

RESPONSE FROM THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

To communication AL GBR 1/2022 of 1 February 2022 from the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on the human rights to safe drinking water and sanitation.

Thank you for your letter of 1 February 2022 to the Foreign Secretary concerning the situation of a number of boys and men currently held in North-East Syria. You rightly highlight the seriousness of this situation and the many complicated humanitarian, security, and legal considerations that the UK Government continues to monitor closely and notes with the utmost concern.

As you have articulated in your communication, the context of these issues is extremely challenging and complex. The detention facilities and internally displaced persons (IDP) camps are run by a non-state actor facing a significant, and at times overwhelming, challenge. They are operating in a fragile environment fraught with significant humanitarian and security concerns, including those resulting from the ongoing threat from Daesh. The recent attack on Ghwayran prison underlines the enduring threat that Daesh poses and the brutality of their actions.

The UK regularly engages with the 'Autonomous Administration of North and East Syria' (AANES) and NGOs operating in the region. We share your concern about the conditions being reported from IDP camps and detention facilities. We are particularly concerned about the condition of minors – including reports of possible casualties or injuries resulting from the recent attack on Ghwayran, a lack of access to healthcare, the prevalence of TB and possible malnutrition. We understand that humanitarian access has also been limited subsequent to the attack, which risks compounding the situation outlined above. We recognise the need for a holistic approach, which balances security and humanitarian needs and the UK is clear that the best interests of the child must be a top priority guiding respective stakeholders' decision-making in this context.

The UK is clear that all parties to the Syrian conflict must respect their obligations and responsibilities towards civilians under applicable international law regimes, including international humanitarian law (IHL). This includes the fundamental point that all detention must have a clear basis in international or domestic law, and comply with all requirements and standards under the applicable domestic and

international law, wherever an individual is detained. Given the continuing non-international armed conflict, our view is that IHL applies and the Syrian Democratic Forces (SDF) and AANES are bound by Common Article 3 of the Geneva Conventions of 1949. The humane treatment of those individuals in the custody of the AANES and the SDF is ultimately the responsibility of those actors. However, the UK believes it is right that the international community supports these efforts to act in accordance with IHL obligations.

We note the points raised by the Special Rapporteurs regarding prolonged detention and the need to ensure that detention is justified and subject to appropriate reviews, as well as leading to criminal prosecutions where appropriate. Any decision in relation to the continued detention, transfer or prosecution of detainees is ultimately a matter for authorities under whose jurisdiction the individuals are detained. We will continue to pursue all available avenues with international partners in seeking justice and accountability for those who have fought alongside Daesh. Any such justice mechanism must respect human rights and the rule of law as well as ensure fair trials and due process.

You also raised concerns about the rights of minors in North-East Syria, including boys in rehabilitation centres. As regards British minors in North-East Syria, the UK position continues to be that safely facilitating the return of orphans and unaccompanied British minors, where possible, is the right thing to do. Due to the conditions in Syria, getting accurate information about what has happened to British minors there is extremely difficult. We are in regular contact with UN agencies active in North-East Syria. Where they or any other institution becomes aware of the confirmed presence of British minors we would encourage them to share those details with us through the FCDO or other appropriate channels. We have facilitated a number of returns to the UK and will continue to do so where feasible, subject to national security concerns, on a case-by-case basis. We are planning to scale up humanitarian assistance for minors in detention in 2022.

The UK Government disagrees with the assertion made in the communication that British Nationals (or indeed any other individuals) located in North-East Syria are within the UK's jurisdiction. Responsibility for detention and camp facilities, and the wellbeing, detention, transfer or prosecution of detainees, is ultimately a matter for authorities under whose jurisdiction the individuals are detained, in this case the AANES. As set out in this response, the UK Government seeks through its assistance to improve conditions in facilities across North-East Syria, and continues to work with international partners to ensure that, where appropriate, Daesh-affiliated individuals can be prosecuted for crimes committed in processes that fully respect fair trial rights. The UK does not accept that any assistance it provides, either directly or through the Global Coalition, establishes jurisdiction for the purposes of international human rights law in respect of the territory of a foreign State. The UK does not exercise "authority and control", as your letter suggests, indeed your letter does not explain the basis for this assertion. Nor is the UK responsible for the conduct of the AANES with regards to detention.

