaches of the data.
- Designated PIUs should be established by each Member State or at a regional level. The PIUs should be responsible for collecting, storing and processing data provided by airline carriers, and provide relevant authorities with actionable intelligence inferred from the data. Each PIU should also be the entity responsible for sharing personal information with other Member States.

19. The Security Council, in setting obligations on Member States, has encouraged United Nations entities, including UNOCT, UNODC and CTED, to provide and deliver assistance to Member States upon request. This was an important aspect of the resolution which was demanded by several Member States during negotiations. Member States also requested that the Security Council express its cognizance of the fact that these obligations require resources and know-how not available to a large number of countries. In paragraph 48 of resolution 2396 (2017), the Security Council duly noted that the implementation of certain aspects can in fact be resource intensive and directed CTED to take this into consideration when assessing Member State implementation, and when facilitating technical assistance. United Nations entities, with support from partners and other Member States, have been able to successfully provide some assistance in the implementation.

20. For example, the UNOCT Countering Terrorist Travel Programme, through generous contributions from several Member States, assists beneficiary countries in building their capacity to prevent, detect and investigate terrorist offences and related travel by using API and PNR data, in line with resolutions 2178 (2014), 2396 (2017) and 2482 (2019). The programme donates the United Nations “goTravel” software system to beneficiary Member States, and so far more than 40 countries have benefited from it in their efforts to implement API and PNR systems in accordance with Security Council resolution 2396 (2017), standards and recommended practices of annex 9 to the Chicago Convention, as well as other international law obligations.

21. Another important example of United Nations entities’ efforts to support States in implementing the technical provisions of resolution 2396 (2017) was the compiling and development of the United Nations Compendium of Recommended Practices for the Responsible Use and Sharing of Biometrics in Counter-Terrorism, in accordance with international human rights obligations, which was developed in 2018 under the GCTCC working group on border management and law enforcement, chaired by CTED. The Compendium is a practical tool for Member States, which may have limited experience of biometric applications or face capacity challenges when implementing this technology. It deals with the governance and regulatory aspects of the technology and explains operational and financial implications for Member States embarking on fulfilling this particular obligation of resolution 2396 (2017).

## **D** Rehabilitation and reintegration strategies

22. Member States are required to develop PRR strategies as a more lasting recourse to solve the root causes that led to the phenomenon of foreign terrorist fighters. It is important to have a strategy in place to allow for the return of such fighters to their countries of origin or residence to alleviate the security burdens on countries of destination. It is also important to use these strategies, when appropriate, as an alternative or as an important accompaniment to prosecution and punishment. These strategies should be tailored according to specific national and local contexts and should also allow for gender and age specificities. Special attention should be devoted to delivering strategies suitable for accompanying family

members, including spouses and children of foreign terrorist fighters, and should take into account the nuanced roles of alleged foreign terrorist fighters, including children and spouses who are often simultaneously both perpetrators and victims of terrorism.

23. Other than gender and age sensitivity, resolution 2396 (2017) specifies a number of broad guidelines that must be present in these rehabilitation and reintegration strategies. These include:

- a) Potential participants should undergo a process of risk assessment to ensure their suitability for these programmes before their participation.
- b) Strategies and programmes should be devised and developed within a whole-of-government and whole-of-society approach, in close collaboration with local communities, mental health and education practitioners and other relevant civil society actors, including women, cultural and religious leaders.
- c) Women and women community leaders must be included and play leading roles in the design, implementation, monitoring and evaluation of these strategies and programmes.
- d) Investigative and prosecutorial strategic approaches, including selection and prioritization of cases, may assist the development of both alternatives to prosecution and alternatives to imprisonment.
- e) Rehabilitation and reintegration programmes must be accompanied by robust counter-narratives that address grievances, lingering misinterpretations and residual violent extremist thought.
- f) Rehabilitation and reintegration programmes often begin within the penal system, and Member States must ensure that prison environments remain safe and humane.
- g) To counter radicalization in prison settings, including risk assessments to inmates to detect susceptibility to radicalization, in this regard, the Security Council recommended that Member States take into consideration, as appropriate, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

24. In addition to these points presented in the body of resolution 2396 (2017), the Madrid guiding principles and addendum thereto provide the following insights into rehabilitation and reintegration strategies:

- a) Member States should support relevant research to enhance their understanding of the idiosyncratic drivers for radicalization specific to each region, country or locality, and should appreciate the fact that in many cases individualized interventions may be the only effective way to address radicalization to violence.
- b) In developing comprehensive risk assessment tools to identify individuals susceptible to radicalization, Member States should avoid profiling based on gender, age, ethnic, religious, cultural or other discriminatory grounds.



- c) Families have a vested interest in deradicalization, and they should be engaged by Member States and provided assistance and counselling in multiple disciplines, including psychological, social and religious ones.
- d) Sufficient resources should be developed for educational programmes that develop critical thinking and mutual awareness of other cultures. Youth should generally be kept engaged through mentorship programmes, enhanced educational opportunities and community service projects.
- e) When developing rehabilitation and reintegration programmes for children, the best interest of the child must be the primary concern, and a variety of alternatives to judicial proceedings, detention and sentencing should be made available.
- f) Using victims and their families in counter-narrative campaigns can sometimes be effective in countering the propaganda campaigns of terrorists.

25. In order to prevent the recruitment of foreign terrorist fighters, Member States should explicitly address this issue in their national counter-terrorism plans and strategies, raise awareness thereon and reach out to communities. The risk posed by returnees and possible relocators in the Member State's territory should also be assessed, as these individuals might pose a radicalization threat.

26. The United Nations has provided assistance to Member States in developing their rehabilitation and reintegration strategies. In 2020, UNOCT and the United Nations Children's Fund (UNICEF), along with 13 United Nations entities, developed a global framework to assist Member States in addressing the challenge of third country nationals currently present in Iraq and the Syrian Arab Republic, in a manner that ensured human rights-based, age and gender-responsive protection, repatriation, prosecution, rehabilitation and reintegration of former foreign terrorist fighters. In turn, UNOCT, with the substantive engagement of UNODC and CTED, developed the Global Programme on Prosecution, Rehabilitation and Reintegration, which provides strategic support to Member States in select regions in Africa, the Middle East and North Africa, Central Asia, and South and South-East Asia, as well as assisting Member States in the production of relevant knowledge products and guidance.

27. Moreover, since 2012 the United Nations Interregional Crime and Justice Research Institute (UNICRI) has supported several Member States, upon their request, in efforts to build rehabilitation programmes for violent extremist offenders and to ensure that sufficient prison reforms are undertaken to prevent them from becoming hubs for radicalization.

28. On the particular and sensitive issue of children of foreign terrorist fighters, UNODC developed a road map on the treatment of children associated with terrorist and violent extremist groups, and it continues to provide training for Member States on the management of juvenile detention centres for children with links to the conflict zone and to parents known to have been radicalized. UNOCT also compiled a handbook of best practices on children affected by the foreign terrorist fighter phenomenon, which aimed to ensure that strategies towards

children maintain a child rights-based approach.<sup>2</sup> Moreover, a paper of key principles for the protection, repatriation, prosecution, rehabilitation and reintegration of women and children with links to terrorist groups listed by the United Nations was issued by the Secretary-General in 2019. The paper outlined legal, policy and operational principles that should be adhered to by Member States and United Nations entities involved in PRR measures geared towards women and children. Member States developing PRR programmes for women and children involved with terrorist group may consult this paper.<sup>3</sup>

## **E** Guiding questions for parliamentarians

29. Based on the roles of parliamentarians in the implementation of resolution 1373 (2001) and its subsequent resolutions (see chapter I), and on the three areas of countering the foreign terrorist fighter phenomenon discussed in the present chapter, table III.1 provides some guiding questions for parliamentarians to consider when assessing their role in criminalizing and preventing the travel of foreign terrorist fighters and in enabling security agencies and relevant national authorities to carry out their mandates.

