Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**325**
Land:	Irak
Kilde:	ECRE
Titel:	”Guidelines on the treatment of Iraqi asylum seekers and refugees in Europe”
Udgivet:	1. april 2007
Optaget på bag-grundsmaterialet:	30. maj 2007

ECRE

EUROPEAN COUNCIL
ON REFUGEES AND EXILES

CONSEIL EUROPEEN
SUR LES REFUGIES
ET LES EXILES

PP2/04/2007/extSHPC

GUIDELINES ON THE TREATMENT OF IRAQI ASYLUM SEEKERS AND REFUGEES IN EUROPE

April 2007

I. INTRODUCTION

The European Council on Refugees and Exiles (ECRE) is a network of 76 organisations in 30 European countries. This paper is in response to the treatment of Iraqi asylum seekers and refugees in Europe.[1] Many Iraqis in Europe face being returned to Iraq on the grounds that they would be safe in specific areas, despite widespread recognition of the unsafe conditions in Iraq, particularly across central and southern Iraq. In addition, some European states are denying and / or withdrawing Iraqis' refugee status or other forms of international protection.

This paper concerns Iraqi asylum seekers and refugees in Europe, the voluntary return of Iraqis who have refugee or subsidiary forms of protection[2] status, those with temporary protection status and those who are in the process of applying for protection, including those who have received a negative first decision and are engaged in an appeal process. It also looks at the mandatory and forced return of Iraqis whose asylum applications have been rejected,[3] and the situation of Iraqis who cannot be returned.

Since 1980, the Iraqi people have been constantly affected by war (1980-1988, 1990/1991, since 2003) or economic sanctions (1991-2003). Additionally, the area which is now under the constitutionally recognised authority of the Kurdish Regional Government (KRG) has also seen civil war from 1994 to 1998. Since the release of ECRE's March 2006 Guidelines, there has been a further deterioration in the security situation in Iraq, particularly across central and southern Iraq. While there are differences in the levels of insecurity, for example when comparing the relatively stable KRG - controlled area of northern Iraq to that of central and southern Iraq, which is particularly unstable, the problem of lack of protection still exists in all parts of Iraq. Ongoing sectarian attacks, abductions, kidnappings, killings and other criminal activities are transforming the social and demographic make-up of Iraq, particularly in urban areas, fragmenting the country along religious and ethnic lines. The overall situation can be characterised as one where generalised violence and human rights violations are prevalent. The ability of the Iraqi government to protect its population is undermined, in some cases it has been lost (e.g. in Anbar, the biggest province) and there is only a nascent security and political structure which is being disrupted by internal political divisions, as well as the daily killings of civilians. The current infrastructure does not adequately support the upholding of the rule of law or the protection of human rights.[4]

According to UNHCR, there are at least 1.9 million Iraqis displaced internally, and up to 2 million in neighbouring states. Many were displaced prior to 2003, but a dramatic exodus is taking place right now. Some 730,000 Iraqis have fled to other areas inside Iraq during 2006 alone – largely due to the increased sectarian violence sparked by the Samarra bombings in February 2006. Estimates suggest that internal displacement is continuing at a rate of 40,000 to 50,000 a month.[5] Thousands of Iraqi asylum seekers are now moving beyond the immediate region, including to Europe. UNHCR statistics show that the number of Iraqi asylum seekers lodging an asylum claim in industrialised countries has nearly doubled between early 2004 and early 2006[6] and ranked first in the number of asylum applications lodged in the world's industrialised countries in 2006.[7] With some 22,200 asylum claims lodged by Iraqi citizens during 2006, the number increased by 77% compared to 2005 (12,500). [8]

Throughout Europe the treatment of Iraqis seeking international protection continues to vary considerably. A few European countries have increased the protection afforded to Iraqi nationals, some have withdrawn protection from Iraqi refugees, whilst others are simply not granting any status to Iraqis. It seems that Sweden is currently one of the only European countries granting refugee status or some kind of subsidiary protection to almost all Iraqi asylum claims. The serious divergence in the current policies towards Iraqi asylum seekers continues to undermine the creation of a level playing field across Europe and poses questions about the extent to which the European Union's goal of creating a Common European Asylum System by 2010 is a realistic and tangible objective.[9] But even more importantly the overriding trend to maintain or increase the low levels of recognition of Iraqis in need of protection once again raises concerns about the impact of the EU asylum harmonisation to date. The collection and publication of accurate, comparable and comprehensive statistics on the treatment of Iraqis in EU Member States would be a first step in addressing these problems.

Addressing the crisis of displacement from Iraq is a massive and lasting challenge. The political, social and financial impact on Iraq, the region and the rest of the world will be felt for many years to come. ECRE is therefore urging countries beyond the immediate region to help carry the humanitarian burden through both financial and practical assistance, and by implementing humane policies and practices towards Iraqi asylum seekers and refugees on their own territory.[10]

II. KEY RECOMMENDATIONS

1. All Iraqi asylum claimants in Europe must be given the opportunity to lodge an asylum application and have it processed with minimum delay, respecting procedural safeguards.[11] These applications should be dealt with on an individual basis, in order to identify and recognise their status. This should include either refugee status in accordance with the 1951 Refugee Convention[12] or a subsidiary form of protection for those who fall outside a full and inclusive interpretation of the terms of the 1951 Refugee Convention,[13] in order to ensure they access their human rights under international law. European countries should take due account of all persecution, including that stemming from non-state actors when assessing Iraqi asylum claims.[14] EU Member States should adhere to at least the minimum standards provided in the EC Qualification Directive, [15] or risk breaching their European legal obligations.

2. Given the evident insecurity throughout Iraq and the inability of the Iraqi government to provide adequate and sustainable protection, ECRE opposes any use of the Internal Protection Alternative (IPA) notion in the consideration of claims from Iraqi asylum seekers. ECRE urges European states to refrain from applying an IPA to Iraqi asylum seekers originating from any part of Iraq, since an individual who relocates to an area from where he/she does not originate would likely face serious ongoing difficulties such as lack of protection, high unemployment rates, lack of access to basic services and/or lack of community or tribal support. It would also place an unacceptable strain on Iraq's limited absorption capacity, in light of the existing number of IDPs.

3. EU Member States are urged not to transfer people under the Dublin II Regulation, [16] if it is known that that country does not properly consider Iraqi asylum claims. This can be achieved by using Article 3 (2) of the Dublin II Regulation. Neither should Iraqi asylum seekers be transferred to EU countries where there are protection concerns with respect to the treatment of Iraqi asylum claims.

