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Note Verbale No. 359

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 AL GBR 16/2023, further to the letter dated 15 August 2023 from the Special Rapporteur on the promotion and protection of human rights in the context of climate change.

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, 9 December 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 AL GBR 16/2023 of 15 August 2023 from the Special Rapporteur on the promotion and protection of human rights in the context of climate change.

Thank you for your letter of 15 August 2023 to the Foreign Secretary regarding the powers introduced by the Public Order Act 2023 and the arrest and conviction of two protesters.

I want to begin by expressing our utmost apologies that you did not receive our response to your previous letter dated 22 December 2022 (reference GBR 16/22). I have attached the response we prepared at the time for your convenience, which may address some of the concerns raised in this letter. In relation to the additional concerns raised, please see our response below.

This Government has been consistent in our support for the rights of individuals to peacefully protest. This right is the cornerstone of our democracy. As noted in our previous responses, it is a long-standing tradition in this country that people are free to gather and to demonstrate their views, provided they do so within the law. However, in recent years we have seen highly disruptive protest tactics weaponised by a small minority of protesters determined to cause misery to the lives of others.

As you will be fully aware, the right to peacefully protest as set out by Article 11 of the European Convention on Human Rights (ECHR) is a qualified right. It must be balanced with the rights of others to go about their business without fear of intimidation or serious disruption to the community. The incident you refer to in your letter, involving the two protesters who scaled the Queen Elizabeth II bridge, caused severe levels of disruption. The protest led to the bridge's closure for nearly 36 hours, causing gridlock for miles. Small businesses lost, in some cases, hundreds of thousands of pounds whilst some individuals missed loved one's funerals. The protesters also endangered the lives of the police tasked with removing them, as well as their own.

The decision to arrest and charge a person is an operational decision for the police, who are independent of government. Similarly, the decision to prosecute is an operational decision for the Crown Prosecution Service (CPS) and conviction and sentencing is determined by the courts, which are also independent of government. I want to reassure you that there are robust checks and balances in place to ensure that all these decisions are proportionate and in line with that individuals' ECHR rights. At each stage, these organisations must carefully consider whether their decision constitutes a proportionate interference with the individual's

Convention rights by carrying out a proportionality assessment. The government is not involved in this process, and if the accused feels that this process has not been properly followed, the individual can appeal, subject to certain conditions.

In the case you mention, each public authority carried out a proportionality assessment before making its decision, as it is required to do. Following these checks and balances, the decision was made that the offence committed warranted their arrest, prosecution, conviction and sentence. Both individuals will now be able to appeal and, if permission is granted, the appeal will be considered by the Court of Appeal.

With respect to your query relating to public order legislation, the Government introduced the Public Order Act 2023 (the Act), alongside other legislation, to improve the police's ability to manage seriously disruptive protests and take a proactive approach to prevent such disruption happening in the first place. This will ensure the police can better balance the rights of protesters against the rights of others to go about their daily business.

We respectfully disagree that the Public Order Act 2023 is a direct attack on the right to freedom of peaceful assembly. The Act does not prohibit protests but rather targets the highly disruptive tactics used by a small minority. The Act has already partly come into force, and it has demonstrably not led to the end of protests, which continue to occur peacefully and without police intervention.

We have also been clear that the Act is compatible with the ECHR. As with all existing legislation, public authorities including the police and the Crown Prosecution Service must apply the Act compatibly with the Convention. I would direct you to our previous response, attached, which responds in detail to your concerns regarding the Act's compatibility with human rights.

I would note that since our previous response, amendments have been made to the Act which have slightly changed its content. Your letter of 22 December 2022 stated that the Bill would be improved with a clearer definition of serious disruption. The Government tabled an amendment to include a definition, which was passed and now forms part of the Act. In addition, in relation to Serious Disruption Prevention Orders, the Government has removed the electronic monitoring provision from the Act and limited the number of times an SDPO can be renewed to only one. An up-to-date list of provisions that make up the Act can be seen on the factsheet published on the gov.uk website, available here - [Public Order Bill: factsheet - GOV.UK \(www.gov.uk\)](#).

The UK remains steadfast in its commitment to freedom of expression and assembly and the legislation passed does not in any way undermine this. I hope this response addresses your concerns and I want to thank you again for writing.