30. A recurring consideration in all aspects of the role of parliamentarians when laying down the laws related to countering the threat of foreign terrorist fighters, and when overseeing the judiciary, law enforcement agencies and other State institutions in the implementation of these laws, is to ensure compliance with international human rights obligations. Paragraph 5 of resolution 2178 (2014) specifically requires that Member States carry out their obligations “consistent with international human rights law, international refugee law, and international humanitarian law”. Similar language is repeated in resolution 2396 (2017) (see paras. 7, 16, 22, 23 and 40), indicating the Security Council’s assertion that operative clauses of its resolutions regarding foreign terrorist fighters, and indeed all other resolutions on counter-terrorism, must be implemented without prejudice to a Member State’s obligations under human rights law, without infringement on an individual’s rights and freedoms, and without furthering gender biases and inequalities. Aware of the challenges to rights and freedoms that might arise from the implementation of Security Council resolutions on foreign terrorist fighters, the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued an important publication, *Guidance to States on Human Rights-Compliant Responses to the Threat Posed by Foreign Fighters*. This publication should be an essential companion for parliamentarians when addressing issues in countering terrorism and violent extremism.

<sup>2</sup> UNOCT, *Children Affected by the Foreign-Fighter Phenomenon: Ensuring a Child Rights-Based Approach*. Available at [www.un.org/counterterrorism/handbook-children-affected-foreign-fighter-phenomenon-ensuring-child-rights-based-approach](http://www.un.org/counterterrorism/handbook-children-affected-foreign-fighter-phenomenon-ensuring-child-rights-based-approach).

<sup>3</sup> Key Principles for the Protection, Repatriation, Prosecution, Rehabilitation and Reintegration of Women and Children with Links to United Nations-listed Terrorist Groups (A/74/677).

Table III.1

**Guiding questions for parliamentarians to consider when carrying out their roles in countering foreign terrorist fighters**

Parliamentarians' role	Criminalization, investigation and prosecution	Border security, passenger screening and information-sharing	PRR strategies
Defenders of principles	<p>Is parliament ensuring that the laws passed are consistent with the State's constitutional principles and its obligations under international human rights, international refugee law and international humanitarian law?</p> <p>Is parliament ensuring that laws passed are gender-sensitive, do not further gender biases or gendered harms, and are consistent with international gender equality norms and standards?</p> <p>Is parliament ensuring that legislation includes a redress mechanism against the abuse of counter-terrorism laws by national authorities? (For example, parliamentary committees that may convene dedicated briefings/discussions aimed at analysing compatibility of draft legislation with the State's international human rights obligations.)</p>	<p>Is parliament properly and effectively overseeing security agencies, and is it playing a role in making these agencies accountable for any excesses while carrying out investigations?</p>	<p>Is parliament ensuring the rights of returnee foreign terrorist fighters to citizenship, to fair trial and to right of return when devising PRR programmes?</p> <p>Are rehabilitation and reintegration programmes aimed at children based on the child's best interests?</p> <p>Are rehabilitation and reintegration programmes gender-responsive and mindful of not furthering gender biases or harms?</p>
Legislators of laws	<p>Do relevant counter-terrorism laws criminalize, as a serious offence, foreign terrorist fighters as dictated by the relevant Security Council resolutions?</p> <p>Are foreign terrorist fighter-related offences clearly defined in the Member State's legal codes, and is the definition consistent with that of the Security Council as stated in resolutions 2178 (2014) and 2396 (2017)?</p>	<p>Are there clear legal frameworks for the collection and use of data and evidence from ICT, online sources, special investigative techniques, financial investigations, airline carriers and military forces engaged in counter-terrorism?</p>	<p>Are rehabilitation and reintegration programmes considered as viable alternatives to prosecution and sentencing, based on a comprehensive, gender and age-sensitive risk assessment of each individual?</p>

Table III.1 (continued)

Parliamentarians' role	Criminalization, investigation and prosecution	Border security, passenger screening and information-sharing	PRR strategies
Legislators of laws (continued)	Is there sufficient legislation to allow the collection and use of a wide range of evidence in the prosecution of foreign terrorist fighters? Does the law allow the State to prosecute preparatory acts aimed at supporting foreign terrorist fighters in any way, including the wilful collection of funds, provision of funds, enticement, recruitment and facilitation of travel?	Are other tangential laws consistent with the Member State's obligations under relevant United Nations counter-terrorism resolutions such as laws governing the financial sector or laws on personal data protection?	Are there specific considerations being made when developing rehabilitation and reintegration strategies for foreign terrorist fighters' accompanying family members?
Representatives of the public	Are laws passed after an appropriate period of national debate, and does parliament attempt to ensure national consensus by sensitizing the public to the threat posed by foreign terrorist fighters?	Is the public made aware of their rights under each of the statutes relevant to the collection and sharing of information?	Did parliament ensure that citizens contributed to national strategies devised for the rehabilitation and reintegration of foreign terrorist fighters, particularly vulnerable groups? Was input solicited from community leaders, and are they given a role in executing the strategy?
Promoters of comprehensiveness and integration	Were organizations representing women, children and vulnerable communities consulted before passing or updating laws related to countering the foreign terrorist fighter phenomenon? Was the private sector consulted before passing legislation that might impact its ability to offer services or increase its costs of doing business? Does the legislation provide the ability to create meaningful public-private partnerships to counter the threat based on credible risk assessments?	Is parliament ensuring that, both in law and in practice, the ability of the State to collect and use data is done in a non-discriminatory way and does not exacerbate gender inequality, extant social tensions or create new ones? Is the private sector thoroughly engaged in the implementation of laws concerning the monitoring and collection of data, particularly ICT companies, airline carriers, financial institutions and designated non-financial businesses?	In its attempt to address the root causes of the foreign terrorist fighter phenomenon, did parliament consider the role of education systems, places of worship, civil society groups and organizations, the media and academia? Were gender- and age-sensitive elements incorporated in the rehabilitation and reintegration strategy?

Parliamentarians' role	Criminalization, investigation and prosecution	Border security, passenger screening and information-sharing	PRR strategies
<p>Dispensers of resources</p> <p>Is parliament aware of the financial costs of legal and regulatory requirements needed to maintain the State's ability to counter foreign terrorist fighters?</p> <p>Have parliamentary committees sufficiently conferred with implementing agencies on their needs prior to legislation?</p>	<p>Is parliament ensuring sufficient resources to national authorities and law enforcement and intelligence agencies relevant in countering the threat of foreign terrorist fighters? Is there adequate engagement with these authorities and agencies on their requirements to optimally carry out the work mandated to them by parliament?</p> <p>Is parliament mitigating the lack of resources by potentially leveraging capacity-building opportunities provided by other partners and United Nations agencies?</p>	<p>Are resources adequately provided to implement evidence-based and rationalized rehabilitation and reintegration programmes?</p> <p>Is parliament mitigating the lack of resources by potentially leveraging capacity-building opportunities provided by other partners and United Nations agencies, and by allowing civil society actors to participate in the implementation of such programmes?</p> <p>Is parliament ensuring that State prisons, detention centres and juvenile correctional facilities are provided with enough resources to maintain a humane and safe environment in which inmates are less susceptible to radicalization?</p> <p>Is parliament ensuring that initiatives aimed at the reintegration of women and children are well resourced?</p>	<p>Is parliament playing its role as a bridge between cultures to increase tolerance and understanding among different communities and religions to uproot one of the causes of the foreign terrorist fighter phenomenon?</p> <p>Is parliament adopting good practices from other Member States and regional and international organizations?</p> <p>Does parliament encourage law enforcement agencies and other relevant authorities to participate in joint terrorism task forces or other modes or regional or international cooperation in countering terrorism and the foreign terrorist fighter phenomenon?</p> <p>Is parliament ensuring that legislation passed facilitates international cooperation in the investigation and prosecution of foreign terrorist fighters? Does the law allow for exchange of information and cooperation in investigation and prosecution with other Member States?</p> <p>Has parliament considered a dedicated law on international cooperation in counter-terrorism issues, including countering foreign terrorist fighters, in order to facilitate cross-border information-sharing and judicial cooperation?</p>





## Chapter IV

# Connecting parliamentarians to face international challenges related to implementing resolution 1373 (2001)

1. Parliamentarians play a crucial role in the fight against the threats of terrorism and violent extremism. These threats know no boundaries and endanger equally the physical security of the State and its citizens. They also endanger universal values and hard-earned freedoms shared among the international community. This chapter addresses some of the common challenges for Member States when they attempt to counter terrorism. National coordination can often be a challenge when countering terrorism, especially where there is a lack of a coherent national strategy and when input from various segments of society is not considered. Safeguarding human rights – including women’s rights – and striking the balance between security and freedom are also issues that befuddle many Member States and for which parliaments must play the role of astute adjudicator. Then there is the issue of international cooperation and the imperative to enhance cross-border collaboration if terrorism is to be defeated. This chapter looks at these interlinked challenges and addresses parliament’s role in mitigating them.

