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Ministerial and Treat Official Correspondence Team
Foreign, Commonwealth and Development Office
King Charles Street
London SW1A 2AH

Sent by email only to: fcdo.correspondence@fcdo.gov.uk

3 November 2023

URGENT

Dear Sir or Madam,

RE: Urgent clarification of UK's position on British citizens fighting in Israel/Gaza

I write to you in my position as Senior Legal Counsel at the International Centre of Justice for Palestinians ("ICJP")¹ - an independent organisation of lawyers, academics and politicians that works to protect the rights of Palestinians wherever they live.

In light of the catastrophic situation currently unfolding in Gaza, with clear evidence that war crimes and crimes against humanity may already have been committed in Israel and the Occupied Palestinian Territory (the "OPT"),² and the real risk that further mass atrocity crimes may be imminent, we write to urgently request clarification of the UK's position on the legality of British citizens going to fight in Israel and/or the OPT.

We also request specific clarification of the UK's position on whether it is a criminal offence for British citizens to travel to Israel and/or the OPT to fight for the Israeli Defense Forces (the "IDF") or any other state or non-state actor.

¹ <https://www.icjpalestine.com/>

² See, for example, Gaza is 'running out of time' UN experts warn, demanding a ceasefire to prevent genocide, 2 November 2023, UN Office of the High Commissioner for Human Rights, available at: <https://www.ohchr.org/en/press-releases/2023/11/gaza-running-out-time-un-experts-warn-demanding-ceasefire-prevent-genocide-0>; UN expert warns of new instance of mass ethnic cleansing of Palestinians, calls for immediate ceasefire, 14 October 2023, UN Office of the High Commissioner for Human Rights, available at: <https://www.ohchr.org/en/press-releases/2023/10/un-expert-warns-new-instance-mass-ethnic-cleansing-palestinians-calls>; Protection Approaches, Statement on preventing mass atrocity crimes in Israel & in Gaza, 13 October 2023: <https://protectionapproaches.org/news/statement-on-preventing-mass-atrocity-crimes-in-israel-in-gaza>; Commission of Inquiry collecting evidence of war crimes committed by all sides in Israel and Occupied Palestinian Territories since 7 October 2023, the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel, 10 October 2023, available at: <https://www.ohchr.org/en/press-releases/2023/10/commission-inquiry-collecting-evidence-war-crimes-committed-all-sides-israel>



On 10 October 2023, soon after the Hamas offensive in Israel, the Israeli government approved the call-up for 360,000 military reservists to take part in the ongoing hostilities, particularly in Gaza.³ According to Israeli media reports,⁴ air force planes were dispatched to European countries to collect reservists and provide transport for Israelis in the reserves to return to Israel to “join the fight”, in coordination with Israel’s Ministry of Foreign Affairs.

Recent media reports in the UK have indicated that hundreds of people have already left the UK to fight in Israel and/or the OPT, both as reservists and active duty soldiers in the IDF.⁵ A recent article published in the Times quotes a British citizen who recently travelled from the UK to Israel and is currently fighting in the IDF, as saying that he believes that “there are hundreds, if not thousands, more Britons fighting in Israel.”⁶

We request urgent clarification of the UK’s position on the legality of British citizens going to fight in the current conflict in Israel and Gaza. We note with respect to Ukraine that the Government has made it clear that British citizens must not travel to fight in Ukraine, and that if they do so, they could face prosecution on their return.⁷ The Foreign Office’s official guidance on Ukraine states: “The Russian invasion of Ukraine is ongoing, with attacks against a number of major cities... There is a real risk to life. If you travel to Ukraine to fight, or to assist others engaged in the war, your activities may amount to offences under UK legislation and you could be prosecuted on your return to the UK.”⁸

It follows from the advice given by the FCDO in relation to Ukraine that British citizens travelling to Israel to fight on behalf of the Israeli military may also be committing offences under UK law and that they could also be prosecuted.

³ <https://www.reuters.com/world/middle-east/israels-reservists-drop-everything-rush-home-following-hamas-bloodshed-2023-10-12/>;
<https://www.thetimes.co.uk/article/israel-gaza-ground-invasion-hamas-netanyahu-2lv5ndzc3>
<https://www.middleeastmonitor.com/20231010-israel-to-mobilise-360000-reserve-soldiers-from-around-the-world/>

⁴ <https://www.ynetnews.com/article/skourymwp>

⁵ At least 100 people travel to Israel from UK to join fight against Hamas, The Standard, Michael Howie, 12 October 2023, available at: <https://www.standard.co.uk/news/uk/israel-fighters-from-britain-hamas-gaza-strip-ground-offensive-b1113055.html>

⁶ See also: 'I'm an IT worker from Radlett drafted to fight for Israel - I'm petrified but people need us', Claire Gilbody Dickerson, 11 October 2023, Inews, available at: <https://inews.co.uk/news/world/it-worker-radlett-drafted-fight-israel-2679410>

⁷ UK Prime Minister Boris Johnson has said that British soldiers who travel to Ukraine to fight can expect to be court-martialled. He further added that civilians should also avoid going there to fight. The Prime Minister went on to say that: “We have very clear laws in this country. You shouldn’t go to Ukraine, and I’m afraid people going from our armed services, as the chief of the defence staff made clear the other day, will face court martial.” Peter Walker, British Troops Who Leave to Fight in Ukraine Will Face Court Martial, Says PM, The Guardian, 10 March 2022, available at: www.theguardian.com/uk-news/2022/mar/10/british-troops-awol-ukraine-russia-invasion-court-martial-boris-johnson

⁸ The UK Foreign Office, Safety and Security - Ukraine Travel Advice, available at: <https://www.gov.uk/foreign-travel-advice/ukraine/safety-and-security>



Considering the unprecedented casualty and death tolls in Gaza since 7 October 2023, and the indications of widespread violations of international humanitarian and criminal law being committed by Israeli forces in Gaza, we seek urgent clarification of the following:

1. The UK's position on British citizens, including dual nationals, going to Israel and/or the OPT to fight in the ongoing conflict, including as reservists or in the Mahal Programme.⁹
2. Whether it is a criminal offence in the UK for British citizens, including dual nationals, to travel to Israel and/or the OPT to fight in the ongoing conflict; and
3. Whether the UK government has communicated advisories to British citizens or dual nationals who are likely to be serving or volunteering in the IDF on the potential legal consequences and individual criminal liability that could arise from their conduct during such service or volunteering.

We are aware that officers from the Metropolitan Police Services (and potentially other police forces) have attended the homes in the UK of Palestinians who are currently in Gaza. We understand that such visits have been conducted as a result of guidance from the FCDO to the police that they should investigate British residents who have travelled to the region and are currently present in a war zone. Please confirm whether such guidance only applies to British Palestinians, or whether it also applies to British residents who have left the country to fight for the Israeli armed forces.

In our capacity as a human rights organisation working on Israel/Palestine, we urgently request clarification of the above, in order that we may be in a better position to advise both Israelis and Palestinians of the risks of leaving the country to travel to the region to join militant groups or state armed forces.

Please note that this letter is a request for clarification of government policy, and therefore should be not be treated as a Freedom of Information request.

We look forward to hearing from you as a matter of urgency.

Yours faithfully,

Ilora Choudhury
Senior Legal Counsel

⁹ The Mahal programme is a volunteer programme that allows non-Israeli nationals to serve in the IDF in full combat and support roles for up to 18 months. See further: <https://www.idf.il/en/mini-sites/how-to-join-us-and-voluntary-programs/volunteer-programs/>