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European states must stop forced returns to Iraq

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Amnesty International calls on European governments to immediately stop forcible returns to the Iraq provinces of Ninewa (Mosul), Kirkuk, Diyala, Salah al-Din, Baghdad, and to other particularly dangerous areas such as parts of Al Anbar province.

A series of recent attacks causing the deaths of more than 150 people and injuries to hundreds of others in the last two weeks have demonstrated yet again the dangerous security conditions that prevail in Baghdad and many other parts of Iraq.

On 29 October 2010, some 25 people were killed in a café in the Dor Mandila area of Diyala province, which is mainly inhabited by Feily Kurds; on 31 October, more than 50 people were killed after Sunni insurgents seized control of a church in Baghdad holding hostage and then killing worshippers in a clearly sectarian attack; on 2 November, more than 60 people were killed in a series of attacks targeting predominantly Shi'a neighbourhoods in Baghdad; on 8 November, some 20 people were killed in attacks in Basra, Najaf and Kerbela.

In all of these attacks, most of those killed were civilians, many of whom appear to have been targeted on account of their religious faith or affiliation.

Security conditions have deteriorated in recent months as the last US combat troops have been withdrawn (thousands of other US troops remain in Iraq in a training and support role with Iraqi security forces) and there has been a serious political vacuum due to the failure of Iraqi political parties to agree a new government following national parliamentary elections in March 2010. These reflected and exacerbated the sectarian divide and failed to produce a clear winner; since then negotiations towards the formation of a new government have continued between the various political parties without achieving agreement. Any new government that perpetuates current sectarian divisions is likely to face further opposition and violence.

The latest dramatic upsurge in violence shows that Iraq is still a very dangerous place in which armed groups, in particular al-Qa'ida in Iraq and its allies, are capable of inflicting very high numbers of casualties through suicide and other bomb attacks at will and virtually anywhere in the country. In a further disturbing development, scores of former members of the so-called Awakening Councils, Sunni Muslim militia who helped the US forces in their fight against al-Qa'ida in Iraq, are reported to have been joining that armed group in recent months after it issued threats against them and their families.

Since 2009, at least five European countries — Denmark, Norway, the Netherlands, Sweden, and the United Kingdom — have forcibly returned to Iraq hundreds of Iraqis, and possibly some non-Iraqi nationals, whose asylum claims had been dismissed. In the month of September 2010 alone, more than 150 individuals were returned to Iraq from the above-mentioned five European countries. Forced returns have taken place on flights organized by one European state alone or on joint charter flight operations in which several European states have participated. Most removals have taken place in breach of clear guidelines for assessing

the international protection needs of Iraqi asylum-seekers from the UN Refugee Agency (UNHCR) issued in April 2009. The UNHCR has repeatedly reiterated the ongoing validity of its Iraq eligibility guidelines, including as recently as September 2010, calling on states not to forcibly remove anyone to the five provinces of Ninewa (Mosul), Kirkuk, Salah al-Din, Diyala and Baghdad.

Further, on 20 October 2010, during a visit to the Netherlands, Daniel Endres, UNHCR's representative in Iraq, reiterated the agency's objection to the continuing forced returns of Iraqis from European countries. He was reported to have said:

There are about 1000 security incidents a month, that is, more than 30 a day. And that means rockets, bombs, mainly in the centre of the country. Every Iraqi is -- one way or another -- affected by these incidents because they happen almost everywhere.

He added that UNHCR cannot guarantee the safety of anyone who is returned to Iraq: "We have asked all governments not to deport Iraqis in general, and especially not to these areas [Iraq's five most dangerous provinces]."

UNHCR has also reiterated its concern that these forcible removals could send a negative signal to states neighbouring Iraq who continue to host far greater numbers of refugees from Iraq, despite the serious challenges this poses and the impact on their national resources.

Despite this, government authorities in a number of Western European countries, including Denmark, the Netherlands, Norway, Sweden and the UK, have continued to maintain that the security situation in Iraq is "sufficiently safe" to continue enforcing returns of Iraqis whose asylum claims have been dismissed. As a result, on 22 September 2010, for example, over 50 Iraqis were forcibly returned to Baghdad on a charter flight organized jointly by Dutch, Swedish, Norwegian and UK authorities.