4. ECRE calls for a suspension of the forced and mandatory return of Iraqis to any part of the country, including northern Iraq.[17] Reports from the UN, international organisations and NGOs continue to emphasise that Iraq remains unsafe, including parts of northern Iraq, with many groups continuing to suffer persecution. No returns should therefore be undertaken until there is an effective and sustainable infrastructure in Iraq to uphold the rule of law and respect human rights.

5. All European countries should grant Iraqis who do not qualify for a protection status, a legal status (temporary or permanent depending on their circumstances) up to the time of their actual departure from the host country. This status should afford them their human rights and a dignified standard of living in the host country,[18] including rights to housing, health, employment, and education.

6. At a time when the displacement of Iraqis from Iraq is now ''*the fastest-growing refugee crisis in the world*'',[19] European countries are urged to follow the recommendations of the European Parliament and others and show solidarity with countries in the region who are hosting the overwhelming majority of Iraqi refugees, by offering a significant number of resettlement places in Europe to Iraqi refugees who are in the region and are in need of resettlement according to UNHCR's criteria. Places should be made available through existing resettlement programmes or on an *ad hoc* basis, either individually by countries or collectively through the EU.[20]

III. IRAQI ASYLUM SEEKERS AND REFUGEES IN EUROPE[21]

European countries host sizable numbers of Iraqi refugees and indeed the number of asylum applications by Iraqis in Europe continues to rise due to the persistent lack of security and protection in Iraq.

Iraqi asylum seekers

During the first six months of 2006, Iraq was the country of origin with the second highest number of asylum applications in the 36 most industrialised countries. Asylum claims submitted by Iraqi citizens in the first half of 2006 increased by almost 50% from 5,800 to 8,500 as compared to the same period in 2005.[22] In the EU, asylum applications lodged by Iraqis ranked first for the first and second quarter of 2006, and showed an increase of 106% between the first half of 2004 and the first half of 2006.[23] Asylum claims by Iraqis to the Nordic region of Europe showed an increase of 235% between the first half of 2004 and the equivalent period in 2006.[24] Based on trends from the first two months of the year, the number of Iraqi refugees arriving in Europe is expected to double to 40,000 in 2007.[25]

In 2006, almost 9,000 Iraqis applied for asylum in ***Sweden*** – 40% of all Iraqi asylum claims in Europe - due to the 70,000 Iraqi migrants already living in Sweden (an important factor for country of destination determination, as many will be trying to join families and friends).[26] Sweden was followed by the ***Netherlands*** (2,800), ***Germany*** (2,100) and ***Greece*** (1,400) as top destinations in industrialised countries in 2006 by Iraqi asylum seekers.[27]

Disregarding Sweden, other European countries have become increasingly restrictive and UNHCR has put the overall approval rate for Iraqi asylum claims at just 10%.[28] To exemplify, ***Sweden*** approved more than 80% of the 9,065 Iraqi asylum requests during 2006, while the ***United Kingdom*** rejected 1,675 out of 1,835 requests from Iraq in 2005.[29] Other statistics provided by EU governments to UNHCR show the following numbers of Iraqi asylum requests granted refugee status or some other form of protection during 2006:

Austria: 53 (74%); ***Belgium*** 9 (13%); ***Cyprus*** 43 (80%); ***Germany*** 8 (11%); ***Ireland*** **(**81%), ***the Netherlands*** 19 (25%); ***Romania*** **(**47%).[30] (See Annex III and IV for further information)

Since September 2005, ***Switzerland*** has been granting all Iraqi asylum seekers subsidiary protection status, while Iraqi asylum seekers whose initial claims had earlier been rejected can be granted subsidiary protection status upon request. ***Sweden*** grants Iraqi asylum seekers either refugee status or subsidiary protection. In ***Austria***, ***Cyprus*** and ***Finland*** Iraqis are likely to get subsidiary protection, while in ***Belgium*** and ***France*** only Iraqis from central or southern Iraq receive subsidiary protection. In ***Croatia***, Iraqis are granted the right to temporarily reside in the country on humanitarian grounds. In the ***United Kingdom*** only a very small number of Iraqi asylum seekers receive subsidiary protection and many fewer receive refugee status.[31]IN Denmark and Germany most Iraqi asylum applications are also rejected.

Until February 2006, there was a policy in ***the Netherlands***, under which all Iraqis from central and southern Iraq, who did not individually qualify for protection, fell under a general protection scheme, which gave them the same rights as refugees. The government abolished this general protection referring to policies in Belgium, Denmark, the United Kingdom and Switzerland but then reinstated this policy on 2 April 2007.

In ***Norway***, since 2004, Iraqis originating from central Iraq have been granted a protection or humanitarian status, while people from northern and southern Iraq have normally had their claims rejected. No Iraqi asylum seekers have been granted temporary protection status.

In the ***Slovak Republic*** most asylum claims are simply closed or rejected and none are receiving refugee status. So far in 2007, just a few have received subsidiary protection.

The ***Greek*** authorities have suspended the examination of applications submitted by Iraqis over the last 4 years, but only at second instance, following appeal. However, decisions taken at first instance are mainly negative. There is also no official policy of granting Iraqis a humanitarian status.[32]

While not the full picture, these examples demonstrate the difference in European countries' approaches and the relatively low number of Iraqis receiving a protection status in Europe.

Recommendations:

1. All Iraqi asylum claimants in Europe must be given the opportunity to lodge an asylum application and have it processed with minimum delay, respecting procedural safeguards.[33] These applications should be dealt with on an individual basis, in order to identify and recognise their status. This should include either refugee status in accordance with the 1951 Refugee Convention[34] or a subsidiary form of protection for those who fall outside a full and inclusive interpretation of the terms of the 1951 Refugee Convention,[35] in order to ensure they may access their human rights under international law. European countries should take due account of all persecution including that stemming from non-state actors when assessing Iraqi asylum claims.[36] EU Member States should adhere at least to the minimum standards provided in the EC Qualification Directive, [37] or risk breaching their European legal obligations.

2. ECRE is concerned at the large variances between European countries in the recognition rates of Iraqis and especially alarmed by the low recognition rate of Iraqis in some European countries. EU Member States with low recognition rates for Iraqi asylum claims should review their asylum procedures and bring them in line with the best practice of their European partners, in order to ensure that the protection needs of Iraqi asylum seekers in Europe are met.