Your communication highlights UK support through the Global Coalition. It is not possible to discuss this support in detail in this format for security reasons. As such, we regret that the UK's response must necessarily be limited in its detail. However, as a whole, the Coalition has invested more than \$4 billion to ensure that our partners on the ground and in the region are better trained and equipped than

Daesh. As part of the Coalition efforts to prevent the resurgence of Daesh, the UK has provided technical support and funding to a range of initiatives across the region. Global Coalition support is considered vital in helping to mitigate the challenges posed by the unstable security situation. This work is not only key to helping make the facilities in North-East Syria more compliant, but also in securing the enduring defeat of Daesh and eliminating the risks of exploitation and radicalisation of young people. The recent Daesh attack on Ghwayran prison underlines the need to ensure that SDF-controlled facilities are secure. The assault was also a timely reminder that the group has the strategic capability and capacity to carry out large-scale attacks. Of the prisons in North-East Syria that house Daesh members, some were converted from schools and warehouses – they were not purpose-built and many are in poor condition.

Between 2012 and 2021, the UK has devoted £1.6bn to support vulnerable people in Syria to meet their immediate needs. The UK remains committed to providing humanitarian assistance in Syria, and we are currently finalising a new package of humanitarian support for 2022-26. We will continue to support vulnerable populations in all areas of Syria. The North-East specifically remains an integral part of the FCDO's humanitarian programme strategy. In the first half of 2021, we supported over 72,000 medical consultations, provided over 2,000 people with mental health support, provided hygiene and sanitation support to 12,000 people, provided over 16,000 people with drinking water, and assisted nearly 10,000 people with business development (livelihoods) interventions in the region.

In 2021, the UK supported health services for women and girls (including sexual and reproductive health services and mental health support) in Al Hol camp. In addition, we supported some basic assistance and protection services for men and boys in detention facilities. We are planning to scale up humanitarian assistance for minors in detention in 2022. In addition to our programming, we are striving to work with the international community, including the UN, to improve the situation in Al Hol. We have requested that the UN update their Medium-Term Strategy for Al Hol, which is due to be released within the coming weeks. We are working with like-minded humanitarian donors to engage with humanitarian agencies, including the UN, on opportunities to improve programme coverage, access, and coordination in North-East Syria – including better humanitarian service provision and civilian-military liaison in Al Hol.

Please see below for responses to the specific questions raised in your correspondence.

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned assessment of the detention of boys and men, nationals of your Excellency's Government in North-East Syria.

We are aware that there may be British minors in IDP camps in Syria, who because of their age, are innocent victims of the conflict. The UK Government has been clear that it will seek to facilitate the return of British orphans and unaccompanied minors where feasible, subject to national security concerns and on a case-by-case basis. In line with this policy, the Government has facilitated the return of a number of orphaned and unaccompanied British minors to the UK.

Any decision in relation to the continued detention, transfer or prosecution of individuals in North-East Syria is ultimately a matter for authorities under whose jurisdiction the individuals are held, in this case the AANES.

2. Please provide any additional information and/or comment(s) you may have on the above-mentioned technical support, capacity building and security assistance to the security and enhancement of the prison in Hasakah.

As outlined by the then-Foreign Secretary in his counter-Daesh statement to the House of Commons on 4 March 2021, the UK has, as part of the Global Coalition's collective stabilisation efforts in the region, provided technical advice and funding for the improvement of detention facilities holding Daesh fighters in North-East Syria. It would not be appropriate to comment further for reasons of operational security.

3. Please provide information on the actions taken by your government to protect the fundamental rights of boys and men, particularly nationals of your country, held in the prison in Hasakah and other detention centres in North-East Syria.

The UK Government disagrees with the assertion made in the communication that British Nationals (or indeed any other individuals) located in North-East Syria are within the UK's jurisdiction. Responsibility for detention and camp facilities and the wellbeing, detention, transfer or prosecution of detainees is ultimately a matter for authorities under whose jurisdiction the individuals are detained, in this case the AANES.