Only recently, the Dutch authorities have agreed to temporarily defer the forcible removal of about 15 Iraqis on a flight that was scheduled to leave the Netherlands for Baghdad, on 3 November. The temporary deferral follows an order of interim measures by the European Court of Human Rights on 22 October 2010 asking the Dutch authorities to refrain from returning to Baghdad any Iraqi who challenges his or her return. The Court wrote to the Dutch government on 22 October stating that its decision had been taken:

in view of the increasing number of Rule 39 requests [i.e. for interim measures] made by applicants seeking to prevent their return to Baghdad on single or joint charter flights from European countries and the reported recent deterioration in the security situation in Baghdad and other governorates. Due note was taken of the UNHCR's continuing concern as to the safety of returning Iraqi citizens to Baghdad and certain other governorates of Iraq.

The Court stated that it would consider it appropriate to apply such measures to "any Iraqi challenging his or her return from the Netherlands to Baghdad". The Court has addressed similar requests to the Swedish and UK authorities.

Amnesty International believes that it is not safe to forcibly remove anyone to the Iraq provinces of Ninewa (Mosul), Kirkuk, Diyala, Salah al-Din, Baghdad, and to other particularly dangerous areas such as parts of Al Anbar province. The organization considers that anyone whom the host countries are planning on removing to any the above-mentioned areas of Iraq, whether the individuals concerned originate from those areas or not, should be granted asylum or alternative forms of protection. In those regions of Iraq, as reiterated by the UNHCR, serious risks, including the ongoing indiscriminate threats to life, physical integrity or personal freedom arising from violence or events seriously disturbing public order are all valid grounds for international protection.

Further, when European countries are envisaging removing Iraqis to other areas of Iraq, Amnesty International considers that, in any event, no forcible removals should take place unless and until an individual assessment has been carried out indicating that it would be safe to return the individual in question. Any such assessment should consider, in particular, the viability and safety of the route and method of return within Iraq. Individual safety en route from Baghdad to the destination envisaged by the host country as the eventual place of residence in Iraq should be carefully considered.

Amnesty International calls on European states to grant protection when people would face a real risk of persecution or serious harm en route within Iraq, including a “serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict”

Further, Amnesty International calls on European states to desist from forcibly removing individuals on the basis that they consider the Kurdistan Region of Iraq as constituting an internal flight alternative for all Iraqis. Moreover, European states should respect the position of the Kurdistan Regional Government which has explicitly stated it is opposed to any forcible returns and will only accept people who choose to go back voluntarily.

Amnesty International calls on European states to ensure that no individual is forcibly removed unless and until in each and every case the authorities in the host country can demonstrate that removals will be conducted in safety and dignity and in a rights-respecting manner; and that the individuals concerned will be reintegrated into Iraqi society and their removals are truly sustainable. This would generally require that the person who is to be removed originates from or has a viable social network in the area where the host country envisages that the individual concerned will eventually reside; thus the individual would be able to establish himself or herself there and removal would therefore not be unreasonable.

Amnesty International reminds European states that they are bound by the principle of *non-refoulement*, set out in, amongst others, the 1951 UN Refugee Convention, the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union and other EU law. The *non-refoulement* principle obliges states not to return or otherwise remove people to any country or territory where they would face a real risk of persecution or serious harm, including grave human rights abuses such as indiscriminate threats to life, physical integrity or freedom arising from generalized violence.

In April 2010, Amnesty International issued a report (*Iraq: Civilians under fire*, AI Index: 14/002/2010) highlighting the risks to people returned involuntarily to Iraq, who are among those particularly vulnerable to be targeted with violence.