### **A** Ensuring a whole-of-society approach and engagement with civil society

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2. Domestically, facing the threat of terrorism requires the integrated and synchronized efforts of all of government and society. Parliamentarians are poised by their position as the representative branch of government to become the harbingers of national coordination, and the instrument of monitoring and evaluation of national counter-terrorism policies.

3. Beginning with the issue of addressing root causes of terrorism and violent extremism, there is clear evidence that these threats are attributed to a number of issues, including illiteracy, climate change, corruption, bad governance, lack of opportunities and different forms of inequality including gender inequality. Parliamentarians, because of their involvement in all areas of government activity, are conditioned to see these links playing out in their constituencies, and they have the power to break cycles of terrorism through comprehensive, interlinked legislation and oversight.

4. Parliaments could be the initiators of national policies on countering terrorism and violent extremism, if none exists, or they could suggest amendments to such policies if they are deemed in need of an update or alignment with international human rights standards.

They could also mandate the executive branch of government to offer progress reports on the implementation of those policies. Parliaments should be the branch of government to insist that such national policy strategies must be devised under conditions of an inclusive national debate that gives weight to the concerns of all segments of society and non-government actors. A sound national strategy for preventing and countering terrorism and violent extremism should include the following characteristics:

- a) The strategy should be based on a credible assessment of the security threat, which takes into account recent and historical experiences with terrorism; proximity to conflict zones or hotbeds of terrorism; existing factors of social, political or economic fragility that can act as drivers to radicalization; international obligations of the Member State under international treaties, conventions, relevant Security Council resolutions, or other regional or international legal instruments to which the State is party; and the capacities of State agencies and institutions that will be tasked with implementing the strategy.
- b) It should be inclusive, allowing input from various actors including civil society; academia; community leaders; the private sector; and representatives of women, youth and vulnerable and marginalized groups. It should also be inclusive in the sense that it mainstreams gender, and also contains gender-specific and age-specific policies and that it allows for women and youth to play an active and meaningful role in achieving the objectives of the strategy. Better awareness and mainstreaming of gender and age considerations contribute to better informed and targeted strategies, and should thus be considered throughout.
- c) The role of the private sector should also be articulated within the strategy, especially in areas where private companies and businesses can have an impact, such as in countering the use of ICT by terrorists; preventing terrorists from using the financial system and new technologies in raising or transferring funds; and enhancing the protection of critical infrastructure. This should take into consideration and address any adverse human rights impacts of the involvement of the private sector in counter-terrorism efforts, particularly in terms of the rights to privacy and data protection. Part of the national counter-terrorism strategy could also focus on encouraging the private sector to meet its environmental, social and governance responsibilities in a way that can assist State efforts in uprooting drivers of radicalization.
- d) It should contain a clear prevention component that spells out State action in uprooting the potential causes for radicalization to violent extremism, including the role that educational systems, the media, places of worship, community leaders and various government ministries and authorities are expected to play in prevention. In this respect, the strategy must also incorporate a coherent counter-narrative strategy that addresses the nefarious ideological, political and socioeconomic messages that terrorists use for recruitment and enticement.
- e) Victims of terrorism and their families should be part of national conversations surrounding counter-terrorism strategies, and it is up to parliaments to ensure that



their voices are heard, and that their stories can effectively be used in the State's counter-narrative efforts. Parliaments should also safeguard the rights of victims of terrorism through legislation and seek to find ways to secure adequate reparations for victims, if necessary, using their role as "dispensers of resources". The United Nations offers useful tools in this regard, presented in box IV.1.

- f) Existing international tools for cooperation should be taken into account when setting out the strategy. These include international or regional sanctions regimes, avenues for mutual legal assistance and information-sharing and opportunities that might be available for capacity-building. States should leverage these tools to enhance the ability of their agencies to collaborate with their counterparts in other countries, and to bolster national resources and human capacities needed for effective counter-terrorism.
- g) The national counter-terrorism and prevention of violent extremism strategy should be consistent with other national strategies of relevance, such as strategies to address social, economic or gender inequalities, or to implement the Sustainable Development Goals. Other related national initiatives might include, for example, national anti-corruption and good governance strategies, education strategies and strategies to suppress serious and organized crime.
- h) The national counter-terrorism strategy should be a living document. It should contain measures and timelines for periodic review and updating, and it should indicate specific actors responsible for the monitoring and evaluation of the policy's implementation and effectiveness in achieving its stated goals.

#### BOX IV.1

### United Nations tools dedicated to victims of terrorism

The International Day of Remembrance of and Tribute to the Victims of Terrorism is commemorated by the United Nations every year on 21 August, to acknowledge not only the pain and suffering of victims of terrorism but also their expertise in building community resilience and through their personal journeys and experiences.

The United Nations provides important tools dedicated to supporting victims of terrorism. Primary among these tools is the Victims of Terrorism Support Portal, which highlights the importance of those individuals across the globe who have been attacked, injured or traumatized during terrorist attacks. The portal showcases government programmes and efforts to support victims of terrorism, and offers a directory of government and civil society organizations that can offer advice, assistance and solidarity for these victims.

The portal also hosts model legislative provisions to support and protect the rights and needs of victims of terrorism, which are particularly helpful for legislators. These provisions were developed under the IPU-United Nations Joint Programme on Countering Terrorism and Violent Extremism, and the project was implemented by IPU, UNOCT and UNODC, in close

#### BOX IV.1 (CONTINUED)

cooperation with United Nations entities, victims, civil society organizations and regional parliamentary organizations.

Moreover, the United Nations Counter-Terrorism Centre of UNOCT published the *Handbook of Good Practices to Support Victims' Associations for Africa and the Middle East*. A second handbook on Asia and the Pacific is currently in development. The handbooks should provide a set of guiding principles and practices for victims' associations to better support victims of terrorism.

5. Parliaments are well suited to become the overseers of the effective implementation of any national strategy. They have the power to monitor the actions of government and its agencies in implementing laws related to counter-terrorism. They can assess overall progress on counter-terrorism, and countering and preventing violent extremism leading to terrorism, through periodic reports required from the executive branch. Parliaments also evaluate budgets and ensure adequate allocation of financial resources to robustly address the security challenge. They can hold public hearings and inquiries on relevant issues and can stimulate public debate in relation to policies to uproot terrorism and violent extremism. Parliaments are also the best-suited branch of government to provide a channel through which experts and citizens can offer views on those policies.

#### BOX IV.2

### 2022 Global Parliamentary Report on public engagement in the work of parliaments

The third global parliamentary report issued by IPU and the United Nations Development Programme (UNDP) in 2022 encourages parliaments to actively engage people and provides some recommendations and practical guidance on steps that can be taken to bring people and parliaments closer together, and to make parliaments more inclusive of all communities and groups.

The report sets out five recommendations that will help parliamentarians to boost community interest and participation in their work:

1. Embed a culture of engagement across parliament.
2. Make inclusion a priority so that parliament is accessible to all community members.
3. Encourage people to participate in setting the agenda and to influence the issues taken up by parliament.
4. Lead with innovative and creative approaches that inspire the community to engage with parliament.
5. Focus on meeting public expectations by listening to and acting on community feedback.