3. ECRE rejects the presumption that applications are deemed to be 'manifestly unfounded' on the basis of the establishment of an Iraqi government and an Iraqi constitution, as to date these have been unable to ensure an effective rule of law or the respect of human rights in Iraq. Even if the security situation is

better in the KRG-controlled area of northern Iraq, there are still individuals at risk of persecution and so their claims should be properly considered.[38]

4. Given the evident insecurity throughout Iraq and the inability of the Iraqi government and the Kurdish Regional Government to provide adequate and sustainable protection to everyone, ECRE opposes any use of the Internal Protection Alternative (IPA) notion in the consideration of claims from all Iraqi asylum seekers. ECRE urges European states to refrain from applying an IPA to Iraqi asylum seekers originating from all parts of Iraq, since an individual who relocates to an area from where he/she does not originate, would likely face serious ongoing difficulties such as the lack of protection, high unemployment rates, lack of access to basic services and/or lack of community or tribal support. [39] It would also put an unacceptable strain on Iraq's limited absorption capacity.

5. EU Member States are urged not to transfer people under the Dublin II Regulation, [40] if it is known that that country does not properly consider Iraqi asylum claims. This can be achieved by using Article 3 (2) of the Dublin II Regulation. Neither should Iraqi asylum seekers be transferred to EU countries where there are protection concerns with respect to the treatment of Iraqi asylum claims.

6. Member States need to look at all measures to facilitate access to Europe for Iraqi refugees, including the relaxation of the current visa restrictions for Iraqis, family reunion rules, and through issuing humanitarian visas.

7. Iraqis who are not granted refugee status or a form of subsidiary protection status should not be returned from Europe. All European countries should grant Iraqis who do not qualify for a protection status a legal status (temporary or permanent depending on their circumstances) up to the time of their actual departure, which affords them their human rights and a dignified standard of living in the host country.[41]

Iraqi refugees

Despite the ongoing violence and insecurity in Iraq, the ***German*** authorities since 2004 have revoked the refugee status of around 20,000 Iraqis granted protection during Saddam Hussein's reign.[42] It seems that the German government is holding on to its previously held position that Iraqi refugees fear for their life and their health because of the general insecurity in Iraq and not because of an individual fear of persecution.[43] Germany is the only European country that has taken such drastic measures.

Iraqis in Europe will understandably be concerned for their relatives who are displaced internally or fleeing Iraq. In line with the right to family life, family reunification should be facilitated as much as possible by European countries. In particular, requests for family reunification by Iraqis with a protection status in Europe should be considered favourably.

Recommendations:

8. European countries must not prematurely 'downgrade' or withdraw protection from Iraqi refugees. Before taking the serious step of withdrawing refugee status European countries should ascertain that the refugee can effectively, genuinely and voluntarily re-avail him/herself of the protection of the country of origin as prescribed in international refugee and human rights law. This is not presently the case in Iraq. Moreover, a settled status is an important factor ensuring successful integration into the asylum country and eventual re-integration into the home country.[44]

9. In the case of Iraqis, states should include the 'compelling reasons' exception to cessation set out in Articles 1 C (5) and (6) of the 1951 Refugee Convention.[45] ECRE agrees with UNHCR that this 'humanitarian principle' should prevent cessation being applied to refugees who are able to invoke compelling reasons arising out of previous persecution for refusing to avail themselves of the protection of the country of

nationality.[46] Even if the withdrawal of refugee status is permissible, European countries should ensure that no Iraqi with long-standing and strong ties to the host society is deprived of a legal right to remain in Europe.[47]

10. European states are urged to relax the rules of family reunion for people with relatives from Iraq, including Iraqi refugees and persons with subsidiary protection in the EU.

IV. RETURN FROM EUROPE

Voluntary return of Iraqis

International cooperation with countries of origin in a spirit of solidarity at all stages of the return process is a pre-requisite to achieving sustainable return.[48] It is very important to assess the absorption capacity of the country of origin in relation to e.g. levels of damage to infrastructure (e.g. roads, hospitals, schools, housing, sanitation, and water sources), the extent of military and insurgent presence, the scale of internal displacement, the availability of arable land and housing.[49]

Returnees to Iraq are particularly affected by the difficult economic and humanitarian conditions. The specific problems are, *inter alia*, a lack of employment possibilities, difficulties obtaining documentation and accessing education due to the non-recognition of educational qualifications and certificates earned abroad, and inadequate health care facilities.[50]

Recommendations:

11. In view of its extremely limited absorption capacity, the burden on Iraq should not be increased through returns from Europe. European states are strongly urged to postpone the introduction of measures that are intended to promote voluntary returns. Any return should be 'facilitated'[51] for Iraqis who indicate a strong desire to return. Returnees should be given the necessary information to make an informed choice. Information should cover whether or not conditions for safe and sustainable return are in place in the country of origin, the rights guaranteed, as well as any options for exercising the right to remain in the host country.[52] The promotion of voluntary return should only take place once an assessment of the situation in Iraq shows that the necessary conditions of return in safety and dignity exist, including *"physical, legal and material safety''*.[53]

12. If the Iraqi government and / or the Kurdish Regional Government raise concerns about their absorption capacity these should be taken very seriously. Any voluntary returns to Iraq from Europe should be gradual and staggered. A premature influx of returns from Europe to Iraq could worsen the situation for IDPs, refugees, and the local population in Iraq, and might also lead to the renewed displacement of returnees.

Mandatory and forced return of Iraqis[54]

Forced returns to the KRG-controlled area of northern Iraq risk destabilising the rather fragile political situation there, as well as adding to the strain on resources.[55] On 22 February 2007, the Kurdish Regional Government reiterated its opposition to the forcible return of Kurdish asylum seekers from Europe. It stated that it would not cooperate with countries seeking to return Kurdish refugees to northern Iraq by force.[56] This statement came in light of the recent forced return of 38 Iraqis to the KRG-controlled area of northern Iraq by the ***British*** authorities.[57] Amongst European states, the ***United Kingdom*** has sent back the highest number of Iraqis. All of them came from and were returned to the KRG-controlled area of northern Iraq, which it regards as sufficiently stable.[58] For the time being, they are not enforcing the return of women or children nor will they separate families.

