

REPATRIATION OF “FOREIGN TERRORIST FIGHTERS” AND THEIR FAMILIES FROM CONFLICT ZONES IN SYRIA AND IRAQ

Summary Report

**of the side event held by the OSCE Office for Democratic Institutions and
Human Rights (OSCE/ODIHR)**

**at the margins of the Joint Regional High-level Conference on “Foreign
Terrorist Fighters – Addressing Current Challenges”**

12 February 2020, Vienna





On 12 February 2020, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) held a side event at the margins of the Joint Regional High-level Conference on “Foreign Terrorist Fighters – Addressing Current Challenges” convened by the OSCE Secretariat, the United Nations Office of Counter-Terrorism (UNOCT) and Switzerland, in cooperation with the Albanian OSCE Chair-in-Office. 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 all the panel presentations and the discussion. Therefore, individual views and opinions expressed in the document do not necessarily represent the positions of all panelists and participants who spoke at the event and of 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, Adviser on Anti-Terrorism Issues, OSCE/ODIHR

Speakers:

- Dr. Anne Charbord, Legal Adviser to the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
- Dr. Matthieu Birker, Adviser to the Council of Europe Commissioner for Human Rights
- Letta Tayler, Senior Researcher Crisis and Conflict Division and Terrorism/Counterterrorism Lead, Human Rights Watch
- Maya Foa, Director, Reprieve, United Kingdom
- Philippine Crespín, Lawyer, Vergauwen Lawyers, Belgium



Event Summary

The Side Event of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) focused on the human rights perspectives concerning ongoing discussions about the repatriation of so-called “foreign terrorist fighters” (FTFs) and their families from Iraq and Syria. While other side events and panel sessions also covered the issue of repatriations, the ODIHR event was unique in highlighting the calls for repatriation by international human rights institutions and non-governmental organizations.¹

The side event was part of a follow-up to ODIHR’s 2018 *Guidelines for Addressing the Threats and Challenges of “Foreign Terrorist Fighters” within a Human Rights Framework.*² Panel speakers included experts representing the mandate of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Office of the Council of Europe Commissioner for Human Rights, Human Rights Watch, Reprieve, and a lawyer from Belgium who is working on the case of a woman detained in a displacement camp in Northeast Syria with her three-year-old child. The side event combined panel presentations and an exchange of views on the current trends and challenges concerning the repatriation of FTFs and associated family members.

In their presentations, panelists expressed **concerns about the dire humanitarian situation in the overcrowded camps in Syria and Iraq, which had reached a crisis point.** For example, Al-Hol Camp in North East Syria housed an estimated 74.000 people at the beginning of the year, the majority being women and children, while it was originally designed for 10.000 inhabitants. There is a lack of proper medical facilities and adequate nutritional supplies, leading to children in particular dying from preventable causes.

Speakers also referred to the different national approaches to repatriation in the OSCE region. **Whereas some states have already brought their citizens back from the conflict zones, others have shown reluctance to do so or even taken steps to obstruct their return, such as by depriving potential returnees of their citizenship.** Furthermore, panelists highlighted that there is generally more willingness to repatriate young children, in contrast to adolescents, adult women and in particular men, which could result in family separation.

While acknowledging that states may have legitimate security concerns and repatriation raises a number of practical challenges, speakers underlined the urgency for states to repatriate their nationals, and those with meaningful links to the state, from the camps and provide the necessary support for reintegration and rehabilitation.

¹ See for example *Repatriation of ‘foreign terrorist fighters’ and their families urgently needed to safeguard human rights and security*, OSCE human rights head says, 11 February 2020, www.osce.org/odihr/445909; *Position of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 25 September 2019, www.ohchr.org/Documents/Issues/Terrorism/PositionSRreturnsFFsOct2019.pdf; *Council of Europe member states should urgently repatriate their under-age nationals stranded in Northern Syria*, 28 May 2019, www.coe.int/en/web/commissioner/-/council-of-europe-member-states-should-urgently-repatriate-their-under-age-nationals-stranded-in-northern-syria.

² See www.osce.org/odihr/393503.



Repatriation would also help to ensure prosecution of returnees, where appropriate, and holding those responsible for serious crimes to account in accordance with international standards.

Multiple speakers also highlighted the rights and special protection needs of children who remain in the camps, and the importance of their repatriation, together with their caregivers where possible, to safeguard the best interests of the child.

Speakers recalled the positive obligation of states to take steps if there are reasonable grounds to believe that their nationals are facing flagrant human rights violations, such as torture and other ill-treatment, or the death penalty. In this regard, speakers referred not only to the risk to lives and inhumane conditions in the camps in Syria, but also to serious human rights violations individuals may face when transferred from Syria to detention in Iraq. These violations include allegedly widespread use of torture and the imposition of the death penalty after grossly unfair trials. In accordance with the ODIHR Guidelines on FTFs, which take a very critical stance on deprivation of citizenship³, one panellist highlighted **concerns about policies of some states to deprive adults detained in the camps of their citizenship because such measures expose the individuals concerned, and their children, to increased risks of serious human rights violations.** Furthermore, several speakers stressed that many in the intelligence and security community also support repatriation, to better exercise any necessary control or implement disengagement or rehabilitation measures.

In conclusion, speakers agreed that **a human rights-based approach to addressing the ongoing challenges requires urgent repatriation, especially of children, from the displacement and detention camps in Northeast Syria.** A number of factors – the deplorable situation in the camps; the need to provide tailored reintegration and rehabilitation support especially to children and young people who are traumatized and continue to face abuse in the camps; and the absence in the conflict zones of appropriate mechanisms to bring those responsible for international and national crimes to justice in accordance with international law – point to repatriation as a human rights imperative. But it is also essential to effectively address related security challenges. **Ignoring shared responsibilities will not create security, but exacerbate the long-term risks of camps providing fertile ground for recruitment by terrorist and criminal organizations alike.**

Although states' approaches to the repatriation of their citizens vary, calls for repatriation featured prominently in the discussion following the panel presentations at the side event and in subsequent plenary sessions of the conference, as reflected in interventions by several participating States, experts and speakers from intergovernmental organizations and NGOs.

³ See section on Limits on Permissible Deprivation of Nationality (and Exclusion) in *ODIHR Guidelines for Addressing the Threats and Challenges of "Foreign Terrorist Fighters" within a Human Rights Framework*, pp. 47-51.