6. Parliamentarians have the important duty of representing the interests and concerns of their constituents, especially those from vulnerable or marginalized groups, to ensure that counter-terrorism efforts by the State are effective without causing inadvertent harm. Public engagement with parliamentary work safeguards the people's trust in this important branch of government and creates a safe civic space for public debate that dilutes radical calls for violent, non-civic action. Parliamentarians themselves benefit from engagement with the public, as they are often exposed to more information about the issues they are confronted with, as well as to innovative ways in which they can be addressed. Therefore, citizens should be given the right and the means to provide their input and feedback on the work of parliaments. Some of the suggested ways in which parliamentarians can ensure this are as follows:

- a) Working to create or preserve a safe and enabling environment for civil society and the media, and ensuring that the rights to access to information, freedom of thought and expression, association and peaceful assembly are protected in law and in practice, as a prerequisite to meaningful public engagement.
- b) Engaging consistently with constituents including women, youth and marginalized groups, expert groups, academia and civil society organizations, including through regular hearings, open debates, requests for information or inquiries.
- c) Making sure that they are well informed about the threat, and about locally specific conditions that may be driving radicalization. They should also be regularly updated on the effectiveness of extant policies and government actions. This can be achieved through field research solicited by parliament and conducted independently or by the parliament's dedicated research arm. Parliamentarians can also set up information seminars or training sessions to self-educate on these issues.
- d) Dedicating well-publicized channels of communication between citizens and parliament to receive information, concerns or complaints on government action. These channels of communication should be set between each individual parliamentarian and constituents. Another communication channel could be provided, linking the public directly to the relevant parliamentary committee. Parliaments should consider prioritizing the digital transformation of their approaches to public engagement, by developing digital tools to boost interaction with citizens.

## **B**

### **Safeguarding human rights**

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7. Parliamentarians have a special role in the promotion and protection of human rights. They are the bulwark against human rights abuses domestically and internationally, and are guarantors to achieving the right balance between preserving security and protecting individual liberties. They are the branch of government that gives effect to these rights through legislation, constitutional drafting and amendment and the accession to international instruments. They are also positioned with the judicial branch of government to prevent abuses by the executive branch. They should ensure that every law provides practical means that can allow remedies to be sought for violations by the States.

8. The following are suggestions to empower parliaments in carrying out their role as protectors of human rights:

- a) Encourage and approve the ratification of human rights treaties and adopt legislation that allows for the full implementation of their provisions, and ensure compliance with the State's human rights obligations when legislating on counter-terrorism issues. Important international human rights instruments to which parliament should refer are enumerated in box IV.3.
- b) Ensure that the necessary funds for the observance of human rights are provided for in the national budget, and monitor the government's spending of these funds.
- c) Ensure that considerations on possible human rights abuses are taken into account when legislating, through a wide-range consultative process with civil society, academia and the media.
- d) Ensure the principle of gender equality and the prohibition of discrimination are included in national legislation as fundamental principles of international human rights law. This can be done through a two-pronged approach: (i) developing gender-dedicated initiatives; and (ii) raising gender awareness and mainstreaming gender throughout non-gender-dedicated initiatives.
- e) Establish parliamentary committees or caucuses with express responsibility for human rights and with a mandate to focus on State compliance with human rights obligations and accountability for any violations.
- f) Enhance the protection of human rights through available parliamentary tools such as question times, motions and inquiries, as well as through budgetary oversight of State institutions and agencies.
- g) Support the establishment and work of national human rights institutions that are compliant with the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (the Paris Principles) by adopting the necessary legal framework, ensuring that they have sufficient resources to perform their role and developing a working relationship with them on issues of human rights, including those related to counter-terrorism.
- h) Engage in dialogue and exchange of information and good practices on human rights issues in counter-terrorism through regional and international parliamentary associations and assemblies.

### BOX IV.3

#### Human rights instruments to consider when legislating on counter-terrorism issues

##### **International human rights law:**

International Covenant on Civil and Political Rights, and its two protocols

International Covenant on Economic, Social and Cultural Rights

International Convention on the Elimination of All Forms of Racial Discrimination

Convention on the Elimination of All Forms of Discrimination Against Women, and its optional protocol

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its optional protocol

Convention on the Rights of the Child, and its two optional protocols

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

International Convention for the Protection of All Persons from Enforced Disappearance

Convention on the Rights of Persons with Disabilities, and its optional protocol

**International humanitarian law:**

1949 Geneva Conventions, and their two additional protocols, as applicable

**International refugee law:**

1951 Convention relating to the Status of Refugees, and/or its 1967 protocol

9. There are circumstances in which international human rights conventions permit States to limit the exercise of certain rights, including the right to freedom of expression, freedom of association and assembly, freedom of movement and the right to privacy. For example, the International Covenant on Civil and Political Rights allows for restrictions on the right to freedom of expression for the protection of national security, public order, public health or morals. However, States must follow four basic precautions when imposing such limitations, and it is up to parliament to ensure that these precautions are duly met to keep the State from steering away from its human rights obligations. These are:

- a) Limitations must be prescribed by law. The conditions triggering these limitations must be precisely stated and defined by law so that citizens may understand why and how the limitation will affect their rights or freedoms.
- b) Limitations must be in the pursuance of a legitimate purpose. Granted, “legitimacy of purpose” is not a precisely defined condition and there may well be differences in opinion on whether there is a need for the State to expand its power. Therefore, it is necessary when legislating for counter-terrorism measures that government and parliament clarify the reasons why such measures are necessary, based on factual evidence. It is also important that national buy-in is sought through open dialogue or other forms of public consultation.
- c) Limitations must be necessary and proportional. The impact of a legislation on rights and freedoms must be proportional to the threat for which the legislation is intended. Here, parliaments should be the adjudicators between the executive branch and civil society on varying perceptions of necessity and proportionality. It is often the case that parliament will confer the authority to decide on necessity

and proportionality to the judicial branch, calling on judges to preapprove such limitations on a case-by-case basis.

- d) Limitations must be accompanied by means for redress. State excesses or abuses in the use of such limitations must be proscribed by law. The law should indicate measures by which individuals can seek remedies and make the relevant authorities accountable.

10. Governments might resort to announcing a general state of emergency to derogate from their human rights obligations. This is a right granted to States under article 4 of the International Covenant on Civil and Political Rights. However, in order for a Member State to proclaim a state of emergency, certain conditions should be met:

- a) The state of emergency should be proclaimed by legislation. It is therefore the duty of parliament to assess the need for the state of emergency and pass the necessary law for it to take effect.
- b) The state of emergency should be notified to other States parties, with reference to the specific provisions the State has derogated from and the reasons for such measures, in order to facilitate the monitoring of the State's compliance with its obligations under the Covenant.
- c) The state of emergency must be a temporary measure, subject to the continuation of specified extraordinary conditions that pose a genuine threat to the Member State.
- d) Legislation enacting a state of emergency and the human rights derogations it instils should be the subject of periodic review by parliament or the judicial branch of government.
- e) Any derogations under a state of emergency cannot be discriminatory and must be consistent with the State's other international obligations. A state of emergency should also be restricted by article 4(2) of the International Covenant on Civil and Political Rights, which identifies several rights as non-derogable even in times of public emergency. The Human Rights Committee has noted that, in addition to these, there are other rights from which it cannot be derogated, as they are necessary to protect the rights explicitly mentioned as non-derogable, or because they are peremptory norms of international law (*jus cogens*) or applicable in international humanitarian law.

11. An important consideration for parliaments relevant to the issue of upholding human rights, and also to the issue of inclusivity and engaging civil society discussed in the previous section, is for laws on counter-terrorism to incorporate measures that ensure some form of post-legislative scrutiny. These can be in the form of "sunset clauses", in which parliament denotes that a certain legislation will expire at a future point in time, thereby allowing parliament to re-engage in the necessary public debate before re-enacting or extending the law in question. Another such measure is a "review clause" that mandates the review of the law after a specified period of time. The body responsible for the review could be the responsible parliamentary committee. Post-legislative scrutiny might also be delegated to an external review body. This external body might be tasked to do so through an article within the law

itself, or it might be a body that is mandated to review such laws by the constitution itself (such as state council courts, constitutional courts or national human rights committees).

12. It is also vital for parliamentarians to include a gender perspective in their efforts to address terrorism and the violent extremism conducive to it, also considering how gender biases and stereotypes might lead to the overstigmatization of men. Moreover, the role of women in terrorism is complex and multifaceted, therefore considerations must be made to: (i) women and girls as victims of terrorism; (ii) women as perpetrators, facilitators and supporters of terrorism; (iii) women as agents in preventing and countering terrorism and violent extremism; and (iv) the distinct impact of counter-terrorism strategies on women, women's rights and women's organizations.

