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intergovernmental consultations
on migration, asylum and refugees

Request for Information

Internal Flight Alternative in Iraq Request From Norway

October 2009

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Request

- Date of request: 6 October 2009
- Deadline for answers: 21 October 2009
- Focal point: (Mr/Ms, name, job title, institution, and e-mail) Mrs. Mette Ono Njøten, advisor, Department of migration, Ministry of Labour and Social Inclusion, mon@aid.dep.no

Background information

The Norwegian Directorate of Immigration is assessing its practice concerning use of the internal flight alternative on asylum applications from Iraqi citizens.

As of today, the Norwegian Directorate of Immigration refers Kurdish asylum seekers to internal flight / relocation in the three Northern Governorates under control of the Kurdistan Regional Government (KRG) on condition that the persecutor is not a state actor and that there is no other special circumstances in the case. Generally, we do not refer Kurdish applicants to internal flight to the Northern Governorates unless they have an acquaintance living in one of the three provinces. This is however not an absolute criterion. The Directorate also finds that Christian asylum seekers can be referred to internal flight in the three Northern Governorates without a general requirement of having an acquaintance in the area. Applicants from other minority groups / ethnic groups is as a general rule not referred to internal flight in the Northern Governorates, and asylum seekers are generally not referred to internal flight in other parts of the country. Every case is, however, assessed on individual grounds.

Questions

1. In the context of assessing applications from Iraqi applicants for asylum, do you examine the availability of an internal flight alternative?
2. If yes, under what circumstances, and for which ethnic and minority groups has this concept been found to apply, and for which areas in Iraq?

Answers to Question 1

In the context of assessing applications from Iraqi applicants for asylum, do you examine the availability of an internal flight alternative?

Australia

Consideration of all aspects of a person's claims, including whether internal relocation would lead to the person being safe from persecution and whether the person could reasonably be expected to relocate, is made on a case-by-case basis. Australia does not have a specific policy in relation to internal relocation for Iraqi nationals or any particular subgroups.

When considering the question of internal relocation, decision-makers in Australia are guided by domestic jurisprudence which indicates that for an applicant's fear of persecution to be well-founded, the fear must be well-founded in relation to the country as a whole. A person's fear of persecution will be well-founded with respect to a country as a whole if they cannot reasonably be expected to relocate to a part of the country in which protection is available. The courts have held that in the context of refugee law, the practical realities of relocation must be carefully considered when considering the reasonableness of internal relocation, and that these realities may extend beyond physical or financial barriers to the quality and adequacy of internal protection in terms of civil, political and socio-economic human rights.

Belgium

Yes, but only in very exceptional cases and only for specific groups:
We apply IFA to applicants (1) originating from North Iraq or (2) to Kurds (and Christians in very exceptional cases) from Central/South Iraq.

Canada

We haven't received any information with which we could infer trends at the Immigration and Refugee Board (IRB) with respect to Internal Flight Alternatives (IFA) in Iraq. However, my IRB colleagues have identified two documents said to be quite useful in analyzing the possibility of IFA there:

- IRB's Response to Information Request IRQ102990.E 15 January 2009
Iraq: Overview of the situation of Christians; violence against Christians in Baghdad and the North; displacement; government protection; situation of the Christian minority in the Kurdistan region (2003-2008)

<http://www.unhcr.org/refworld/country,,IRBC,,IRQ,,49913b5e17,0.html>

- UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers (in particular Section C)

<http://www.unhcr.org/refworld/docid/49f569cf2.html>

Denmark

Yes, the Danish [Immigration Service and/or the Danish Refugee Board] do examine the availability of an internal flight alternative [when assessing the asylum claim].

Germany

Yes, but only for northern Iraq and this only under certain conditions (see reply to question 2).

Ireland

The Office of the Refugee Applications Commissioner would consider the availability of an internal flight alternative for Iraqi asylum applicants.

When the issue of internal flight or internal protection alternative (IPA) arises in the analysis of a case, a caseworker would look at the following questions. If *each* question is answered in the *affirmative* then an applicant may be refused refugee status for reason of internal flight or internal protection alternative.

Is the proposed IPA accessible to the individual – meaning access that is practical, safe and legal?

It is generally considered that the Internal Protection Alternative must be a realistically attainable option. For example, if it is dangerous for the applicant to get to the IPA then it cannot be said that the IPA is a practical possibility.

