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Note Verbal No. 021

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 JAL GBR 13/2024, further to the letter dated 21 November 2024 from the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on freedom of religion or belief.

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, 24 January 2025.

Special Procedures Branch
Office of the High Commissioner for Human Rights



UK Mission to the
United Nations
in Geneva

United Kingdom of Great Britain and Northern Ireland

Response to Special Procedure communications AL GBR 13/2024 of 21 November 2024 sent by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the right to privacy

Thank you for your letter of 21 November 2024 regarding the alleged use of provisions under the Terrorism Act 2000, Terrorism Act 2006 and the Sentencing Act 2020, following a serious incident on 6 August 2024 at the premises of the defence technology firm Elbit Systems UK.

Following this incident, criminal proceedings are underway; it is critical to ensure that those individuals involved have the right to a fair trial. It would therefore be inappropriate for the Government to comment on the specific allegations you have raised where this would prejudice the ongoing proceedings. The questions that you raised, which are reproduced below, have been answered as fully as possible, with the ongoing criminal trial in mind.

- 1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.**
- 2. Please explain the factual and legal grounds justifying the alleged arrest and detention of the activists under counter- terrorism laws. Please explain the reason why and at what period of the activists' detention, the CPS decided to downgrade**

the charges to ordinary offences. Please also detail the basis for the CPS' submission that the offences have a 'terrorist connection'.

Grounds for arrest and detention under counter-terrorism laws

Counter Terrorism Policing (CTP) have provided public statements relating to the arrests associated with this case.

The police reported that, in the early hours of Tuesday 6 August, a group of people disguised and dressed in black forced their way into premises of the defence technology firm Elbit Systems UK, using a vehicle to smash through the doors. Extensive damage was caused to the building and employees were attacked and seriously assaulted. Officers from Avon and Somerset Police attended the incident, and two officers were also seriously assaulted in the course of their duties. The individuals involved were armed with a variety of weapons, including axes, hammers, whips and flares.

Following a review of the circumstances surrounding this incident, specialist officers from CTP South East assumed responsibility for the investigation, working with a number of other police forces across the UK.

Beyond this publicly available information, it would not be appropriate for the UK Government to comment further, particularly when criminal proceedings are ongoing. This principle applies to all criminal investigations and trials and helps ensure the integrity of those processes. The UK's police, the Crown Prosecution Service (CPS) and the courts are all independent of the government-of-the-day; it is vital that these institutions are able to carry out their duties, and make decisions, free from political influence, including the influence of international governmental organisations.

The CPS have stated:

"It is extremely important there should be no reporting, commentary or sharing of information online which could in any way prejudice these proceedings. We would respectfully request that no information is published in relation to this matter until legal proceedings have concluded. The trial is currently scheduled for November 2025, and domestically statutory reporting restrictions under the Contempt of Court Act 1981 and Crime and Disorder Act 1988 means there are limitations to what information we can share at this time. However, we have provided a summary of the facts, the UK law and its application below."

Individual charges and terrorism connection

During the course of criminal proceedings, the CPS may submit to the court that a substantive offence has a terrorism connection¹. Should the court determine that an offence was committed with a terrorism connection, it must aggravate an offender's sentence. A terrorism connection also allows for the offender to be managed as a terrorist offender.

The following has been provided by the CPS in response to these questions:

The CPS prosecutes criminal cases that have been investigated by the police and other investigative organisations in England and Wales. The CPS is independent and all decisions to prosecute are taken in accordance with the Code for Crown Prosecutors, which can be found via [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk). This means that to charge someone with a criminal offence, prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction, and that a prosecution is in the public interest. This is known as the 'Full Code Test'. Prosecutors must select charges that reflect the seriousness and extent of the offending, that give the court adequate powers to sentence and that enable the case to be presented in a clear and simple way.

The CPS recognises that, whilst in the main most demonstrations and protests will be peaceful and lawful, there may be incidents of public disorder, and it is possible that some individuals may commit criminal offences. Any potential offences need to be considered in the context of the right to public expression. Individuals have the right to lawfully protest, including the right to protest against the sincerely held beliefs of other individuals or groups. However, neither the right to free expression of views nor the right to protest is absolute. Both are qualified and may be subject to restrictions prescribed by law, for the protection of the rights of others, public safety and the prevention of disorder and crime.

In applying the Code for Crown Prosecutors those who are the subject of the letter have been charged with several substantive offences: criminal damage, violent disorder, aggravated burglary, grievous bodily harm with intent, and actual bodily harm. In accordance with the Code for Crown Prosecutors, the CPS has decided that there is sufficient evidence to submit to the court that these offences have a "terrorism connection". We hope this clarifies that the CPS did not decide to downgrade the charges or 'ordinary offences', but that the substantive or 'ordinary offences' are to be prosecuted with a terrorist connection.

3. Please explain whether the definition of terrorism in UK law will be amended to exclude acts of advocacy, dissent, protest, or industrial action in a democratic

¹ Terrorism is defined in s1 Terrorism Act 2000. This is limited to offences which are not excluded, and which carry a maximum penalty of two years in custody or above.

society where they are not intended to cause death or serious injury with a terrorist purpose.

The UK has a comprehensive counter-terrorism legislative framework which strikes the right balance between protecting national security and individual freedoms, including the right to freedom of expression under Article 10 of the European Charter of Human Rights (ECHR). However, as noted above, neither the right to freedom of expression nor the right to protest is absolute.

The UK's definition of terrorism is set out in section 1 of the Terrorism Act (TACT) 2000. This definition applies equally to UK citizens and residents and non-UK citizens and residents. This definition of terrorism applies equally to politically, religiously, racially, and ideologically motivated causes. It is designed to counter all forms of terrorism, irrespective of the ideology that inspires them.