13. Women and girls experience particular vulnerabilities as victims of terrorism, and require specific protection needs. This includes safeguarding women's human rights in conflict situations, displacement contexts and other circumstances in which they are subjected to the impacts of extremist violence, including sexual and gender-based violence.

14. In the context of counter-terrorism and countering violent extremism, it is increasingly recognized that women have an important role to play, both online and offline. Women play a key role in policymaking, the security sector, law enforcement services and their own communities. The inclusion of women in addressing security is important from a gender-equality perspective, but also often enhances the effectiveness of security efforts, diversifying perspectives and expertise that can better inform policies and responses.

15. As requested in Security Council resolutions 2242 (2015), 2395 (2017) and 2617 (2021), it is important to assess the differential impact of counter-terrorism strategies on women and girls, women's human rights and women's organizations. Women can be affected differently by certain counter-terrorism policies and practices.<sup>1</sup>

## C

### **Promoting common understanding and international and regional cooperation**

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16. Parliaments are platforms where national interfaith and intercultural dialogues occur. As representatives of their respective citizenries, parliamentarians are accustomed to discussing foundational issues and problems faced by their pluralistic societies, and they are always the guardians of values such as strength in diversity and intergroup tolerance and understanding. Therefore, they are in an excellent position to use their penchant for such discussions on an international level, and to use their skills to act as bridges across cultures and beliefs.

17. Parliamentary associations and unions are avenues for such discussions to take place. For example, IPU is one of the oldest intergovernmental bodies in the world. Established in 1889, it promotes peace and cooperation among nations and collaborates with regional

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<sup>1</sup> The report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/46/36) indicates gender-specific effects of counter-terrorism policies and laws.

interparliamentary bodies, international organizations and civil society organizations working in areas of relevance, including counter-terrorism and countering violent extremism conducive to terrorism. In 2017, IPU established the High-Level Advisory Group on Countering Terrorism and Violent Extremism to serve as a global focal point for parliamentary activities related to counter-terrorism, including guiding the work of the Joint Programme on Countering Terrorism and Violent Extremism, between IPU, UNODC and UNOCT, which sought to promote parliamentary cooperation in this field and to facilitate the transposition of international resolutions, particularly those issued by the Security Council, into domestic legislation. On 9 September 2021, IPU, with assistance from UNOCT, held the first Global Parliamentary Summit on Counter-Terrorism where parliamentarians exchanged views on the prevention of terrorism and radicalization, and on supporting victims of terrorism.

18. Furthermore, UNOCT and participating parliamentary assemblies agreed, in December 2021, to establish a joint strategic coordination mechanism to improve coordination and promote cooperation among parliamentary assemblies, as well as with the United Nations and parliamentary bodies, to support and further develop the existing initiatives and efforts on the promotion of cooperation between parliamentary assemblies in the area of counter-terrorism and prevention of violent extremism. This Coordination Mechanism also supports the work conducted by parliamentary assemblies in counter-terrorism and prevention of violent extremism, especially in terms of promoting policy convergence among different Member States, as well as supporting the efforts of national parliaments in implementing the international counter-terrorism and prevention of violent extremism legal framework.

19. Cognizant of the importance of a constant exchange of views among parliamentarians on issues of counter-terrorism and countering violent extremism, IPU launched a mobile application aimed at improving outreach and connectivity between members of parliaments. The application can be downloaded from app stores, found under the name "IPU-CTVE". It has multilingual content useful for legislators, as well as a dedicated section for victims of terrorism and their stories.

20. IPU also launched an interactive map for registered users,<sup>2</sup> which provides access to an international database on counter-terrorism legislation from participating Member States. The map provides best practices, example laws and information about counter-terrorism parliamentary committees. These are some of the ways in which parliamentarians benefit from international forums on issues of counter-terrorism and how these engagements help to address difficulties in cross-border cooperation and communication.

21. The international engagements of parliamentarians with IPU also enable them to influence the work of the United Nations in fields of mutual relevance, including peace and security and counter-terrorism. While the United Nations issues resolutions that parliamentarians must then legislate for and implement, parliaments can also influence the agenda and functions of the United Nations by actively participating in global events and forums to ensure that United Nations decision-making is informed by a wide range of views and opinions.

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<sup>2</sup> See <https://counter-terrorism-ipu.org/>.



22. Regional parliamentary unions and associations are also important in promoting solidarity and cooperation among Member States of a certain geographic region, which often share similar security concerns and challenges. These regional unions should be active in encouraging their respective parliaments to transpose regional instruments of counter-terrorism cooperation into their respective domestic legislation. It is worth noting here that regional intergovernmental organizations continue to be actively engaged in promoting counter-terrorism cooperation within a framework of rule of law and respect for human rights, and many have issued regional conventions or action plans on this issue. Most of these conventions predate resolution 1373 (2001). However, these conventions were often not binding or were unincorporated in national laws, rendering them ineffective as counter-terrorism instruments. Nevertheless, regional conventions, action plans and other instruments of cooperation are important in exhorting cooperation in counter-terrorism within a culture of respect for rule of law and human rights. They are also important in pointing towards areas of cooperation where Member States within a particular region recognize a shared need to strengthen cooperation. Finally, these instruments are useful insofar as they delineate common regional understandings of some definitional issues, which have proved sensitive at an international level, such as the definitions of terrorism, terrorist acts and violent extremism. Therefore, parliamentarians should consider these regional conventions and instruments when legislating on counter-terrorism, particularly if the State is a member of the regional organization that issued them. In general, Member States are recommended to act in a manner that does not undermine the purposes and principles of legal instruments to which they have become signatory States, even if they do not become States parties to such instruments.

23. Regional instruments related to human rights are also important for parliamentarians to consider, as they should be consistent with legislation on counter-terrorism. For the convenience of parliamentarians using this *Handbook*, table IV.1 provides an overview of some key regional instruments on counter-terrorism and human rights.

24. Upon becoming a State party to any one of the regional instruments, or to any of the international legal instruments on counter-terrorism enumerated in table II.4, parliaments must analyse existing legislation to anticipate changes to their legal systems that might be required as a result of the State's accession. When applicable, elements of the various offences set forth in the treaties should be introduced into the criminal legislation of States parties. Some Member States will prefer to enact special laws, while others might choose to amend their penal code to close any gaps between existing laws and the requirements of each particular treaty. It is important for parliament to always link the offences stipulated in the treaty with other treaty-based requirements, such as the obligation to extradite or prosecute, or the obligation to fulfil requests for legal or investigative assistance.

Table IV.1

**Key regional counter-terrorism and human rights instruments**

Counter-terrorism instruments	Human rights instruments
<b>Africa – Organization of African Unity (OAU)/African Union</b>	
Convention for the Elimination of Mercenarism in Africa (adopted July 1977, entered into force April 1985)	OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (adopted September 1969, entered into force January 1974)
Convention on the Prevention and Combating of Terrorism (adopted July 1999, entered into force December 2002)	African Charter on Human and Peoples' Rights (adopted June 1981, entered into force October 1986)
Protocol to the OAU Convention on the Prevention and Combating of Terrorism (adopted July 2004, not yet entered into force)	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) (adopted July 2003, entered into force November 2005)
	African Charter on the Rights and Welfare of the Child (adopted July 1990, entered into force November 1999)
	African Union Convention on Preventing and Combating Corruption (adopted July 2003, entered into force August 2006)
	African Charter on Democracy, Elections and Governance (adopted January 2007, entered into force February 2012)
<b>Inter-American region – Organization of American States</b>	
Inter-American Convention against Terrorism (adopted June 2002, entered into force July 2003)	American Declaration of the Rights and Duties of Man (Bogotá Declaration) (adopted May 1948)
	American Convention on Human Rights (San Jose Convention) (adopted November 1969, entered into force July 1978)
	Protocol to the American Convention on Human Rights to Abolish the Death Penalty (adopted June 1990, entered into force August 1991)
	Inter-American Convention to Prevent and Punish Torture (adopted December 1985, entered into force February 1987)
	Inter-American Convention on Forced Disappearance of Persons (adopted June 1994, entered into force March 1996)
<b>Asia – ASEAN</b>	
ASEAN Declaration on Transnational Crime (adopted December 1997)	ASEAN Human Rights Declaration (adopted November 2012)
ASEAN Declaration on Joint Action to Counter Terrorism (adopted November 2001)	
ASEAN Convention on Counter Terrorism (adopted January 2007, entered into force May 2011)	