Does the IPA offer an “antidote” to the well-founded fear of being persecuted shown to exist in the applicant’s place of origin?

There must be reason to believe that the reach of the agent of persecution is likely to remain localised outside the designated place of internal protection. In practical terms, a decision regarding the existence of an IPA is a question of (a) the ability of the agent of persecution to be present in the IPA; and (b) the likelihood of pursuit in the IPA - whether the applicant is a prominent activist or relatively anonymous will inform the likelihood of pursuit by the agent of persecution into the IPA.

Is it clear that there are no new risks of being persecuted in the IPA, or of direct or indirect *refoulement* back to the place of origin?

Where the agent of persecution is the national government, there is a strong presumption against finding an IPA

Is at least the minimum standard of affirmative state protection available in the proposed IPA?

The notion of “protection” clearly implies the existence of some affirmative defence or safeguard. Ideally, protection should be provided not by some legally unaccountable entity with *de facto* control, but rather by a government capable of assuming and being held responsible under international law for its actions. If it is not, it raises questions about the durability of the putative solution as well as the reliability and effectiveness of any protection it offers. If the fourth question cannot be answered in the affirmative, IPA is not necessarily ruled out but it should prompt further enquiries regarding the implications this may have for the durability of the IPA or the risk to the individual applicant in question.

Netherlands

At the moment, The Netherlands do not examine the availability of internal flight alternative for Iraqi asylum seekers.

New Zealand

Yes, all claimants who are found to have a well-founded fear of being persecuted for a Convention reason are assessed for the existence of an Internal Protection Alternative ("IPA").

Sweden

Yes, we do.

United Kingdom

Yes - each asylum claim is considered on its individual merits and we take into account whether there is an option available to the individual to internally relocate. Details of the main types of asylum claims made by Iraqi nationals are detailed in the UK Border Agency's Operational Guidance Note for Iraq, which can be found on the UK Home Office web site at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns>

United States

The United States does not have any country specific policies regarding internal relocation for asylum seekers. Rather, the same generally applicable standard is used in all cases to determine whether asylum applicants can reasonably be expected to avoid future persecution through internal relocation. Below you will find the criteria used by the United States to assess the question of internal flight alternatives in all cases, including those of Iraqi applicants.

The United States does not find an applicant for asylum to have a well-founded fear of persecution if the applicant could avoid persecution by relocating to another part of the applicant's country of nationality or, if stateless, the applicant's country of last habitual residence, and if under all the circumstances it would be reasonable to expect the applicant to do so. In cases where the applicant has established that he or she suffered persecution in the past, or where the persecutor is a government or is government-sponsored, there is a rebuttable presumption that there is no reasonable internal relocation alternative. In other cases, the applicant must demonstrate that there is no such relocation option as part of showing a well-founded fear of persecution. United States regulations also provide that internal relocation should only be expected if under all the circumstances it would be reasonable for the applicant to relocate. In determining whether or not an applicant's internal relocation would be reasonable all relevant factors are considered, including: whether the applicant would face other serious harm in the place of suggested relocation; ongoing civil strife within the country; administrative, economic, or judicial infrastructure; geographical limitations; social and cultural constraints such as age, gender health and social and familial ties; and any other factors specific to the case that would make it unreasonable for the applicant to relocate.

Answers to Question 2

If yes, under what circumstances, and for which ethnic and minority groups has this concept been found to apply, and for which areas in Iraq?

Australia

As mentioned above, Australia does not have a specific policy in relation to the viability of internal relocation for Iraqi nationals, or any particular minority or ethnic group within Iraq. As with all other applicants, Iraqi applicants have their claims assessed on a case-by-case basis taking into account relevant country information and the individual circumstances of the applicant.

Belgium

Subsidiary protection (art.15c) is not granted to asylum seekers from North Iraq nor to Kurds/Christians from Central Iraq who can benefit from an internal flight alternative in North Iraq (provided they have a family or community network there). The Internal flight alternative is only applied in very exceptional cases. The UNHCR governorate assessment reports (Erbil, Suleymaniyah and Dohuk) are used as a guideline in analyzing the application and reasonability of IFA.

Canada

See 1.