The UK seeks to understand the condition of boys and men held in detention centres in North-East Syria and continues to raise concerns with the relevant authorities on a regular basis. In 2022, we plan to scale up assistance for minors in detention, and continue to coordinate with child protection actors.

4. Please explain the measures that your government has taken to repatriate your citizens from the prisons and detention centres in North-East Syria and provide them with adequate procedures that will ensure respect for their right to liberty and security and to a fair trial.

The UK Government has advised against all travel to Syria since 2011. The United Kingdom has no consular presence within Syria from which to provide assistance. This makes it difficult to provide direct help to British nationals located there, but we carefully consider how we can support every British national that asks for our help. We are committed to considering every request for consular assistance on a case-by-case basis, taking into account all relevant circumstances. We are unable to comment on individual cases, however, we are aware that British nationals, including minors who are innocent victims of the conflict, may be located in displacement camps in North-East Syria. We are in regular contact with UN agencies active in North-East Syria. Where they or any other institution becomes aware of the confirmed presence of British minors, we would encourage them to share those details with us through the FCDO or other appropriate channels.

The UK is also clear that those individuals who have fought for, or supported Daesh, whatever their nationality, should face justice through a fair trial in the most appropriate jurisdiction, which will often be in the region where their offences have

been committed. Any decision in relation to the continued detention, transfer or prosecution of individuals in North-East Syria is ultimately a matter for authorities under whose jurisdiction the individuals are held.

The situation on the ground remains complex and difficult, which adds to the challenge of securing the long term defeat of Daesh and achieving justice and accountability for those who have committed crimes in the name of Daesh. We continue to monitor the developments in North-East Syria very closely and to pursue all available avenues with international partners in seeking justice and accountability for those who have fought alongside Daesh. We have been clear that any justice mechanism must be consistent with international law and must respect human rights and the rule of law, as well as ensuring fair trials and due process.

5. Please provide any additional information you may have regarding the security support and stabilization assistance provided by the Coalition, its funding and the use of these Coalition funds, as well the actual financial or other engagement of your Excellency's government in this process.

Questions regarding Coalition support should ultimately be directed to the Coalition itself. However, the Global Coalition remains dedicated to securing the enduring defeat of Daesh. As a responsible Coalition member, the UK has provided support and funding as part of its wider contribution to these endeavours.

The Global Coalition continues to support inclusive local recovery and stabilisation in areas liberated from Daesh in Syria. Coalition-funded Early Recovery Teams (ERTs) conducted activities in more than 45 recently liberated towns, villages, and IDP camps throughout Raqqa and Deir Ez-Zour governorates, reaching an estimated 700,000 beneficiaries.

In Al-Hol, the Coalition continues to provide people with emergency health, protection, and water, sanitation, and hygiene assistance, as well as food, relief commodities, and specialised nutrition products. Coalition support is provided through a range of aid agencies, and support is also offered to the Autonomous Administration.

The Global Coalition has supported the clearance of explosive remnants of war in North-East Syria. Since 2017, it has funded the clearance of more than 25,500 explosive hazards from 24.5 million square meters of territory in Manbij, Tabqa, and Raqqa, and trained over 300 Syrian nationals to international standards.

Coalition members work with a variety of local and international partners in North-East Syria, providing financial support to the United Nations, NGOs, civil society organisations and various local civilian councils.

6. Please provide any information you may have on how access to safe drinking water, water for hygiene purposes and adequate sanitation, is being ensured in the detention centres, given the spread of diseases and the current COVID 19 pandemic.

The UK regularly liaises with humanitarian agencies providing assistance to detainees in North-East Syria to understand conditions, including with regard to water, sanitation and healthcare. We continue to raise any concerns emerging from

these discussions with relevant authorities. In financial year 2021/2022, the UK funded humanitarian agencies providing protection assistance – including specialised protection services, most notably via a contribution to ICRC's Syria appeal, which supported their work in detention facilities across Syria.

27 April 2022