Counter-terrorism instruments	Human rights instruments
Manila Declaration to Counter the Rise of Radicalisation and Violent Extremism (adopted September 2017)	
Europe – European Union	
Revised EU Strategy for Combating Radicalisation and Recruitment to Terrorism (adopted May 2014)	Charter of Fundamental Rights of the European Union (adopted October 2000, entered into force December 2000)
Organization of Islamic Cooperation	
Convention of the Organisation of the Islamic Conference on Combating International Terrorism (adopted July 1999, entered into force November 2002)	Cairo Declaration on Human Rights in Islam (adopted August 1990)
OSCE	
Charter for European Security (adopted November 1999)	
Charter on Preventing and Combating Terrorism (adopted December 2002)	
League of Arab States	
Arab Convention for the Suppression of Terrorism (adopted April 1998, entered into force May 1999)	Revised Arab Charter on Human Rights (adopted May 2004, entered into force March 2008)





## Chapter V

# Awareness and technical assistance

### **A** National assessments and gap analyses

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1. Keeping track of all the multilateral and regional institutions providing assistance on counter-terrorism efforts can be a daunting task, and it can sometimes seem as if these institutions act in an uncoordinated manner. However, in 2006 the General Assembly adopted the Global Counter-Terrorism Strategy as a framework for a coherent international response to terrorism, with the United Nations at its core. The United Nations continues to play a crucial role in global counter-terrorism efforts because Member States, despite the differences they might have on the issue, believe that international cooperation is necessary for addressing transnational threats, and because the global membership of the United Nations provides a basis for legitimacy and coordinated global action based on credible threat assessments and gap analyses.

2. The primary responsibility for countering terrorism and violent extremism still falls on the shoulders of Member States. This has been stressed in a number of Security Council resolutions and in the Global Counter-Terrorism Strategy. Nevertheless, different parts of the United Nations system, as well as other multilateral bodies, can lend a hand in implementing counter-terrorism measures, particularly when Member State capacity is challenged. The Security Council itself acknowledged these challenges when placing obligations upon Member States. For example, the Security Council noted in paragraphs 47 and 48 of resolution 2396 (2017) the resource-intensive nature of the obligations placed upon Member States by that resolution, and duly encouraged United Nations entities (CTED, UNOCT and UNODC) to facilitate, provide and deliver technical assistance to Member States, upon their request, to help them in their implementation. Paragraph 17 of resolution 2370 (2017), on preventing the supply of weapons and improvised explosive device components to terrorists, also encourages CTED and UNOCT to facilitate technical assistance and capacity-building to Member States. Paragraph 11 of resolution 2341 (2017), on the protection of critical infrastructure from terrorist attacks, contains similar language on the need to facilitate and provide technical assistance upon request.

3. Capacity gaps, or areas in which Member States need assistance to implement certain aspects of Security Council resolutions on counter-terrorism, can be identified in two ways:

- a) A self-assessment of the Member State's needs, conducted by a relevant inter-agency body or mechanism with the appropriate competencies, and based on an awareness of all the various requirements needed to implement the various Security Council resolutions. Each Member State is responsible for conducting an

assessment on which to base its national counter-terrorism strategy. Assessments should take into consideration current national and regional political and security environments, proximity to conflict zones, sound independent research on local drivers of radicalization and pathways into extremism, evolving typologies of terrorist *modi operandi* in financing, recruitment, communication, weaponry and choice of targets, as well as history and previous experiences with terrorist groups and violent extremism.

- b) A country assessment conducted by CTED, on behalf of CTC and as part of its mandate, to identify where and how the Member State's capacity to implement all relevant Security Council resolutions is challenged.

4. Assessments conducted by CTED are therefore critical, as they enable a countrywide review of a Member State's institutional, technical and human capacities to implement all the various resolutions based on a systematic and comprehensive exercise that includes remote research, interviews, in-depth discussions with State officials and other stakeholders, field visits and review of legislation, regulations and administrative decisions. The array of activities included in these national assessments is outlined and explained in the Framework Document for Counter-Terrorism Committee Visits to Member States (S/2020/731). CTED's mandate in support of CTC is also detailed in several United Nations resolutions, beginning with 1373 (2001), 1535 (2004) and 1624 (2005), and ending with resolution 2617 (2021), which currently stands as the most up to date and comprehensive Security Council resolution delineating CTED's mandate in assessing, monitoring, promoting and facilitating Member States in the implementation of Security Council resolution 1373 (2001) and subsequent resolutions on counter-terrorism.

5. CTED's findings based on Member State assessments are always communicated upfront in a transparent manner with the authorities of that Member State, and a full draft report containing conclusions and recommendations is shared with the State within 45 days of the assessment visit. Member States have a chance to respond to this draft report and, generally, final recommendations and conclusions of the assessments are done consensually between the United Nations, represented by CTED, and the Member State. This ensures that the State commits to the implementation of the recommendations to strengthen its counter-terrorism capacity. The Framework Document and the Technical Guide to the Implementation of Security Council Resolution 1373 (2001) and Other Relevant Resolutions (S/2019/998) are both key documents that should be perused by Member State authorities, including parliamentarians, in preparation for CTED assessment visits.

6. Upon their conclusion, CTED assessments of individual Member State capacities and actions to implement Security Council resolutions are then shared with all relevant United Nations entities, with prior consent of the assessed Member States. Sharing these assessments allows relevant United Nations entities to understand the needs and requirements of individual Member States and their assistance priorities, enabling the United Nations system to raise resources and develop programmes to assist them. Individual country assessments are shared within the United Nations system via a secure password-protected portal launched in January 2021.

7. Information gathered from individual country assessments are further used by CTED to develop a periodic report, known as the global implementation survey. The global implementation survey is a comprehensive analytical document that covers areas of global counter-terrorism where progress has been made and where efforts are still needed. It is used as a guide to direct the international community to pool resources to implement Security Council resolutions in areas where progress remains lacking. The latest global implementation survey reports of Security Council resolutions 1373 (2001) and 1624 (2005) were issued in 2021. Because of the public nature of the global implementation survey, they discuss implementation and capacity gaps generally, by region, and do not delve into details of individual Member State assessments without expressed approval. The survey also highlights best practices and areas of progress in global counter-terrorism cooperation and thereby act as a useful channel for the sharing of experiences and dissemination of information among Member States.

8. Another important assessment tool available to Member States is the mutual evaluation reports of FATF and FATF-style regional bodies. While FATF and FATF-style regional bodies are not United Nations entities, they still have a close working relationship with United Nations entities and are equipped with the expertise and mandate to conduct Member State assessments on the robustness of their national frameworks to combat financial crime, including terrorism finance. Most Member States are subject to the rigorous FATF mutual evaluation process approximately once every five years, and the results of that process are a set of recommendations to strengthen State capacity in CFT and in countering the financing of proliferation of weapons of mass destruction (CPF). Implementing these recommendations simultaneously strengthens a State's capacity to implement CFT/CPF aspects of Security Council resolution 1373 (2001) and other related resolutions. United Nations entities can also provide technical capacity to assist Member States in implementing FATF recommendations. In fact, the Security Council explicitly requested United Nations entities to provide Member States, upon their request, with technical assistance and capacity-building to help them to fully implement their respective international obligations on CFT, "in particular where they relate to FATF and [FATF-style regional bodies] mutual evaluation reports" (see Security Council resolution 2462 (2019), para. 33).