Two Iraqis have been forcibly returned from ***Norway***, and five Iraqis are currently awaiting forced return to northern Iraq (Erbil (Arbil)). They have all been convicted of serious crimes, and served prison sentences. ***Switzerland*** has also returned Iraqi men who committed criminal offences, to northern Iraq. In 2006, 49 Iraqis were transferred from Switzerland to a third country. As authorities are withdrawing staying permits and increasing pressure on Iraqis to return, quite a few have left the country.

In December 2006, the *Dutch* Parliament halted deportations to central and southern Iraq and requested a policy review based on new information received by the country of origin research undertaken by the Ministry of Foreign Affairs.

Reports confirm that ***Germany*** is planning to return Iraqis as soon as possible – negotiations between the German and Iraqi authorities and the KRG started in the summer of 2006. In addition, in November 2006 Germany declared that northern Iraq was safe for the return of Iraqis and was planning to first return those with criminal records. Iraqi refugees are reporting that they are increasingly being pressured to 'voluntarily' return to Iraq[59] (which ECRE defines as mandatory return).

The following European countries are <u>not</u> forcibly returning any Iraqi nationals to Iraq: ***Austria, Belgium, Croatia, Cyprus, Denmark, Finland, France,***[60] ***Greece, the Netherlands, the Slovak Republic*** and ***Spain.***

In the ***United Kingdom***, Iraq asylum seekers whose cases are rejected are initially offered a voluntary return package under the International Organisation for Migration's (IOM) Voluntary Assisted Return and Reintegration Programme (VARRP). Due to the fact that many have seen the withdrawal of their minimum support level that was previously given to them, a significant number of Iraqis have opted to return with the help of the IOM.

Recommendations:

13. ECRE calls for a suspension of forced and mandatory returns of Iraqis to any part of Iraq, including the area controlled by the Kurdish Regional Government in the north.[61] A suspension should remain in place until the security situation significantly improves and the state authorities can ensure that human rights are respected and the rule of law upheld. These conditions do not exist at present, including in northern Iraq.[62] There are still some protection concerns in the northern KRG-controlled area, which continues to face serious problems related to its fragile political, social and economic situation. Therefore, there should be no returns until there are effective and sustainable infrastructures to support return. Returns by European states also risk triggering forced returns to Iraq from countries in the region which would further destabilisation within Iraq and the region.[63]

14. In accordance with international solidarity and responsibility-sharing principles European states should not forcibly transfer Iraqi asylum seekers to third countries in the region, regardless of their prior stay or transit in these countries, as this would be an intolerable addition to the pressures they currently face.[64]

The situation of Iraqis who cannot return

European governments are mostly unable to undertake large-scale returns due to the unsafe conditions in Iraq. Yet some European countries do not grant any kind of protection status or other legal status to former asylum seekers awaiting return thereby leaving them in a legal 'limbo', in an irregular situation with few or no rights and without any possibility of receiving support or permission to work in order to survive.[65] The general situation is that the vast majority of Iraqi asylum seekers, whose claims have been rejected but cannot be returned right now, are denied any entitlements to welfare support, housing and non-emergency health care, as well as denied the right to work.

In ***Norway***, Iraqis whose cases have been rejected are allowed to stay in reception centres and are given very basic subsistence, but they are not allowed to work unless they sign up for the IOM's voluntary return programme.

In ***Germany***, those with a 'tolerated' permit to stay are experiencing ''*sharply restricted*'' work options and social welfare.[66] Similarly, in ***Finland*** the temporary permits given to Iraqis, do not grant them the right to work, to education, to integration programmes, or the right to access any social or health services.

In ***Romania***, Iraqi asylum seekers whose claims have been rejected are granted a temporary 'tolerated status'. However, they do not have any civil rights or medical insurance.[67]

In the ***Slovak Republic***, Iraqi asylum seekers whose claims have been rejected can be granted a 'tolerated residence' status. This status can be granted for a maximum of 180 days and can be extended, upon request, for another 180 days indefinitely.

In some EU Member States Iraqi asylum seekers whose applications have been rejected can stay in reception centres or can access housing, but in others they cannot and many end up homeless.[68]

There is growing evidence of the fact that Iraqis, who have been refused asylum in ***Denmark*** and the ***United Kingdom***, are becoming destitute.[69] It is estimated that almost 600 Iraqi asylum seekers whose cases have been rejected are living in a 'limbo' situation in Denmark. The Danish Refugee Council (DRC) is currently reviewing these unsuccessful Iraq cases on an individual basis to explore the possibility of humanitarian stays being granted, while at the same time recommending the granting of some kind of residence permit for Iraqis. Recent polls have shown that an overwhelming majority of people in Denmark were in favour of improving conditions for Iraqis (e.g. through allowing work permits) and two thirds were in favour of granting them some kind of temporary residence permit.

Additionally, there are people with a legal status in Europe that may soon expire and who will therefore be required to renew their permit to stay or return to Iraq, e.g. students and workers. Such people should not be required to leave if they do not wish to, or if they consider they may not be safe on upon return and/or may e.g. have become refugees *sur place*. All European states have a responsibility under the 1951 Refugee Convention to provide protection to persons who may have become refugees while on their territory. Allowing other Iraqis to remain in Europe a while longer would also constitute an expression of solidarity and responsibility sharing with Iraq and its neighbouring countries.

Recommendations:

15. European countries should maintain or grant a legal status (temporary or permanent depending on their circumstances) to all Iraqi nationals facing the eventual possibility of being returned, including former asylum seekers, up to the time of their actual departure from the host country. [70] This status should afford them their human rights and a dignified standard of living in the host country, including rights to housing, health, employment, and education.[71]

16. European states are urged to extend visas (e.g. tourist visas, work permits, student visas) to Iraqis who are currently in Europe and thus demonstrate responsibility sharing with Iraq and its neighbouring countries. Those who may have become refugees *sur place* should have the opportunity to access an asylum procedure and should have their permit to stay renewed.

V. RESETTLEMENT[72]

Resettlement is first and foremost, an international protection tool to meet the needs of refugees whose life, liberty, safety, health and other fundamental human rights are at risk in the country where they have sought refuge. Resettlement becomes the only possible durable solution if a refugee cannot locally integrate in their country of first asylum and there is no prospect of repatriation in the medium to long-term.[73] This is increasingly the case for a vast majority of the displaced from Iraq, where the immediate and medium-term solutions involve often inadequate, if any, forms of protection in surrounding countries. Moreover, neighbouring countries are increasingly over-stretched in terms of resources and basic service delivery to refugees on their territory.