Denmark

The fact-finding report made by Danish Immigration Service, Danish Refugee Council and the Norwegian Country of Origin Information Centre - Landinfo: Security and Human Rights Issues in Kurdistan Region of Iraq (KRI), and South/Central Iraq (S/C Iraq) see the attached hyperlink, has raised the question if it in some cases is possible to use IFA to KRI. As a consequence all asylum seekers from Iraq are interviewed about their family ties or other relations to this region. The concept has mainly been found [to be relevant] for Kurds from Northern Iraq [on the basis of a concrete and individual assessment of the information provided by the applicant on the asylum issues and on the relation to KRI].

http://www.nyidanmark.dk/da-dk/Nyheder/Nyheder/Udlaendingeservice/2009/Juli/factfinding_iraq-09.htm

Germany

Internal protection (internal flight alternative) in Iraq is an option only in exceptional and individual cases.

Given the existing administrative structure and the comparatively better security and supply situation, northern Iraq (i.e. the provinces Sulaimaniya, Erbil and Dohuk governed by the Kurdistan Regional Government [KRG]) could be an alternative. With a view to the significant migration flows within Iraq in combination with the risk of a destabilization of the region, it is likely that conditions and restrictions will be imposed and that province borders will be closed. On the basis of the circumstances which can be identified or are set forth by the applicant (in particular possible family ties), it must therefore be thoroughly examined and justified for each individual case whether immigration is nevertheless possible.

Possibilities of subsistence at the alternative location depend on the personal circumstances of the person concerned and the current local security and supply situation.

Conditions for internal protection include:

- Accessibility of the area where protection is possible (in this respect, immigration restrictions must be taken into account in particular in northern Iraq);
- A sufficient basis of livelihood, i.e. at least a minimum standard of living must be ensured. As a rule, this is possible only through family, tribe or clan ties. Often it is helpful, or even necessary, that applicants possess and present an original ration card.

Personal circumstances also include the question whether the applicant is sufficiently assertive since new arrivals are usually considered a burden by the resident population and responsible authorities and are thus likely to encounter obstacles and distrust. Therefore, women without family ties and particularly vulnerable persons without relatives can therefore not benefit from internal protection.

Ireland

Firstly, IPA in non Kurdistan Regional Government's (KRG) areas.

Statistics from the Centre for Strategic and International Studies (CSIS) over the last year or two show a dramatic decrease in violence since 2006/2007. Showing a consistent stabilisation of the situation and a reduction in deaths to around 2% of the peak level. Many of the areas are experiencing an average of zero attacks per day, including the KRG and areas like Kerbala and Najaf.

There is much information regarding the hugely improved security situation in Iraq. The main areas of Iraq to safely relocate to would be parts of Baghdad and much of the South, Kerbala or Najaf for example. However, one issue remains is that many Sunni may be reluctant to relocate to Southern Iraq as it is mainly Shia. While there is no real evidence for this fear, considering the causes of the problems in Iraq, this may be a reasonable fear for some applicants despite other applicants stating that Sunni/Shia is not really an issue any more. However, information found in regard to Sunni/Shia states that the violence has virtually halted.

A UK Home Office report in 2009 states The UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers, April 2009 stated that "*As compared with the situation in 2006 and the first three-quarters of 2007, when Iraq saw widespread sectarian violence coupled with a violent Sunni insurgency, intra-Shi'ite fighting, gross human rights violations and a general breakdown of law and order, parts of Central and Southern Iraq have seen significant stabilization since late 2007 and in 2008.*" and gave one development as "Virtual halt of open Sunni-Shi'ite violence;"

In terms of regional security, there is a large decrease of violence throughout Iraq, however, the Northern non-KRG areas (Sulahuddin, Nineveh & At-Ta'mim) are still the worst affected by attacks. This is mainly a Sunni region.

The same report also states: "On 11 February 2009, IRIN News reported on the improvement in security in Baghdad, stating that "For many, life is slowly beginning to return to normal in Baghdad six years after the US-led invasion." A local man commented that "A few years ago I was not able to open my restaurant more than six hours a day due to the security situation, but now we serve clients 15 hours a day." Another stated it was now fine to go out at night."

The US Department of Defence report, December 2008, noted that "Violence is down [in southern Iraq], and the Government of Iraq is firmly in control. Life is returning to normal, children are attending school, and the shops and markets are thriving."

"The situation in [Diwaniyah, Muthanna and Thi-Qar Governorates of the Lower South appears to be relatively stable, and there have been no major security incidents in 2008. Given that the MNF-I presence in these governorates is limited, car bombs, roadside bombs and grenade attacks are infrequent and usually specifically targeted at MNF-I convoys or the major MNF-I base at Tallil Air Station southwest of Nasseriyah."