## **B** United Nations coordinated response: GCTCC

9. There are many United Nations and non-United Nations entities that can provide technical assistance to Member States, among which coordination was previously challenging. In 2017, the General Assembly agreed to establish UNOCT to provide strategic leadership to United Nations counter-terrorism efforts and to enhance coordination and coherence between all United Nations entities involved. UNOCT also provides technical assistance and capacity-building support to Member States, upon their request, based on credible gap analyses conducted by CTED. In order to coordinate the work of United Nations and non-United Nations entities, UNOCT established GCTCC, which brings together 45 entities (38 United Nations entities and seven non-United Nations entities), whose work is important to global efforts of counter-terrorism cooperation. UNOCT acts as the secretariat of GCTCC. Box V.1 provides a list

of the entities that are members of GCTCC. Coordination among these entities is done within eight thematic working groups that correspond to the pillars of the Global Counter-Terrorism Strategy. Table V.1 shows a breakdown of these working groups, which meet regularly to coordinate action, avoid redundancy and optimize resources directed to a particular Member State or region. An important innovation of GCTCC was the establishment of a dedicated cross-cutting working group on resource mobilization for international partners. The same working group is also tasked with standardizing monitoring and evaluation procedures and criteria across United Nations programming, in order to constantly ensure results-based and value-added engagement with Member States. GCTCC issues a newsletter every two months on its activities supporting Member States, which is also a useful tool for any new guidance issued, research conducted or programmes offered that can help Member States.

## BOX V.1

### Members and observers of GCTCC

#### Members

- Analytical Support and Sanctions Monitoring Team
- Expert Group of the Committee established pursuant to resolution 1540 (2004)
- Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO)
- Counter-Terrorism Committee Executive Directorate (CTED)
- Department of Safety and Security (DSS)
- Department of Peace Operations (DPO)
- Department of Political and Peacebuilding Affairs (DPPA)
- Department of Global Communications (DGC)
- Executive Office of the Secretary-General Rule of Law Unit
- Financial Action Task Force (FATF)
- International Civil Aviation Organization (ICAO)
- International Criminal Police Organization (INTERPOL)
- International Labour Organization (ILO)
- International Maritime Organization (IMO)
- Office for Disarmament Affairs (ODA)
- Office of Information and Communications Technology (OICT)
- Office of Legal Affairs (OLA)
- Office of the United Nations High Commissioner for Human Rights (OHCHR)
- Office of the Secretary-General's Envoy on Youth
- Organization for the Prohibition of Chemical Weapons (OPCW)
- Special Adviser on the Prevention of Genocide
- Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
- Special Representative of the Secretary-General on Sexual Violence in Conflict
- Special Representative of the Secretary-General on Violence Against Children
- United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)



- United Nations Alliance of Civilizations (UNAOC)
- United Nations Development Programme (UNDP)
- United Nations Educational, Scientific and Cultural Organization (UNESCO)
- United Nations Interregional Crime and Justice Research Institute (UNICRI)
- United Nations Institute for Disarmament Research (UNIDIR)
- United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (UNITAD)
- United Nations Office of Counter-Terrorism (UNOCT)
- United Nations Office on Drugs and Crime (UNODC)
- United Nations Office of the Special Adviser on Africa
- Special Representative of the Secretary-General for Children and Armed Conflict
- World Customs Organization (WCO)
- World Health Organization (WHO)
- United Nations Institute for Training and Research (UNITAR)
- United Nations System Staff College (UNSSC)

#### **Observers**

- Department of Economic and Social Affairs (DESA)
- International Monetary Fund (IMF)
- International Organization for Migration (IOM)
- Inter-Parliamentary Union (IPU)
- Office for the Coordination of Humanitarian Affairs (OCHA)
- United Nations Children's Fund (UNICEF)
- United Nations High Commissioner for Refugees (UNHCR)
- United Nations Human Settlements Programme (UN-Habitat)

10. To allow the dissemination of knowledge, UNOCT launched the Global Counter-Terrorism Coordination Platform,<sup>1</sup> which is a secure online hub that holds thousands of documents related to counter-terrorism issues, as well as available CTED country assessments. Member States are able to nominate focal points to be given access to this platform to make use of the material thereon. The platform is also accessible to United Nations entities and international partners seeking to provide technical assistance to Member States.

11. Each member of GCTCC is adept at providing technical assistance and capacity-building in a particular area of counter-terrorism and countering violent extremism. Moreover, it would benefit Member States to remain aware of areas of the relative competencies of GCTCC members in order to make best use of their offerings. For example, UNODC has recorded successes in the delivery of programmes to assimilate Security Council resolutions and international legal counter-terrorism instruments into domestic legislation. It also provides programmes for judges and prosecutors in the implementation of Security Council resolutions related to foreign terrorist fighters, as well as technical programmes on the implementation of targeted sanctions. On the other hand, UNICRI is known for its assistance

<sup>1</sup> See <https://www.un.org/counterterrorism/global-ct-compact/entities>.

on rehabilitation and disengagement programmes, particularly in prisons and correctional facilities. Member States, represented by inter-agency coordination committees, relevant authorities or parliamentary groups, are advised to reach out to UNOCT, CTED or the chairs of the respective working groups of GCTCC to seek assistance from relevant GCTCC entities in filling identified capacity gaps.

Table V.1

**Inter-agency working groups of GCTCC**

<b>Pillar I of the Global Counter-Terrorism Strategy</b>	<b>Measures to address the conditions conducive to the spread of terrorism</b>
1. Preventing and countering violent extremism conducive to terrorism	Chair: UNOCT Vice-Chairs: United Nations Alliance of Civilizations, UNDP, UNESCO
<b>Pillar II of the Global Counter-Terrorism Strategy</b>	<b>Measures to prevent and combat terrorism</b>
2. Border management and law enforcement relating to counter-terrorism	Chair: CTED Co-Chair: World Customs Organization Vice-Chairs: INTERPOL, UNODC
3. Emerging threats and critical infrastructure protection	Chair: INTERPOL Vice-Chairs: United Nations Office for Disarmament Affairs, UNICRI, Organisation for the Prohibition of Chemical Weapons
4. Criminal justice, legal responses and CFT	Chair: UNODC Vice-Chairs: CTED, UNOCT
<b>Pillar III of the Global Counter-Terrorism Strategy</b>	<b>Measures to build States' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in that regard</b>
5. Resource mobilization and monitoring and evaluation	Chair: UNOCT Co-Chairs: CTED, UNODC
6. National and regional counter-terrorism strategies	Co-Chairs: UNOCT, CTED
<b>Pillar IV of the Global Counter-Terrorism Strategy</b>	<b>Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism</b>
7. Promoting and protecting human rights and the rule of law while countering terrorism and supporting victims of terrorism	Chair: OHCHR Vice-Chair: UNOCT
8. Adopting a gender-sensitive approach to preventing and countering terrorism	Chair: UN-Women Vice-Chair: CTED

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## **Regional responses and the role of regional parliamentary associations**

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12. In addition to United Nations entities, a number of regional organizations have established their own technical assistance capacities to help their Member States in implementing Security Council resolutions, and in enhancing intraregional cooperation on counter-terrorism and countering violent extremism. It is important that parliamentarians are aware of these regional capabilities and that they are utilized to complement assistance provided by the United Nations.

13. Table V.2 contains a list of some counter-terrorism cooperation arms established by regional and subregional organizations. While the list is by no means exhaustive, it provides a sense of some of the opportunities available to enhance Member State capacities. The advantage of these regional efforts is that they are often tailored to the region's specific needs and threat assessments, and they act as a reservoir of regional expertise in different areas of counter-terrorism. GCTCC entities have partnered with each of these regional mechanisms to optimize and customize the delivery of technical assistance programmes according to specific regional needs.

14. Parliamentary associations have also played a pivotal role in countering terrorism and preventing violent extremism by fostering international cooperation and legislative measures. Within IPU, CTC has been actively addressing global security challenges. In 2022, CTC emphasized the importance of cross-border collaboration, urging Member States to share intelligence and adopt uniform legislative frameworks. This cooperative approach ensures a more comprehensive and effective response to the evolving nature of terrorism. Additionally, IPU has been at the forefront of promoting dialogue between parliamentarians and security experts through the creation of specialized forums and conferences. In 2022, IPU facilitated the exchange of model legislations among Member States, aiming to provide a foundation for nations to enhance their legal frameworks.

