

**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**

Summary Report

**of the side event co-sponsored by Reprive and the OSCE Office for
Democratic Institutions and Human Rights (OSCE/ODIHR)**

at the margins of the Warsaw Human Dimension Conference 2024

2 October 2024, Warsaw



REPRIEVE

On 2 October 2024, the non-governmental organization Reprieve and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) held a side event at the margins of the Warsaw Human Dimension Conference 2024, convened by the 2024 OSCE Chairpersonship of Malta. The following information document presents a short overview of key points raised at the event and the subsequent discussion.

The document does not provide an exhaustive account of the panel presentations and discussion. Nor does it necessarily reflect the positions of all panelists and participants who spoke at the event or the institutions they represented. Furthermore, this document does not represent official OSCE recommendations based on a consensus decision and the opinions and information it contains do not necessarily reflect the policy and position of ODIHR.

Moderator:

- Johannes Heiler, Senior Human Rights Adviser, Deputy Head of the Human Rights Department, OSCE/ODIHR

Speakers:

- Introduction by Prof. Ben Saul, UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (video)
- Katherine Cornett, Deputy Director, Reprieve
- Letta Tayler, independent counterterrorism researcher
- Beatrice Eriksson, co-founder, Repatriate the Children Sweden
- Samar Khamis, Human Rights Officer, UN Office of the High Commissioner for Human Rights (OHCHR)

Event Summary

The side event co-hosted by ODIHR and Reprieve focused on the serious human rights challenges related to the indefinite, arbitrary detention in north-east Syria of foreign individuals with alleged links to terrorist groups, primarily the so-called Islamic State of Iraq and Syria (ISIS), and their family members. Participants urged all states to take immediate steps to end this detention crisis through expeditious and orderly repatriations of their nationals, and those with meaningful links to the state, combined with coherent rehabilitation and reintegration support and, where appropriate, prosecutions.

The side event was the latest follow-up to ODIHR's 2018 *Guidelines for Addressing the Threats and Challenges of "Foreign Terrorist Fighters" within a Human Rights Framework*.¹ Expert panelists included the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,² a representative of the UN Office of the High Commissioner for Human Rights, and civil society experts working with the detained or repatriated individuals. In accordance with pronouncements by various international human rights institutions, panelists re-iterated that **repatriations are the only feasible path forward for states to uphold their international legal obligations toward the detained individuals and the best option to protect the public from harm.**

Panelists noted that an estimated 56,000 men, women and children continued to be held in detention camps and prisons in the conflict zone of north-east Syria as presumed members of terrorist groups and their relatives. Some 32,000 of them were foreigners from over 60 countries, including from the OSCE region, and more than half were children.

The speakers expressed concern that **conditions in the camps were degrading and life-threatening for those who remain detained there.** They deplored chronic shortages of food, clean water and medical care, with the women and children held in camps dying from preventable diseases, violence or accidents, and many severely traumatized. Panelists noted that in the prisons holding foreign men and boys, detainees are held incommunicado and reportedly dying at an alarming rate due to rampant tuberculosis, malnutrition and deprivation of their basic needs. Detainees in prison also alleged torture and other ill-treatment.

Panelists described how **local authorities have forcibly removed boys from their mothers and siblings** in the camps as they approached adolescence and transferred them to other unlawful places of detention, where they have minimal, if any contact, with their family members. When the boys become adults, they are transferred to prisons that hold men. **Several women held in the camps are reportedly victims of human trafficking**, with terrorist groups having lured or brought them to Syria against their will, including when they were children.

Regarding national approaches to repatriation in the OSCE region, it was noted that **some states have brought back many of their citizens, with only few states repatriating men in addition to women and children. Other states have even taken steps to obstruct returns of nationals other than orphans or younger children, including through deprivation of citizenship.** Panelists said that resistance to allowing returns of older boys, men and, in some cases, mothers has led to family separations and further traumatized children.

¹ *Guidelines for Addressing the Threats and Challenges of "Foreign Terrorist Fighters" within a Human Rights Framework ("FTF" Guidelines)*, ODIHR, 12 September 2018, www.osce.org/odihr/393503.

² Through pre-recorded remarks.

While acknowledging that repatriation raises significant practical and security challenges, it was pointed out that **some states had successfully managed returns thus far and that ample information on promising practices** is available. Many repatriated children have reintegrated well into their countries of nationality and excelled in school, sports and cultural activities. Some states have prosecuted repatriated adults, but speakers also emphasized the need for rehabilitation and reintegration measures for them. It was noted that also many in the intelligence and security community support repatriation in order to better exercise any necessary control or to be able to implement disengagement and rehabilitation efforts. Groups like ISIS can exploit the volatile security situation in the camps and prisons, and **foreign nationals and especially children left in north-east Syria could become vulnerable to trafficking, violence and abuse at the hands of such groups.**

The panelists highlighted that **human rights experts, courts and treaty bodies have found that the human rights of these detainees are being systematically violated. They recalled states' positive obligation to take measures to protect their nationals if there are reasonable grounds to believe that they face flagrant human rights violations.** The speakers underscored the obligation of states to carry out returns in a way that complies with human rights, which necessitates that they are voluntary and that individuals are not returned to a country where they face a risk of torture, ill-treatment or other grave human rights abuses. Special protection needs of children were also noted as well as the importance of repatriating them with their caregivers, when possible, to safeguard the best interests of the child.

Echoing the critical stance of the ODIHR *Guidelines on "FTFs"* on deprivation of citizenship,³ speakers expressed **serious concern about the increasing practice by some states of revoking citizenships of their nationals detained in north-east Syria, which can exacerbate the risks of statelessness and other serious human rights violations** for targeted adults and their children. Panelists also stressed that under international law,⁴ states must provide protection and assistance, including on repatriation, to victims of human trafficking and ensure that their rights are fully respected.

Repatriation also appears as the only avenue to hold to account any detainees responsible for serious crimes in accordance with international standards of fair trial and due process, the speakers noted. No appropriate mechanism exists in north-east Syria to prosecute foreigners in line with international standards. For those detained or imprisoned, without charge or trial, there is no opportunity to challenge their detention. This makes these **detentions arbitrary and therefore unlawful.** Speakers stressed that detention of relatives solely on the basis of their family ties with terrorism suspects amounts to collective punishment.

In conclusion, panelists agreed that **five years of experience have shown that states' concerns over returning their nationals can be effectively addressed through a human rights-based and gender-sensitive approach involving prompt and voluntary repatriations, tailored rehabilitation and reintegration, and prosecutions as appropriate in trials meeting international standards.** While repatriations are challenging, inaction violates the rights of detainees, including the many children, and deprives victims of their right to an effective remedy. Inaction will not create security, but increases the risks that the camps and prisons become fertile ground for violent radicalization and recruitment of terrorist groups. **Repatriation thus is not only a human rights imperative, but also an essential part of any strategy aimed at achieving comprehensive and long-term security both in north-east Syria and the OSCE region.**

³ See section on Limits on Permissible Deprivation of Nationality (and Exclusion) in ODIHR *"FTF" Guidelines*, pp. 47-51.

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, General Assembly Res. 55/25 of 15 November 2000, arts. 6, 8, <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>.