Significantly increasing the resettlement opportunities for Iraqis to Europe would help to protect the most vulnerable individuals and groups; respond to immediate protection concerns before more people find themselves in protracted refugee situations; and demonstrate solidarity and responsibility sharing of the international community towards countries in the region.

Over the past three years, 1,200 people from Iran, Sudan and Palestine, stuck at that border and unable to return to their country of origin or to enter Jordan, have been resettled to third countries, mainly the USA, Canada, New Zealand and Australia.[74] The United States recently announced it would take in 7,000 refugees from Iraq's neighbouring states, after admitting fewer than 500 over the past three years.[75] It is apparently already processing newly referred Iraqi cases in Turkey, Syria and Jordan and will accelerate and expand into other countries.[76] Canada recently agreed to resettle 63 Palestinian refugees who were living in the Ruweished camp at the Iraq-Jordan border.[77]

Since 2004 fewer than 100 Iraqis have been resettled to Europe each year.[78] Finland and Norway agreed to re-engage with resettlement activities from Turkey for Iranian/Iraqi refugees at the end of 2006, while Sweden will continue to resettle small numbers of Iraqi refugees from Syria and Jordan.[79] Many NGOs and UNHCR have called on governments beyond the immediate region to resettle Iraqis and Palestinians from neighbouring countries.[80] UNHCR also recently stated that it intends to submit 20,000 Iraqi refugees for resettlement by the end of 2007,[81] assessed according to but not limited to the following: victims of severe trauma or violence; religious or ethnic minorities who are targeted; unaccompanied children; medical cases; stateless persons; Iraqis connected to governmental or international organisations; and Iraqis at immediate risk of *refoulement.*

Still only seven European countries have national resettlement programmes: Sweden, Finland, Denmark, The Netherlands, the United Kingdom, Ireland, and Norway.[82] The European Commission recently stated that it would come up with proposals on how the EU could respond to the current Iraqi refugee crisis. It is expected to appeal to EU Member States to do more to help the thousands of Iraqi refugees.[83] The European Parliament has appealed to Member States and the international community ''*to contribute to the resettlement of Iraqi refugees and stateless persons.*''[84]

Recommendations:

17. European countries are urged to offer a significant number of resettlement places in Europe to Iraqi refugees who are in the region deemed in need of resettlement according to UNHCR's criteria. Places should be made available through existing resettlement programmes or on an *ad hoc* basis, either individually by countries or collectively through the EU.[85] The resettlement of Iraqis would serve as a tangible demonstration of international solidarity and responsibility sharing with those countries who that are hosting the overwhelming majority of Iraqi refugees e.g. Jordan and Syria.

18. The resettlement of Iraqi refugees in the region should not negate or undermine the right to seek and enjoy asylum in Europe. Resettlement is not and should not be considered a potential substitute for states' obligations under international and European law to consider applications for asylum on their territory. Nor should any Iraqi resettlement programme undermine already existing resettlement commitments for other refugees in need of resettlement.

19. Resettlement alone cannot and should not be seen as the only means of addressing the protection needs of Iraqi refugees in the region. Resettlement should be approached as part of a comprehensive protection and durable solution strategy that benefits all refugees, not just those eligible for resettlement. The strategic use of resettlement should therefore facilitate access to other durable solutions for the remaining refugees. EU Member States are requested to offer urgently needed financial assistance to countries of the region to this end.

VI. CONCLUSION

Given the acute and long-term humanitarian emergency in Iraq and the current differences in the treatment of Iraqi asylum seekers within Europe, ECRE urges European countries to do all that they can to alleviate the humanitarian situation in Iraq by:

- Ensuring access to Europe, including entry at the borders, for displaced Iraqis and other third country nationals fleeing the violence in Iraq, so they may seek asylum;

- Giving all Iraqi asylum claimants in Europe the opportunity to lodge an asylum application and have it processed with minimum delay, respecting procedural safeguards;

- Refraining from applying an Internal Protection Alternative to Iraqi asylum seekers originating from any part of Iraq;

- Not transferring people under the EU's Dublin II Regulation, if it is known that that country does not properly consider Iraqi asylum claims or that there are protection concerns with respect to the treatment of Iraqi asylum claims;

- Suspending any forced or mandatory returns of Iraqis to any part of Iraq, including the Kurdish Regional Government controlled area in northern Iraq;

- Granting Iraqi asylum seekers whose applications have been rejected a legal status (temporary or permanent depending on their circumstances), which affords them their human rights and a dignified standard of living in the host country including entitlement to housing, health, employment, and education, in order to prevent them becoming destitute;

- Offering a significant number of resettlement places in Europe for Iraqi refugees in the region deemed in need of resettlement according to UNHCR's criteria, through existing resettlement programmes or on an ad hoc basis, either individually by countries or collectively through the EU.

ECRE, 18 April 2007

[1] This paper is an update of ECRE's 2006 *Guidelines on the treatment of Iraqi asylum seekers and refugees in* Europe, March 2006. It should be read in light of other ECRE positions, in particular ECRE's series of papers entitled 'The Way Forward: Europe's role in the global refugee protection system': *The Return of Asylum Seekers whose applications have been rejected in Europe* (2005), *Towards Fair and Efficient Asylum Systems in Europe* (2005), *Guarding Refugee Protection Standards in Regions of Origin* (2005), and *Towards a European Resettlement Programme (2005);* and ECRE's *Position on Return* (2003), *on The Interpretation of Article 1 of the Refugee Convention* (2000), *on Complementary Protection* (2000), and *on Detention of Asylum Seekers* (1996).

[2] Subsidiary forms of protection here refers to the definition as covered in Article 15 of the *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted,* other forms of complementary protection granted to individuals whose return would be in breach of states obligations under international law, and wider forms of discretionary leave granted to individuals who cannot return because of their particular circumstances.

[3] ECRE defines three different categories of return: voluntary, mandatory and forced. Voluntary return is used with regard to Convention refugees, other persons with a complementary or temporary protection status, or persons still in the asylum procedure or with a legal right to remain who freely choose to exercise their right to return to their country of origin or habitual residence. The term 'mandatory return' is used for persons who no longer have a legal basis for remaining in the territory of a country for protection-related reasons and are therefore required by law to leave and whereby a person consents to return to his/her country of origin instead of staying illegally or being forcibly removed. It also applies to individuals who although not having freely consented to leave, they have been induced to do so by means of incentives or threats of sanctions. The term "forced return" describes the return of persons who are required by law to leave but have not consented to do so and therefore might be subject to sanctions or force in the form of restraints in order to effect their removal from a country. See ECRE's *Position on Return*, October 2003, paras. 7-10.