15. The African Parliamentary Union dedicated several of its meetings to the issue of fostering pan-continental cooperation on counter-terrorism through mutually recognizing that contested electoral processes, unconstitutional changes of government, failure to deliver basic services and a lack of employment opportunities among youth reinforce recruitment efforts of international terrorism. The Union has continuously urged governments to create specialized judicial and security forces for counter-terrorism. As for the Pan-African Parliament, recent developments underscore its commitment to countering violent extremism. In 2019, the Pan-African Parliament adopted a draft model policing law to promote good governance, human rights and justice, and which reflects international standards for a rights-based approach to policing. Moreover, the Pan-African Parliament continues to advocate for context specific counter-terrorism strategies. By tailoring approaches to the unique challenges faced by African nations, the Parliament contributes to the development of targeted policies that resonate with local specificities. As an example of this, in December 2019, the Pan-African Parliament Committee on Cooperation, International Relations and Conflict Resolution undertook a fact-

finding mission to the Niger to understand the impact of climate change on security in the Sahel region and its effect on the rise of terrorist activity.

16. The OSCE Parliamentary Assembly is also at the forefront of parliamentary engagement with its members on issues of countering terrorism and violent extremism. In July 2017, it established the Ad Hoc Committee on Countering Terrorism to strengthen the contribution of the OSCE parliamentarians in addressing violent extremism and radicalization. The goals of the Committee are to advocate for inclusive, effective and human-rights-compliant counter-terrorism responses and to develop policy guidance for Member States based on identified loopholes and new approaches. Its areas of focus are the PRR of foreign terrorist fighters, as well as strengthening border security and information-sharing through sound API, PNR and biometric data management systems in accordance with Security Council resolution 2396 (2017). The Committee also aims to foster preventive efforts and counter online and offline radicalization, as well as providing support for the victims of terrorism. In 2019, the OSCE Parliamentary Assembly launched an oversight initiative on border security and information-sharing,<sup>2</sup> which was highlighted as a best practice through parliamentary oversight. The results of the initiative were based on a survey and answers to a questionnaire in which Member States provided policy recommendations on sound legislation, financial appropriation and oversight practices to implement Security Council resolution 2396 (2017). The initiative went a long way in identifying and highlighting legal and operational good practices on API/PNR.

17. In conclusion, the role of parliamentary associations, exemplified by the aforementioned examples, is pivotal in countering terrorism and preventing violent extremism. Through recent initiatives, these organizations showcase a commitment to international collaboration, tailored legislative approaches and addressing the root causes of extremism. By staying abreast of these developments, policymakers can draw inspiration and insights for crafting effective strategies in their respective regions.

18. Recognizing this role, UNOCT established a coordination mechanism for parliamentary assemblies on counter-terrorism issues. On 4 October 2023, the fourth Coordination Meeting of Parliamentary Assemblies took place in Vienna, at which 16 parliamentary assemblies participated. The meeting focused on the main regional security trends and key terrorism evolving threats, including the situation in the Sahel region, and addressed the role of multilateralism in tackling the issues of violent extremism and terrorism. The meeting resulted in adopting a workplan of parliamentary associations and assemblies on counter-terrorism and prevention of violent extremism projects, activities and initiatives for 2023–2024, and areas where support from the Coordination Mechanism were identified. The Coordination Mechanism is currently chaired by the OSCE Parliamentary Assembly.

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<sup>2</sup> See [www.oscepa.org/en/documents/ad-hoc-committees-and-working-groups/ad-hoc-committee-on-countering-terrorism/3905-strengthening-border-security-and-information-sharing-in-the-osce-region/file](http://www.oscepa.org/en/documents/ad-hoc-committees-and-working-groups/ad-hoc-committee-on-countering-terrorism/3905-strengthening-border-security-and-information-sharing-in-the-osce-region/file).

Table V.2

**Examples of regional and interregional entities delivering technical assistance and capacity-building on counter-terrorism**

Region	Regional organization	Counter-terrorism entity	Summary of competencies	Member States
Africa	African Union	African Centre for the Study and Research on Terrorism	Provides Member States with assistance in developing national strategies and action plans and conducting informative research on evolving terrorist threats and best responses.	African Union member States
	Intergovernmental Authority on Development (IGAD)	IGAD Centre of Excellence for Preventing and Countering Violent Extremism	Conducts capacity-building programmes on judicial responses to counter-terrorism, border control, counter-narratives and addressing root causes of radicalization, and addressing links between terrorism and organized crime.	Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, the Sudan, Uganda
Americas	Organization of American States	Inter-American Committee Against Terrorism (CICTE)	Provides technical assistance to Member States on ratifying and implementing international legal counter-terrorism instruments and relevant Security Council resolutions. Also conducts programmes on border control cooperation, critical infrastructure protection and mutual legal assistance.	All 35 members of the Organization of American States
Asia	Commonwealth of Independent States	Anti-Terrorism Centre of the Commonwealth of Independent States	Provides capacity-building training to law enforcement agencies, enhances national capacities to protect critical infrastructure, operates a terrorism early warning system for member States of the Commonwealth of Independent States.	Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Tajikistan, Uzbekistan
Europe	OSCE	Action Against Terrorism Unit (Transnational Threats Department)	Organizes capacity-building on cross-cutting topics, such as the use of ICT in counter-terrorism, information-sharing and coordination among law enforcement agencies, countering financing of terrorism, protection of critical infrastructure.	57 Member States in Europe, Asia and North America
Middle East and North Africa	League of Arab States	Arab Bureau for Combating Radicalization and Terrorism	Operates under the auspices of the Council of Arab Ministers of the Interior, and provides training on the promotion of law enforcement cooperation and information-sharing.	22 members of the League of Arab States

Table V.2 (continued)

Region	Regional organization	Counter-terrorism entity	Summary of competencies	Member States
Interregional	Global Counterterrorism Forum		Provides civilian capacity-building programmes in rule of law, judicial responses to terrorism, border management and counter-narratives. Gathers and promotes best practices on relevant counter-terrorism themes.	Algeria, Australia, Canada, Colombia, Denmark, Egypt, France, Germany, India, Indonesia, Italy, Japan, Jordan, Kingdom of the Netherlands, Morocco, New Zealand, Nigeria, Pakistan, Qatar, Russian Federation, Saudi Arabia, South Africa, Spain, Switzerland, Türkiye, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, European Union
	Commonwealth of Nations	Commonwealth Committee on Terrorism	Provides technical assistance on the implementation of resolution 1373 (2001) and subsequent resolutions. Combats financing of terrorism, and promotes cross-cultural and interfaith understanding.	All 56 member States of the Commonwealth



# Conclusion

Terrorism and violent extremism leading to terrorism remain a continuously evolving threat. The transnational nature of this challenge necessitates a global, coordinated response and sufficient international cooperation. Security Council resolution 1373 (2001) and subsequent resolutions have underlined an international commitment to increased cooperation to suppress, eliminate and uproot terrorism in all its forms. This goal, however, cannot be achieved without whole-of-government approaches with parliamentarians at the core.

This *Handbook* was compiled to raise awareness among parliamentarians of the body of Security Council resolutions relating to counter-terrorism, and the obligations and recommendations embodied in these resolutions. It is meant to serve as a tool for parliamentarians when legislating on counter-terrorism, participating in the development of national action plans, evaluating national efforts on counter-terrorism and seeking international assistance to enhance these efforts.

The *Handbook* stresses the important task of parliaments in enhancing national counter-terrorism capacities through supporting and monitoring the executive and judicial branches of government in their implementation of Security Council resolutions, consistent with obligations under international human rights law, international humanitarian law and international legal instruments of relevance.

The *Handbook*, drafted to be used in tandem with the Technical Guide to the Implementation of Security Council Resolution 1373 (2001) and Other Relevant Resolutions, aims to assist parliamentarians in creating an environment favourable to the adoption of legislative, administrative and security measures to strengthen counter-terrorism response at the national level. It will have succeeded if it encourages parliaments to establish specialized counter-terrorism and countering violent extremism committees or subcommittees, and to dedicate time in plenary meetings to debate terrorism-related matters, consistent with Member State obligations under the Charter of the United Nations.





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[OCT-Parliamentary-Engagement@un.org](mailto:OCT-Parliamentary-Engagement@un.org)



**UNITED NATIONS  
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Programme Office in Doha

**Parliamentary Engagement**  
in Preventing and Countering Terrorism