

 Permanent  
Mission  
of Austria

to the United  
Nations in Geneva

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## N o t e V e r b a l e

The Permanent Mission of Austria to the United Nations Office in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights in Geneva and with reference to the joint communication from Special Procedures (Ref: AL AUT 1/2022) dated 1<sup>st</sup> February 2022 has the honour to transmit herewith the enclosed observations from the Austrian government based on the information available.

The Permanent Mission of Austria to the United Nations Office in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights in Geneva the assurance of its highest consideration.

Geneva, 16 May 2022



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**Observations by Austria**  
**in response to the communication from OHCHR of 2 February 2022**  
**conveying a communication from Special Procedures**

In response to the communication received on 2 February 2022 from the Chief of Special Procedures Branch in the Office of the High Commissioner for Human Rights, conveying a communication sent by eleven Special Rapporteurs and Working Groups, respectively, Austria has the honour to transmit the following observations based on information available, as requested by the above mentioned mandate holders. In general, we refer to our observations from 21 April 2021 in response to the communication from OHCHR of 26 January 2021 conveying a communication sent by Special Rapporteurs and Working Groups.

**Question 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.**

Austria does not have any information of boys or men of Austrian nationality currently detained in prisons in North-East Syria. The ICRC informed the Austrian Embassy in Damascus in March 2020 that a male Austrian citizen was being detained in North-East Syria, however the precise location was not provided. This information could not be obtained to this day.

As a general comment, Austria wishes to refer to previous explanations where it has been pointed out that under the applicable rules of international law the obligation of States to ensure respect for human rights or prevent human rights violations beyond their territories applies only in limited circumstances and where that State exercises jurisdiction or effective control. Austria wishes to emphasize that pursuant to the customary international law rules of state responsibility (in particular Article 2 of the Articles on the Responsibility of States for Internationally Wrongful Acts elaborated by the International Law Commission), a State's responsibility is only incurred when the breach of an international obligation of that State is attributable to the State under international law. Where a violation of international law is committed by actors that are neither organs of the State, nor under its direction or control, such conduct is not attributable to that State.

Austria does not exercise jurisdiction, control or authority regarding the camps in north-eastern Syria, the administrators of these camps and their actions or the conditions imposed in the camps. Austria does not operate a consular mission covering North-Eastern

Syria at the moment. The Austrian Embassy in Damascus has been temporarily relocated to Beirut until the security situation in Syria improves, and Austrian diplomatic staff is not permanently present in Syria. Access for Austrian consular staff to Syria in general is limited, so far there is no access for Austrian consular staff to North-Eastern Syria. With regard to the camps in northeastern Syria, Austria therefore relies entirely on the assistance of international humanitarian organisations. Consequently, Austria cannot be held responsible for any alleged human rights violations perpetrated outside its territory and jurisdiction by non-state actors beyond its control.

Austrian law provides for the right of every Austrian national to consular assistance abroad, and Austrian consular missions work hard to provide this assistance, often under very difficult circumstances. However, the Austrian consular law allows for the possible limitation or denial of consular assistance under certain circumstances and on the basis of a case-by-case assessment, for instance, if the security of Austrian consular staff cannot be guaranteed. Due to the general security situation as well as additional complications posed by the Covid-19 pandemic, direct consular assistance to Austrian nationals in the camps in northeastern Syria is currently impossible.

**Question 2: 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.**

Austria has consistently supported international organisations providing humanitarian aid in Syria with substantial funds, including specifically for the benefit of the Al-Hol camp. Austria reiterates its position that access for humanitarian actors must be granted under all circumstances and without restrictions, and should not be jeopardized.

As stated above, Austria does not have any information on boys or men of Austrian nationality currently detained in prisons in North-East Syria. Since the location of the abovementioned Austrian male is unknown, it is, for the time being, not possible to grant consular assistance either directly or through international aid organisations.

We share the view of the Special Rapporteurs and Working Groups that there is an urgent need for justice, truth and reparation for all the victims of the serious violations of human rights and international humanitarian law that have occurred in Syria. It is essential that all violations of human rights and international humanitarian law are duly investigated and the perpetrators held accountable by competent courts and according to international standards of fair trial and due process.

**Question 3: Please explain 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.**

Given the lack of prisoners with Austrian nationality, Austria is not in a position to comment regarding prison inmates in North East Syria. However, The Austrian Embassy to Syria is in a continuous dialogue with international humanitarian organisations concerning the situation in the camps in northeastern Syria, including Roj. These contacts also include information on the situation - in particular with regard to health and food security - of the families. On various occasions humanitarian organisations were asked to check on the situation of the families and to provide specific support, in particular medical assistance, to them. Currently, the Austrian policy aims at repatriating only unaccompanied minors, as well as minors whose mothers give their consent to only their children being repatriated.

The Austrian Penal Code (Section 64) provides for the jurisdiction of Austrian courts concerning certain grave crimes (e.g. extortive abduction, slave trade, trafficking in human beings, enforced disappearance, torture, terrorism-related acts, rape and sexual coercion) committed outside Austria regardless of locally applicable law, if the victim is an Austrian citizen or other Austrian interests are affected by the criminal act.

Victims of such crimes, regardless whether the crimes have been perpetrated abroad, come within the victim protection provisions in Section 65 et seq. of the Austrian Criminal Procedure Code. At their request, victims of violent acts or sexual offences as well as terrorist offences, as well as certain relatives, and minors who have witnessed violence in their social environment are entitled to psycho-social and legal assistance in criminal proceedings insofar as this is necessary to preserve their rights and taking into account the degree to which they have been affected in a particular case.

**Question 4: 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 as the actual financial or other engagement of your Excellency's government in this process.**

Austria does not have additional information on this issue.

**Question 5: 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.**

Austria's reliance on international humanitarian organisations mentioned in this regard also pertains to information regarding the state of health and material conditions of detention of the individuals concerned and includes specific requests for assistance to children, in particular with regard to their health and nutrition as well as adequate sanitation. The health programs of international humanitarian organisations supported by Austria include activities for the prevention and treatment of malnutrition of children. The health programs of international humanitarian organisations in Syria supported by Austria also address measures with regard to sexual and reproductive rights as well as gender based violence.