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## Concept Note

### The United Nations Security Council Arrria-formula meeting on Accountability in the Syrian Arab Republic

*The United Nations Security Council members Estonia, France, the United Kingdom and the United States, with additional co-sponsors Belgium, Canada, Germany, Georgia, Liechtenstein, the Netherlands, Qatar, Sweden and Turkey will hold an informal briefing of the UN Security Council on the need for increased efforts by the Council to establish full accountability for the most serious international crimes committed in the Syrian Arab Republic.*

**29 November 2021, from 3 p.m. in the ECOSOC Chamber (UNHQ)**

#### OBJECTIVES

The meeting aims to highlight the prevailing impunity in Syria with regard to the past and continued commission of the most serious crimes of concern to the international community, including war crimes and crimes against humanity. The international community must step up its efforts and do more to prevent and hold accountable the perpetrators of these heinous crimes. Victims and their families deserve justice. While there has been welcome progress on fighting impunity through proceedings in courts outside of Syria, these developments only begin to address a fraction of the situation.

The meeting addresses the need to reinvigorate discussions in the Security Council on accountability in Syria, and for the Council to assume its responsibilities in this regard.

#### BACKGROUND

After more than ten years, the conflict that started as the violent repression of peaceful protests of the Syrian people demanding democracy and the respect of their human rights and fundamental freedoms, is still raging. The civilian population continues to be subjected to war crimes and crimes against

humanity by the Syrian regime and other parties to the conflict. Perpetrators keep acting with impunity, and there is no tangible deterrence as violations and crimes continue to this day.

For example, war crimes units in Sweden, France and Germany have started structural investigations of the situation and initiated joint investigative teams. In Sweden, investigations and cases have focused on torture, killings and other offenses committed by non-state armed group, state officials and ISIL affiliates – many of them involving war crimes.

In France, a preliminary investigation was opened with regard to the commission of crimes against humanity by the Syrian regime, which drew, inter alia, on the tens of thousands of photos of dead bodies taken between 2011 and 2013 by “Caesar”, a Syrian former military photographer. Several judicial proceedings resulting from this investigation are ongoing, including in Germany.

In February 2021, a former Assad regime official was convicted by a German court in the town of Koblenz for aiding and abetting crimes against humanity. This marked the first ruling on state-sponsored torture by the Syrian regime, which constitutes an attack against the civilian population. A second judgement from Koblenz is expected to be issued by the end of the year or early next year.

This type of cooperation and coordination between States has benefitted from increased interaction between domestic judicial actors and UN entities, such as through the Genocide Network/ EUROJUST.

Further ongoing efforts include an initiative of the Netherlands, joined by Canada, arguing that Syria breached its obligations as a State party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Security Council has the primary responsibility for the maintenance of international peace and security (UN Charter, Art. 24) and an essential role to play to promote and realize the purposes of the United Nations, including the principles of justice and international law (UN Charter, Art. 1(1)). This must entail comprehensive and impartial accountability for the most serious international crimes committed in Syria by all parties to the conflict. However, the Council has not been able to take joint action. Some permanent members of the Council vetoed a resolution in 2014 to refer the situation to the International Criminal Court (ICC). Several resolutions aimed at identifying those responsible for the use of chemical weapons met the same fate.

The Commission of Inquiry on Syria, established by the Human Rights Council in 2011, continues to report on gross human rights violations. The International, Impartial and Independent Mechanism on Syria, established by the General Assembly, also progresses with its work to assist investigations of prosecutions of core international crimes.

While there are laudable efforts and while the UN, States, civil society, and others have made advances towards fighting impunity, these efforts do not come close to addressing the magnitude of the Syrian crisis. Even if hostilities were to end, the situation in Syria would be far from resolved as long as crimes against the civilian population continue. The Security Council has an essential role to play to ensure accountability and justice, which constitutes a non-negotiable prerequisite for sustainable peace and security in Syria.

The Arria-formula meeting builds upon previous meetings on the situation in Syria. Most recently, Security Council meetings have addressed selected elements of the Syrian situation, while no dedicated discussions have been held on the importance of realising accountability. The Council needs to acknowledge the prevailing accountability gap in Syria, the principled need for impartial and comprehensive justice and its subsequent duty to take meaningful action and follow through with implementation.

The meeting will provide an opportunity to hear about the situation in Syria from the perspective of those working on addressing the accountability gap, including Syrian civil society. UN member states will have an opportunity to critically reflect on the situation in Syria and related judicial developments, as well as to stress the role of the Council and the international community as a whole to ensure comprehensive and impartial accountability for the crimes committed – now and in the future.

## **BRIEFERS**

- Ms Catherine Marchi-Uhel, Head of the International, Impartial and Independent Mechanism for Syria (IIIM)
- Prof. Claus Kress, Professor of Criminal Law and Public International Law, University of Cologne
- Mr Omar Alshogre, Syrian refugee, human rights activist
- Ms Waad Al-Kateab, Syrian journalist and film director

## **FORMAT**

The open Arria-formula meeting will take place on 29 November 2021, from 3 p.m. to 6 p.m. in person in the ECOSOC Chamber, UN Headquarters in New York. The meeting will be chaired by the Permanent Representative of Estonia to the UN, H.E. Mr Sven Jürgenson.

There will be statements by briefers and UN Security Council members as well as by other UN member states and permanent observers to the UN. In order to allow as many interventions as possible, each statement is limited to 3 minutes. The briefers are invited to speak for up to 7 minutes.

Requests for inscription to the list of speakers are invited to be made at the e-mail address of the Permanent Mission of Estonia: [mission.newyork@mfa.ee](mailto:mission.newyork@mfa.ee). Inscription to the list of speakers closes on Tuesday, 23 November 2021 COB. The list of speakers will be distributed to the participants ahead of the meeting.

All speakers, including those inscribed in the list of speakers who may be unable to take the floor due to time constraints are invited to submit their statements in writing at the e-mail address: [mission.newyork@mfa.ee](mailto:mission.newyork@mfa.ee) during the course of the day of 29 November. A compilation of statements submitted in writing will be distributed to the UN member states after the meeting.

The meeting will be webcast through UN Web TV. The meeting will be held in English with simultaneous translation into the six official languages of the UN (tbc).

For any questions, please contact the Permanent Mission of Estonia at the following e-mail address: [mission.newyork@mfa.ee](mailto:mission.newyork@mfa.ee).