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"The UNHCR's Guidelines of April 2009 stated that: "Kerbala and Najef are tightly controlled by the ISF and, therefore, outbreaks of violence are relatively rare. Both governorates are sites of great significance to Shi'ite Islam and their holy shrines attract thousands of pilgrims for various religious festivities each year. "

IPA in the Kurdistan Regional Government (KRG) areas.

The KRG consists of three provinces, Dohuk, Erbil and Sulaimania. For Kurds from the area, the UNHCR position paper makes it clear that in general it is safe to relocate within Kurdistan. It also states that 85% of the IDPs in this region are Arabs.

However, the situation for Arabs used to be that internal relocation is not available in the North (KRG Region) due to restrictions.

A UNHCR report on Sulaymania in November 2007 states that; *"In the Governorate of Sulaymaniyah, admission into the Governorate is generally not restricted and does not require a sponsor. Persons arriving in Sulaymaniyah by airplane do not face any entry restrictions (however, this requires that the person has the necessary financial means)."*

In relation to remaining in the area, the document states: *"Persons not originating from the three Northern Governorates wishing to legally remain in the Governorate generally must have a sponsor, who should accompany the person/family to the Directorate of Security (Asayish). He/she will have to undergo a security screening in which the reasons for relocation are investigated. Provided the person is not considered a security risk, he/she will be granted a permit to stay for six months, which is in principle subject to extension."*

In relation to freedom of movement within the area, the UNHCR document states; *"Almost all IDP families surveyed reported no official restrictions placed on their movement and all surveyed individuals (including all women) reported feeling safe."*

The UK Home Office states; "The UNHCR Guidelines of April 2009, stated that "In the three Northern Governorates, there is relatively greater religious and ethnic tolerance, and non-Muslims and members of non-Kurdish ethnic groups are generally respected."

A Danish Fact finding mission in 2009 states; *"An international organisation (A) in Erbil stated that KRI is an oasis of security in Iraq. KRG [and its ruling parties] have a quite efficient intelligence service comprising Parastin, Darastin and Asayish."*

It adds that; *"An international organisation (A) in Erbil stated that the [entry] conditions for Arabs is more relaxed in Dahuk and Sulaymaniyah Governorates than in Erbil Governorate,"*

In relation to permission given to Arabs to remain in the KRG region, the report now agrees with an earlier report from Reuters about the removal of restrictions (<http://www.ekurd.net/mismas/articles/misc2008/12/independentstate2589.htm>).

It confirms that Arabs can now remain in the KRG without sponsorship, which was generally the reason provided by applicant's for not relocating there.

The document states "When asked whether people [IDPs] still need a guarantor to get a residence permit in KRI, an international organisation (A) replied that it did not believe so. However, an ordinary person without work or connection in the region may end up in a camp for IDPs. Such persons may get a residence permit after about six months. An international organisation (A) added that it is not easy to live in such a camp. People who are waiting for their residence permits may stay in an IDP camp or they stay with relatives or in rented apartments.

M. Kaiwan, Responsible for KRG checkpoints, Agency of Kurdistan Protection [and] Security, Ministry of Interior confirmed that there is no longer a need for a sponsor or guarantor to confirm a person's identity if he/she wants to take up residency in KRI."

Netherlands

At the moment, The Netherlands do not examine the availability of internal flight alternative for Iraqi asylum seekers.

New Zealand

New Zealand assesses the availability of an IPA against four criteria on a case by case basis. Such protection is to be understood as requiring:

1. That the proposed internal protection alternative is accessible to the individual. This requires that the access be practical, safe and legal.
2. That in the proposed site of internal protection, there is no well-founded risk of being persecuted for a Convention reason.
3. That in the proposed site of internal protection, there are no new well-founded risks of being persecuted or of being exposed to other forms of serious harm or of *refoulement*.
4. That in the proposed site of internal protection, basic norms of civil, political and socio-economic rights will be provided by the State. In this inquiry reference is to be made to the human rights standards suggested by the Refugee Convention itself.¹

Only if an affirmative answer is given to each of these four elements of the inquiry can recognition of refugee status be withheld.

Generally an assessment will be made considering whether an IPA exists in each region of Iraq. The vast majority of such assessments are made in relation to Iraqi Christian claimants, although the general approaches below would apply to all Iraqi claimants.