This definition is kept under regular review to ensure it remains fit for purpose, including by the Independent Reviewer of Terrorism Legislation (IRTL). Multiple independent reviewers have consistently reported that the definition remains broadly fit for purpose.

Notably, an independent report² was published in March 2007 reviewing the UK's definition of terrorism, by the previous IRTL, Lord Carlile of Berriew CBE KC. Lord Carlile highlighted that "there is no single definition of terrorism that commands full international approval" and that the definition within TACT 2000 "is consistent with international comparators and treaties, and is useful and broadly fit for purpose, subject to some alterations". The proposed alterations were largely taken forward following the publication of that report.

The current IRTL, Jonathan Hall KC, in his report on the operation of the Terrorism Acts in 2019 stated "terrorism powers are complex and challenging, but my overall assessment is that the legislation is well understood, and conscientiously deployed". The IRTL concluded: "I detect no rush to overclassify behaviour as terrorism, and a proper sensitivity that self-restraint is a virtue."

It is an operational decision for the police and the CPS to apply the UK's definition of terrorism in practice, independently of Government.

4. Please outline the measures taken to safeguard the activists' procedural rights in detention and their right to a fair trial, including their right to access legal representation immediately after their arrest and to ensure that their families are

² [The definition of terrorism: a report by Lord Carlile of Berriew - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/617222/2017-03-27-Report-on-Terrorism-Definition-IRTL-2017-03-27.pdf)

promptly notified of their detention, including any transfers between detention facilities.

Arrests for terrorism-related activity may be made under the Police and Criminal Evidence Act (PACE) 1984 or under specific terrorism laws. The police must have regard to the relevant PACE Code of Practice which sets out the statutory framework for detention, treatment and questioning of individuals by police officers. PACE Codes C and G are relevant for arrests under PACE 1984, whereas PACE Code H applies for arrests under counter-terrorism legislation. The relevant Codes of Practice are available via GOV.UK³.

Police integrity lies at the heart of public confidence in the police and the Government recognises the need for a formal system of police complaints that enables members of the public to raise concerns about the service they have received.

Police complaints are dealt with under a comprehensive legislative framework which sets out the duties of the police themselves in handling complaints as well as the role and functions of the Independent Office for Police Conduct (IOPC), the body which provides oversight of police complaints and investigates the most serious and sensitive matters involving the police.

When a complaint is made it is right that the police have an opportunity to consider and respond to the matters raised. At the same time, the Government recognises that public confidence is vital to the British model of policing by consent and, therefore, by law, police forces must refer the most serious allegations about the conduct of a person serving with the police to the IOPC. This ensures that an independent decision is taken, in each such case, on how the complaint should be handled. This is publicly available information and can be found on [the IOPC website](#).

5. Please explain the measures taken to ensure the activists' access to family visits, medication and health care in detention and to protect their cultural and religious rights standards. Please indicate whether their restrictive high security condition in detention will be lifted.

It would be inappropriate to comment on the location or management of any specific individual(s) within the prison system.

The safety and security of prisoners is a key priority. The Prison Act 1952, the Prison Rules 1999 and the relevant policies are set out below, including their compatibility with

³ See [PACE Code G 2012 - GOV.UK \(www.gov.uk\)](#), [PACE Code H 2023 - GOV.UK \(www.gov.uk\)](#) and [PACE Code C 2023 - GOV.UK \(www.gov.uk\)](#)

international human rights standards. If any prisoner feels they have an issue that needs to be raised in prison, they can submit a complaint using the process as laid out in the prisoner complaints policy framework.

Visits

- Rules 4 and 35 of the Prison Rules 1999 and Prison Policy Prison Service Instruction (PSI) 16/2011 govern visits and require Governors to actively encourage prisoners to maintain outside contacts and meaningful family ties. The legislation and policy are compatible with Article 8 of the European Convention on Human Rights (ECHR). This is integral to the prisoner's right to a family life as well as their rehabilitation.
- Unconvicted prisoners must be allowed visits on at least three days a week, which includes weekends. The statutory entitlement to social visits for convicted prisoners is two visits in every four-week period.
- Visitors to prisoners who are deemed to pose a high security risk must be registered via the Approved Visitors Scheme (AVS) and comply with its security requirements.

Healthcare

- Rule 20 of the Prison Rules 1999 requires Governors to work in partnership with local health care providers to secure the provision to prisoners of access to the same quality and range of services as the general public receives from the National Health Service (NHS). These are compatible with Articles 2, 3 and 8 of the ECHR (the right to life, the prohibition of torture, inhuman or degrading treatment or punishment, and the right to privacy respectively).
- Health treatment in custody is therefore the responsibility of NHS England and NHS Wales, with HMPPS working in partnership with health and social care partners.

Religious rights

- The UK Government recognises and respects the right of prisoners to register and practise their faith or belief while in custody.
- Under Article 9 of the European Convention on Human Rights, prisoners, like all citizens, have the right to freedom of religion, which includes the freedom to manifest their religion in worship, practice and observance.
- Collectively, the detailed requirements in Rules 13 to 19 of the [Prison Rules 1999](#) and the framework in the [PSI 05/2016 Faith and Pastoral Care for Prisoners](#) ensures that the Article 9 rights of prisoners are fully respected.

- An extensive network of multi-faith/belief chaplaincy teams operate in English and Welsh prisons, providing pastoral care to prisoners and staff. This includes support through major life events regardless of faith/belief and of none, although if anyone requests support from someone of their own faith or belief system this can be arranged. Those of numerically smaller faiths are given equal importance and dignity.