Amnesty International and the UNHCR have spoken to a number of Iraqis after they were forcibly returned from European states to Iraq in recent months and who now feared for their safety. Amnesty International conducted phone interviews with eight of the more than 30 Iraqis forcibly returned on 30 March 2010 from the Netherlands to Baghdad, including a number of individuals from Baghdad who have not been able to return to their homes and who, out of fear, have been frequently moving from place to place within the city. Other returnees, who did not hail from Baghdad, told Amnesty International that they were now stranded there, as it was unsafe for them to travel onward to their home province.

At least two men forcibly returned from the Netherlands in March 2010 originated from the province of Nineva (Mosul) and both reported that they and their families had been threatened by armed groups with violence. One of them is a 23-year-old Sunni Arab who told Amnesty International that after his forcible removal from the Netherlands he had no means to live elsewhere in the country and therefore ended up returning to live with relatives in Mosul despite fearing for his own safety there. He also reported that he and his family remained at risk of violence, and that one of his brothers had been shot dead by an armed group in Mosul in early 2010. The other is a 22-year-old Shia Turkoman who said he feared returning to his

home in Tal Afar, a mainly Turkoman city where hundreds of civilians have been killed in sectarian and other politically-motivated violence in recent years. For example on 14 May 2010, 25 people were killed when suicide bombers targeted a football field in a Shia neighbourhood of Tal Afar.

New evidence of the violent attacks against civilians by armed groups and security forces involved in the ongoing armed conflict in Iraq was recently published by the Wikileaks organization. The documents covering incidents up to the end of 2009 included a reference to a video obtained by US troops in December 2009 showing an incident in Tal Afar where Iraqi soldiers took a handcuffed detainee out into the street and shot him dead (The Guardian: Iraq war logs: Video shows detainee executed by Iraqi soldiers, 22 October 2010).

UNHCR has been able to establish that at least several among a group of about 61 Iraqis who were returned on 1 September 2010 from Sweden, Denmark, Norway and the United Kingdom were from particularly dangerous provinces, including Baghdad and Mosul (UNHCR: UNHCR concerned at continuing deportations of Iraqis from Europe, 3 September 2010). One person identified by UNHCR was a Christian from Mosul, one of the most dangerous locations in the country where religious minorities – including Christians – remain at high risk of being targeted by armed groups. For example, in the run-up to the parliamentary elections in March 2010 many Christians fled Mosul where in February 2010 alone at least eight Christians were killed (For more details on the targeting of minorities in Iraq see: *Amnesty International: Iraq: Civilians under fire*, AI Index: 14/002/2010). Also among a group of about 56 Iraqis who were returned on 22 September at least nine individuals originated from particularly dangerous provinces of Iraq.

Background information

Hundreds of civilians are still being killed or maimed every month in Iraq, notwithstanding the overall reduction in the civilian death-toll seen since 2008. Perpetrators of human rights abuses in Iraq include armed groups, militias, security forces and members of tribes. The recent publication of US secret and confidential files on the situation in Iraq by Wikileaks has demonstrated again that civilians are the main victims of the ongoing violence in the country.

A recent survey carried out by the UNHCR with about 2300 Iraqis who voluntarily returned to Iraq in recent years found that physical insecurity, economic hardship and a lack of basic public services had led the majority to regret their decision to return. Interviewees pointed to instances of explosions, harassment, military operations and kidnapping occurring in their areas of return as leading to insecurity and personal safety concerns. (UNHCR: UNHCR poll: Iraqi refugees regret returning to Iraq, amid insecurity, 19 October 2010)

Some Iraqis forcibly removed from Europe have alleged that they were ill-treated during their removal; there have also been credible reports of Iraqis being detained on arrival at Baghdad airport, as well as complaints that people have been beaten, deprived of food and threatened by Iraqi security officials whilst in detention after their forcible removal to Iraq.

In practice, the number of Iraqi refugees seeking asylum in European states is relatively small compared to the numbers of those currently residing in states neighbouring Iraq. Syria hosts by far the greatest number of refugees from Iraq, followed by Jordan and other Middle Eastern states.

Amnesty International is concerned that the increasing pattern of forcible returns from the European states sets a very poor example to these Middle Eastern states, whose resources have been stretched by the influx of people fleeing from Iraq, and may contribute to an overall weakening of the international system of refugee protection.

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