[4] For the latest detailed account of the situation of the 'rule of law' and the 'human rights' situation in Iraq, see UN Assistance Mission for Iraq's (UNAMI) bi-monthly *Human Rights Reports.*

[5] UNHCR, *Briefing* Notes, 10 April 2007 and 20 March 2007; and UNHCR, *Guterres welcomes U.S. support for Iraqi refugees*, 15 February 2007.

[6] UNHCR, *Asylum levels and trends in industrialized countries - Second Quarter 2006*, September 2006.

[7] UNHCR, *Asylum levels and trends in industrialized countries, 2006*, 23 March 2007.

[8] *Ibid.*

[9] To exemplify, several European countries have not yet implemented the Qualification Directive setting out who should qualify for refugee status or 'subsidiary protection' in the EU and what rights they are entitled to. By March 2007, only 16 out of the 27 EU Member States had notified the European Commission of its plan to transpose the Qualification Directive, although they were supposed to have transposed it by October 2006.

[10] See also European Parliament Resolution on the *Humanitarian situation of refugees from Iraq*, P6_TA-PROV(2007)0056, 15 February 2007, recommendations 2 & 4; Amnesty International UK, *Iraq: US, UK and other states must protect Iraqi refugees*, 10 February 2007; UNHCR, *UNHCR launches new appeal for Iraq operations*, 8 January 2007*;* Refugees International, *Iraqi Refugee Crisis: International Response Urgently Needed*, 5 December 2006; and UNHCR, *Global Appeal 2007 – Iraq*, November 2006. Sweden's Migration and Asylum Policy Minister, Tobias Billström, recently said that *'there must be solidarity between EU states so that more of us share the responsibility for offering protection to refugees.'* See European Voice, *Commission seeks to help Sweden with Iraqi refugees*, 22-28 February 2007.

[11] ECRE's *Guidelines on Fair and Efficient Procedures for Determining Refugee Status*, September 1999 and UNHCR's 1979 *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, HCR/IP/4/Eng/Rev.1, Reedited January 1992. UNHCR in its most recent Return Advisory states that 'Iraqi asylum seekers from Southern and Central Iraq should be favourably considered as refugees'. See UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 3.

[12] 1951 Convention relating to the Status of Refugees.

[13] ECRE believes that complementary protection should include, amongst others, persons who have fled their country, and/or who are unable or unwilling to return there, because their lives, safety or freedom are threatened by generalised violence, internal conflict, massive violation of human rights or other circumstances which have seriously disturbed public order. See ECRE's *Position on Complementary Protection*, September 2000, para.14. UNHCR in its most recent Return Advisory recommends that a complementary form of protection should be granted in case an Iraqi asylum

seeker is not recognised as a refugee. See UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p.4 and Amnesty International EU Office, *Statement to the Committee on Immigration and Asylum meeting of 15 March 2007 on the situation of Iraqi asylum seekers and refugees in the EU and in the countries neighbouring Iraq*, 13 March 2007.

[14] This is required by the EC *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or a person who otherwise need international protection and the content of the protection granted*, Art. 6 (c). See also ECRE's *Position on Complementary Protection*, September 2000, para.21.

[15] *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.*

[16] *Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.*

[17] UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 4.; Council of Europe Committee of Ministers, *Twenty guidelines on forced return, May* 2005, Guideline 2 (CM (2005) 40); and ECRE *Information Note on the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*, October 2004, p.8.

[18] See ECRE, *The Way Forward: Europe's role in the global refugee protection system': The Return of Asylum Seekers whose applications have been rejected in Europe*, June 2005, Recommendations 15-17.

[19] Refugees International, *Iraq: The World's Fastest Growing Refugee Crisis*, 14 February 2007.

[20] ECRE-ProAsyl, *Fluechtlingsexodus aus dem Irak – Europa schaut weg*, Press Release, 12 April 2007; European Parliament Resolution on the *Humanitarian situation of refugees from Iraq*, P6_TA-PROV(2007)0056, 15 February 2007; and ECRE, *Towards a European Resettlement Programme*, April 2005, p.5 & 6.

[21] The information in this section is based on a short survey undertaken at the beginning of 2007 by ECRE, which provides specific information on asylum policies towards Iraqis from 14 EU Member States (Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, The Netherlands, Romania, Slovak Republic, Spain, Sweden, and the United Kingdom), and 3 non-EU Member States (Croatia, Norway and Switzerland). See Annex III for a list of organisations that provided us with the information.

[22] UNHCR further observed that there was a 94% increase in asylum applications lodged by Iraqis between 2004 & 2006. UNHCR, *Asylum levels and trends in industrialised countries – Second Quarter 2006*, Sept 2006, p.6 & 9.

[23] *Ibid*, p.11.

[24] UNHCR, *Asylum levels and trends in industrialised countries – Second Quarter 2006*, September 2006, p.12. Through the short survey ECRE undertook, additional break-down numbers were made available, which are available in Annex I (EU countries) and Annex II (non-EU countries).

[25] See Islamic Republic News Agency, *UN urges EU for generous policy towards Iraqi refugees*, 17 March 2007; and The Associated Press, *U.N.: Iraq refugees in Europe likely to double*, 16 March 2007.

[26] npr, *Europe struggles with influx of Iraqi refugees*, 6 March 2007; IRIN, *High price of asylum*, 11 January 2007; and ECRE, *Europe must extend solidarity to Iraqi refugees in the EU*, 15 February 2007. The Director of Sweden's asylum department, Fredrik Beijer, stated that *'even Iraqis with weak individual persecution claims now often get residence permits with full rights to work, and welfare for a practical reason. Sweden will not send them back and, figuring they will be in the country for a while, would rather try to integrate them.'* See npr, *ibid*, 6 March 2007.

[27] UNHCR, *Asylum levels and trends in industrialized countries, 2006*, 23 March 2007.

[28] European Voice, *Commission seeks to help Sweden with Iraqi refugees*, 22-28 February 2007.

[29] *Ibid.*

[30] See UNHCR, *Iraq Bleeds*, Refugees No146 Issue 2, 2007, p.23; npr, *Europe struggles with influx of Iraqi refugees*, 6 March 2007.

