



“Five Years On – Arbitrary Detentions of ISIS-affiliated Individuals in North-East Syria and the Responsibility of OSCE participating States for the Repatriation of their Nationals”

OSCE Warsaw Human Dimension Conference, Side Event organized by Reprieve and the OSCE Office for Democratic Institutions and Human Rights, 2 October 2024

Remarks of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul

Excellencies, distinguished guests

I thank Reprieve and the OSCE Office for Democratic Institutions and Human Rights for hosting this event to highlight the human rights, humanitarian and security crisis of massive, protracted arbitrary detention in north-east Syria.

I endorse the persistent call of my predecessor on states to cooperate to bring to an end the grave violations of international human rights law, humanitarian law and criminal law affecting almost 60,000 people arbitrarily detained in north-east Syria.

These include up to 43,000 foreign nationals – mostly Iraqis, but also from around 60 other nationalities. The overwhelming majority are women and children – a huge number of 27,000 children – who experience special vulnerabilities and have been the focus of sporadic repatriation efforts so far.

There are, however, also 10,000 male detainees, half of whom are foreigners, who also need urgent attention. In this context I am disturbed by the forcible separation of adolescent boys from their families and their detention among adult men.

Many people have been arbitrarily and indefinitely detained for over six years. I affirm the recommendations of my predecessor for the release and repatriation of all people from detention, respect for *non-refoulement*, and reintegration and prosecution as appropriate.

I endorse the authoritative decision of the United Nations Committee against Torture in the case of *PD v France* (2023) that states have a duty to take all necessary and possible measures to protect their nationals in north-east Syria against cruel, inhuman or degrading treatment in detention, specifically through repatriation. The decision confirms the long-held position of my mandate.

The urgency is particularly acute for children given their vulnerabilities. Children, including victims of trafficking, should never be excluded from repatriation on security grounds.

I commend recent repatriations of nationals by various countries. My predecessor's recent country visit report on Germany and North Macedonia demonstrates how repatriation can be achieved in a human rights-compliant manner. I offer technical assistance to any state interested to repatriate and reintegrate or prosecute its nationals.

Until the camps are emptied, it is also necessary to ensure that detention conditions comply with international law, including humane treatment, adequate food and medical care, family unity, non-discrimination, and access to all places of detention by impartial humanitarian actors. Improving conditions must not, however, prolong arbitrary detention.

I welcome the continuing cooperation of the Syrian Arab Republic. I will seek access to the detention facilities, including those that my predecessor was unable to visit. I will also continue to coordinate with relevant states, United Nations bodies, the International Committee of the Red Cross, non-governmental organisations, and other stakeholders.

In closing, I remind all states that stranding their nationals abroad is not an effective counter-terrorism response. It exposes vulnerable detainees, including children, to serious risks of violent extremism and terrorist recruitment. It shifts the security burden onto the conflict affected Syrian Arab Republic and de facto authorities.

All states should responsibly address such conditions conducive to terrorist violence by immediately repatriating their nationals, reintegrating and rehabilitating them, and prosecuting as appropriate.

Thank you.