Internal protection alternative in the Central and Southern Iraqi Governorates

New Zealand generally follows the UNHCR guidelines indicating that no IPA exists in this region. The UNHCR has stated that:

¹ *Refugee Appeal No. 76044* (11 September 2008) at [178].

Generally, no internal flight alternative will be available because of (i) the ability of non-State agents of persecution to perpetrate acts of violence with impunity, (ii) the ongoing levels of violence in mainly the Central Governorates of Baghdad, Diyala, Kirkuk, Ninewa and Salah Al-Din giving rise to new persecution, (iii) access and residency restrictions, and (iv) the hardship faced in ensuring even the basic survival in areas of relocation.²

The UNHCR has also noted that there are significant risks involved in travelling within the Central and Southern Governorates and that all roads remain potentially dangerous.³ As such, it is considered that there is no IPA safely accessible in central or southern Iraq.

Internal protection alternative in the Northern Iraqi Governorates

New Zealand notes that the UNHCR has indicated that many persons have found refuge in the three Northern Governorates since 2003.⁴ It has observed that travel by road to the governorates of Sulaymaniyah, Erbil and Dahuk is fraught with danger, but travelling from Baghdad to Erbil or Sulaymaniyah by air is considered fairly safe.⁵ As such, it is considered that claimants could safely travel to these two governorates.

However, New Zealand requires the existence of sponsors in the area; in most cases this will be a familial sponsor. This is because the UNHCR has noted that to remain in either of these governorates requires an acquaintance or sponsor from the region. Persons without a sponsor are not permitted to remain permanently.⁶ New Zealand considers that this raises significant doubt whether a proposed IPA in these governorates would be practical or legal in the absence of a sponsor and will generally not consider there is a viable IPA in such cases. If such sponsors do exist however New Zealand may find that there is an IPA available.

In recent years claimants have been almost exclusively Iraqi Christians with the exception of some Sunni and Shia Iraqis from Baghdad fleeing sectarian violence. To date New Zealand has not considered an IPA in this region specifically in the case of an ethnic Kurd. However, New Zealand has considered a case of an ethnic Kurd claiming a well-founded fear in the Kurdish areas. It was found that on the basis of their ethnicity alone ethnic Kurds did not possess a well-founded fear of being persecuted in this region. New Zealand would therefore consider that there is a strong case for the existence of an IPA for Kurds in northern Iraq if the claimant had family/sponsors in the region, although this will turn upon the specific facts of the case.

Sweden

² UNHCR *UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum Seekers* (April 2009), http://www.ecoi.net/file_upload/90_1240823456_unhcr-irq200904.pdf (accessed 15 July 2009) at [90].

³ *Ibid* at [98].

⁴ *Ibid* at [111].

⁵ *Ibid* at [113].

⁶ *Ibid* at [119] and [121].

The Swedish Migration Board (SMB) consider it possible to apply an internal flight alternative for all the provinces in Iraq. For some of the provinces (Babil, Kerbala and Salah-al-Din) there could be travel regulations that can constitute impediments of enforcement of the expulsion from Sweden. If this is foreseen in a individual claim it is not possible to use internal flight.

In a draft of a new Country Profile of Iraq from SMB⁷ the following information could be found.

KRG

The three provinces Erbil, Dahuk and Suleymaniya in the Kurdish region of Iraq (KRG) is considered to be an area where an internal flight alternative could be applied.

Mandaeans and stateless Palestinians

For these categories it is also possible to apply an internal flight alternative. However, this should be applied with caution due to the general vulnerability of the categories.

Families with children and unaccompanied children

To apply an internal flight alternative for these categories there must be a social network for the applicants in that area where SMB indicates the claimants to resettle.

Women

The internal flight alternative should in principle not be applied for women without a network of male relatives.

Lesbian, gay, bi-sexual and transgender (LGBT)

The internal flight alternative should not be applied for LGBT-persons from south and central areas of Iraq. In the KRG-area it could be possible to use in individual cases, provided that the applicants could not avail themselves under the protection of the KRG-authorities.

United Kingdom

The internal flight option is considered for all asylum claims. The Operational Guidance note details at sections 2.10 to 2.16 internal travel within Iraq and at 2.17 to 2.22 the KRG area, including entry requirements.

United States

See 1.

⁷ The aim of SMB's new instrument Country Profiles is to support and give guidance to the case workers in their daily handling of asylum applications. Each individual case handled by case workers should of course be considered on an individual basis.