[31] See ICAR, *Statistical snapshots series. Iraqi asylum seekers in the UK 1990-2005*, Sept. 2006

[32] European Voice, *Commission seeks to help Sweden with Iraqi refugees*, 22-28 February 2007.

[33] ECRE's *Guidelines on Fair and Efficient Procedures for Determining Refugee Status*, September 1999 and UNHCR's 1979 *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, HCR/IP/4/Eng/Rev.1, Reedited January 1992. UNHCR in its most recent Return Advisory states that 'Iraqi asylum seekers from Southern and Central Iraq should be favourably considered as refugees'. See UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 3.

[34] 1951 Convention relating to the Status of Refugees.

[35] ECRE believes that complementary protection should include, amongst others, persons who have fled their country, and/or who are unable or unwilling to return there, because their lives, safety or freedom are threatened by generalised violence, internal conflict, massive violation of human rights or other circumstances which have seriously disturbed public order. See ECRE's *Position on Complementary Protection*, September 2000, para.14. UNHCR in its most recent Return Advisory recommends that a complementary form of protection should be granted in case an Iraqi asylum seeker is not recognised as a refugee. See UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p.4 and Amnesty International EU Office, *Statement to the Committee on Immigration and Asylum meeting of 15 March 2007 on the situation of Iraqi asylum seekers and refugees in the EU and in the countries neighbouring Iraq*, 13 March 2007.

[36] This is required by the EC *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or a person who otherwise need international protection and the content of the protection granted*, Art. 6 (c). See also ECRE's *Position on Complementary Protection*, September 2000, para.21.

[37] *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.*

[38] See Annex 1 for further information.

[39] See also Amnesty International EU Office, *Statement to the Committee on Immigration and Asylum meeting of 15 March 2007 on the situation of Iraqi asylum seekers and refugees in the EU and in the countries neighbouring Iraq*, 13 March 2007.

[40] *Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.*

[41] ECRE, *The Return of Asylum Seekers whose applications have been rejected in Europe*, June 2005, Recommendations 15-17.

[42] European Voice, *Commission seeks to help Sweden with Iraqi refugees*, 22-28 February 2007; Amnesty International Deutschland (Germany) *Sicher ist sicher*, 1 January 2007.

[43] Amnesty International Deutschland (Germany) *Die Menschenrechtssituation in den Herkunftsländern: Ablehnungen und Widerrufe sind nicht gerechtfertigt*, 27 September 2005; UNHCR Report, *2004 Global Refugee Trends*, June 2005, p.28; UNHCR, *Revocation procedures alarm Iraqi refugees in Germany*, 4 May 2005.

[44] ECRE *Position on Complementary Protection*, September 2000, para.26 and also Parliamentary Assembly of the Council of Europe (PACE), Report Doc. 10741, *Policy of return for failed asylum seekers in the Netherlands*, 15 November 2005, para.15.13.

[45] ECRE *Information Note on the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*, October 2004, p.10.

[46] UNHCR's *Handbook on Procedures and Criteria for Determining Refugee Status*, para. 136.

[47] ECRE *The Way Forward. Europe's role in the global refugee protection system, The Return of Asylum Seekers whose applications have been rejected in Europe*, June 2005, p.22-23.

[48] ECRE *Position on Return*, October 2003, para.41, and *The Way Forward. Europe's role in the global refugee protection system, The Return of Asylum Seekers whose applications have been rejected in Europe*, June 2005, p.5.

[49] UNHCR, *Handbook Voluntary Repatriation: International Protection*, 1996, p.22.

[50] UNHCR, *Global Appeal 2006*, November 2005, p.232 and UNHCR, *Country of Origin Information-Iraq*, October 2005, p.29.

[51] "*Promotion*" of repatriation is defined by UNHCR as "*the practical measures which can be taken to help refugees return voluntarily once the conditions for this exist*" and "*actively undertaking broad and wide-ranging measures to advocate refugees' return*". UNHCR defines "*facilitation*" as respecting the refugee's right to return to their country at any time, when they have indicated a "*strong desire to return voluntarily and/or have begun to do so on their own initiative*". UNHCR, *Handbook Voluntary Repatriation: International Protection*, 1996, p.16-17.

[52] ECRE *Position on Return*, October 2003, para.56.

[53] As stated in the Global Consultations on International Protection, fourth meeting, 25 April 2002, EC/GC/02/5, paragraph 15. These concepts are also defined in UNHCR, *Handbook Voluntary Repatriation: International Protection*, 1996, paragraph 2.4.

[54] For a full definition see ECRE *Position on Return*, October 2003, para.9.

[55] See Annex 1 for further information on the situation in northern Iraq.

[56] Kurdistan Regional Government, *KRG reiterates opposition to forcible returns of Kurdish asylum seekers from Europe*, 22 February 2007,

http://www.krg.org/articles/article_detail.asp?ArticleNr=16401&LangNr=12&LNNr=28&RNNr=70 (latest viewed 31 March 2007).

[57] European Voice, *Commission seeks to help Sweden with Iraqi refugees*, 22-28 February 2007.

[58] npr, *Europe struggles with influx of Iraqi refugees*, 6 March 2007; British Refugee Council, *News review*, 6-19 February 2007, *Forced removal is alarming given the scale of refugee crisis in Iraq*, 22 January 2007 *and Forced removal of Iraqi Kurds expected to begin today*, 5 September 2006; Amnesty International UK, *UK/Iraq: Amnesty warns against forcible return of asylum seekers to Iraq*, 7 February 2007.

[59] See Amnesty International Deutschland (Germany) *Sicher ist sicher*, 1 January 2007.

[60] However, at the transit zone in Roissy airport Paris (the main entry point) until recently, a large number of Iraqi claims were judged 'manifestly unfounded' and Iraqis were sent back to Syria or Jordan.

[61] UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 4.; Council of Europe Committee of Ministers, *Twenty guidelines on forced return, May* 2005, Guideline 2 (CM (2005) 40); and ECRE *Information Note on the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted,* October 2004, p.8.

[62] Amnesty International UK is opposed to any forcible return of asylum seekers to Iraq, including to the Kurdish region. It insists, that it does not consider that the Kurdish region of Iraq can be considered to have the safety or stability conducive to safe and sustainable return, and any return to it would be premature. See Amnesty International UK, *UK/Iraq: Amnesty warns against forcible return of asylum seekers to Iraq*, 7 February 2007. The Parliamentary Assembly of the Council of Europe (PACE) stated that Council of Europe member states should postpone the return of failed asylum seekers to countries or regions of conflict or where the humanitarian situation is volatile, pending improvement of the situation. See PACE Resolution, *Policy of return for failed asylum seekers in the Netherlands*, 26 January 2006, para.15.4.

