

## Submission to the Parliamentary Joint Committee on Intelligence and Security

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### Review of the Counter-Terrorism Legislation Amendment (Declared Areas) Bill 2024

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Dear PJCIS members,

(a)

The “declared area” provisions in the Criminal Code Act 1995 (Criminal Code) are meant to facilitate the disruption and prosecution of the returning foreign fighters and their associates and allow for the prosecution of suspected terrorists in circumstances where it is challenging to collect evidence relating to the intention elements of more serious terrorism offences, including in conflict zones.

A declared area is where terrorist organisations are engaging in hostile activity. The question is how come in the face of so many recent hostile activities carried out by the listed terrorist organisations such as Hamas, Hezbollah, Boko Haram, the Minister for Foreign Affairs has not made any new declaration decision.

The fact that there have only been two declarations made (Mosul district in Iraq’s Ninawa Province and Al-Raqqa province in Syria) suggest that either the criteria for making the declaration decisions or the monitoring mechanisms on such decisions (or the absence of such decisions) must be reviewed in this proposed bill.

(b)

The Government has repeatedly claimed that the current provisions of the Counter-Terrorism section of the Criminal Code does not allow the listing of the entity known as the Islamic Revolutionary Guard Corps (IRGC) because in Attorney General Department’s view; this entity is an organ of a nation-state.

This claim is challenged. Both by those who believe that the definition of an organisation in the Criminal Code does not constitute a legal obstacle for listing the IRGC as a terrorist organisation, and also by those who show that the entity under the name سپاه پاسداران انقلاب اسلامی or The Guard Corps of Islamic Revolution is not an organ of a nation state, but an organ of a supranational Islamic State named “Islamic Revolution”. (see attached report)

This is not the first amendment to the Counter-Terrorism section of the Criminal Code that is proposed after the Attorney General Department expressed the aforementioned view.

If the Government is so adamant that the IRGC is a state entity and the Criminal Code lacks the capacity to list state entities, it should cease this opportunity and propose changes such to remove this obstacle and mitigate the risk of terrorist entities that the Government views as state entities.