



UK Mission  
Geneva

UK Mission Geneva  
PO Box 6  
Avenue Louis Casai 58  
1216 Cointrin GE

Tel: 022 918 2453  
Fax: 022 918 2333

### **Note Verbale No. 102**

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to submit its' response to communication UA GBR 13/2022, further to the letter dated 26 October 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 the rights of persons with disabilities; 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 trafficking in persons, especially women and children; the Special Rapporteur on the human rights to safe drinking water and sanitation and the Working Group on discrimination against women and girls.

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 19 April 2023.

Special Procedures Branch  
Office of the High Commissioner for Human Rights



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## United Kingdom of Great Britain and Northern Ireland

**Response to Special Procedure communication UA GBR 13/2022 of 26 October 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 the rights of persons with disabilities; 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 trafficking in persons, especially women and children; the Special Rapporteur on the human rights to safe drinking water and sanitation and the Working Group on discrimination against women and girls.**

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Thank you for your letter of 26 October 2022 to the Foreign Secretary regarding your concerns about the deteriorating health of [REDACTED], and her minor son currently located in Al Roj camp in North East Syria.

Where an individual has an authorised representative, we will engage with them on the specific case and any issues they raise but as you will appreciate, we do not otherwise routinely comment on individual cases. The response below therefore responds to the issues and themes you raise in your letter rather than the specific circumstances of the named individuals.

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 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, and subject to national security concerns. In line with this policy, the Government has facilitated the return of a number of orphaned and unaccompanied British minors to the UK.

## Deprivation

The British Nationality Act (BNA) 1981 provides the Secretary of State (Home Secretary) with powers to deprive a person of their citizenship. Section 40(2) allows the Secretary of State to deprive any person of British citizenship, should they deem it conducive to the public good to do so. Deprivation on such grounds can be used where individuals pose a threat to national security, or have been involved in war crimes, serious and organised crime, or unacceptable behaviour such as extremism or glorification of terrorism, unless to deprive would render them stateless. All decisions to deprive are made in accordance with the 1961 UN Convention on the Reduction of Statelessness.

The Government does not comment on individual cases to confirm whether an individual has been deprived of British citizenship. Deprivation is a powerful tool that is used against the most dangerous individuals. Any decisions to deprive individuals of their citizenship are based on all available evidence and not taken lightly. As such, cases are decided on an individual basis and the facts of a case will lead the Secretary of State to use whichever power she considers most appropriate to best protect the UK and address the risk posed by an individual.

The UK courts have considered whether the power to deprive has been used lawfully. The fact that there has been an increase in the use of the deprivation power does not demonstrate arbitrary use of that power. As recognised by SIAC in *R3 v SSHD [sc/150/2018]* ‘each case depends on its own facts’ and ‘there may be various reasons why deprivation of citizenship may be taken at different times against different individuals’.

It is essential that we do not make judgements about the national security risk which someone poses solely based on their gender or age, but instead based on the relevant facts, their actions, behaviour, and the ideology to which they may subscribe. Women who travelled to join Daesh can, and in many cases do, pose as significant a risk to our national security as returning male fighters. Particularly so, as when Daesh came under increased military pressure, it broke with its earlier ideology and encouraged women to take up combat roles.

Where a decision is made to deprive an individual of British citizenship on the basis that to do so is conducive to the public good, the best interests of any children, are taken into account in accordance with the duty under section 55 of the Borders, Citizenship and Immigration Act 2009 regarding the welfare of children, when the Home Secretary decides whether to deprive their parent. Where a child is outside the UK and beyond the UK’s jurisdiction under section 55 of the 2009 Act, the Home Secretary nevertheless chooses to apply the spirit of that Act and still takes into account the best interests of the child when making her decision. Whilst Section 55 demands that the child’s interests are of primary concern, national security implications are also taken into account. The Home Secretary will consider the best interests of the child as a primary consideration and whether the policy and public protection considerations outweigh any best interest considerations.

## Humanitarian support

The UK continues to provide humanitarian support across Syria. UK aid in North East Syria is focused on reaching those most in need, providing vital, life-saving assistance and supporting conflict-communities to build resilience and re-establish livelihoods. It is essential that humanitarian agencies are able to safely access and deliver assistance to those in need in Syria, including in Al Roj camp. We are supporting vulnerable populations with vital, lifesaving assistance in IDP camps, settlements and communities. North East Syria will remain an integral part of the FCDO's Syria humanitarian programme. In the financial year 2021/22, we supported over 226,000 medical consultations, provided over 5,000 people with mental health support, provided hygiene and sanitation support to over 15,000 people and assisted over 14,500 people with business development (livelihoods) interventions in the region. This included supporting healthcare and protection services for women and girls in Al Hol camp.

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

1. Please provide any additional information and any comment you may have on the above-mentioned allegations (with regard to ██████████ and her son).

We do not routinely comment on individual cases.

The UK Government does not agree that it is subject to any positive obligation to act in this context and in particular notes that British nationals (and indeed any other individuals) located in North East Syria are not within the UK's jurisdiction whether for the purposes of the European Convention on Human Rights or of any other instrument of international human rights law to which the UK is a party mentioned in your communication.

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.

2. Please provide detail on the domestic mechanism in place in the United Kingdom to review requests for repatriation, its powers to weigh the rights of the person on return under article 3, para 2 of protocol 4 to the European Convention on Human Rights and its independence.

The UK has not ratified Protocol No. 4 to the ECHR, and is not bound by article 3, para. 2.

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.

3. Please provide information on what steps have been taken to address [REDACTED] deteriorating medical situation including securing urgent interim medical assistance and a wheelchair to Al Roj camp.

We do not routinely comment on individual cases. The UK has no consular presence within Syria from which to provide assistance, and is unable to direct local authorities responsible for the camp to provide specific help.

4. Please provide details on steps that may have been taken to protect the physical and mental integrity of [REDACTED] son and to ensure his safe repatriation, together with his mother.

We do not routinely comment on individual cases.