[63] See also UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p.8.

[64] *Ibid*, p. 4.

[65] A recent report by Amnesty International UK highlighted the fact that the British government's policy on asylum seekers whose cases have been rejected does not work and is forcing thousands into abject poverty. The report further noted that the government is deliberately using destitution in an attempt to drive refused asylum seekers out of the country. See Amnesty International UK, *UK: Asylum – New reports show government policy forcing refused asylum seekers into abject poverty*, 7 November 2006. In the Netherlands, the Advisory Committee on Aliens Affairs (ACVZ) has recommended that there be a provision making it clear in what cases asylum seekers whose applications have failed may still be eligible for a residence permit because they cannot leave the Netherlands, *Advisory Report on Return*, ACVZ, 2 February 2005.

[66] npr, *Europe struggles with influx of Iraqi refugees*, 6 March 2007.

[67] Additional information provided by the Romanian National Council for Refugees (CNRR).

[68] European Voice, *Commission seeks to help Sweden with Iraqi refugees*, 22-28 February 2007.

[69] Amnesty International UK, *UK: failure to take share of Iraqi refugees is shameful*, 19 February 2007; European Council on Refugees and Exiles (ECRE), *Europe must extend solidarity to Iraqi Refugees in the EU*, 15 February 2007.

[70] See ECRE, *The Way Forward: Europe's role in the global refugee protection system': The Return of Asylum Seekers whose applications have been rejected in Europe*, June 2005, Recommendations 15-17.

[71] ECRE, *The Way Forward. Europe's role in the global refugee protection system. The Return of Asylum Seekers whose applications have been rejected in Europe*, June 2005 and PACE, *Policy of return for failed asylum seekers in the Netherlands*, 15 November 2005, Report Doc. 10741, para.15.14.

[72] For ECRE's overall position on resettlement see part of its series of papers entitled '*The Way Forward: Europe's role in the global refugee protection system': Towards a European Resettlement Programme,* April 2005.

[73] ECRE, *Towards a European Resettlement Programme*, April 2005, p.5.

[74] UNHCR, *Iraq displacement*, 3 November 2006.

[75] npr, *Europe struggles with influx of Iraqi refugees*, 6 March 2007; European Voice, *Commission seeks to help Sweden with Iraqi refugees*, 22-28 February 2007; and UNHCR, *Guterres welcomes U.S. support for Iraqi refugees*, 15 February 2007.

[76] Stated by Ellen Sauerbrey, Asst Secretary for Population, Refugees and Migration, *Statement before the House Foreign Affairs Committee Subcommittee on Middle East and South Asia*, Washington DC, 26 March 2007.

[77] UNHCR, *From Jordan's harsh Ruweished desert camp to a new life in Ottawa*, 11 January 2007; and IRIN, *Iraq-Jordan: UNHCR upbeat about future of Ruweished refugees*', 10 January 2007.

[78] UNHCR, *Statistics on displaced Iraqis around the world*, April 2007.

[79] UNHCR, *Resettlement of Iraqi refugees*, 12 March 2007 and *Resettlement of refugee from Iraq*, 9 January 2007, p.7.

[80] HRW, *Iraq: Neighbors Stem Flow of Iraqis Fleeing War*, 17 April 2007, Letter to Tony Blair from AI UK, HRW and British Refugee Council, in British Refugee Council News release "'*Do not abandon us' urge Iraqi refugees who served alongside British troops*", 16 April 2007.; ECRE-ProAsyl, *Fluechtlingsexodus aus dem Irak – Europa schaut weg*, Press Release, 12 April 2007; ICMC, *Statement of policy regarding Iraqis and others displaced in and outside Iraq*, April 2007; Amnesty International EU Office, *Statement to the Committee on Immigration and Asylum meeting of 15 March 2007 on the situation of Iraqi asylum seekers and refugees in the EU and in the countries neighbouring Iraq*, 13 March 2007; The Independent, *Tom Porteous: The refugees fleeing Iraq are our responsibility*, 6 March 2007; Ninja Brenjo (Reuters Alert Net), *Britain blasted for ignoring Iraq's refugee crisis*, 6 March 2007; Amnesty International UK, *UK: Failure to take share of Iraqi refugees is shameful*, 19 February 2007; UNHCR, *Guterres welcomes U.S. support for Iraqi refugees*, 15 February 2007; HRW, *Syria: Give Refuge to Palestinians Fleeing Threats in Iraq - US and Other Countries Should Help Resettle Refugees*, 2 February 2007; UNHCR, *Palestinians in Iraq: More fleeing*, 30 January 2007; Refugees International, *Iraqi Refugees: Resettle the most vulnerable*, 16 January 2007; UNHCR, *Resettlement of refugee from Iraq*, 9 January 2007. In an earlier document, UNHCR listed Iraqi refugees in the region, who will not be able to return., see UNHCR, *Aide-Mémoire: Protecting Palestinians in Iraq and seeking humanitarian solutions for those who fled the country*, December 2006.

[81] UNHCR, *Resettlement of Iraqi refugees*, 12 March 2007.

[82] UNHCR, *Refugees by numbers*, 2006 edition.

[83] European Voice, *Commission seeks to help Sweden with Iraqi refugees*, 22-28 February 2007.

[84] European Parliament Resolution on the *Humanitarian situation of refugees from Iraq*, P6_TA-PROV(2007)0056, 15 February 2007.

[85] *Ibid* and ECRE, *Towards a European Resettlement Programme*, April 2005, p.5 & 6.

ANNEX I: The situation in Iraq[86]

Since 1980, the Iraqi people have been constantly affected by war (1980-1988, 1990/1991, since 2003) or economic sanctions (1991-2003). Additionally, the area which is now under the constitutionally recognised authority of the Kurdish Regional Government has also seen civil war from 1994 until 1998. Since the fall of Saddam Hussein's regime, Iraqis have been plagued by the further proliferation of armed militias, and criminal and terrorist organisations acting with impunity, constituting major challenges to law and order, and a threat to the security of the civilian population.[87] The rule of law in Iraq is functioning inadequately, if at all,[88] and the promotion and protection of human rights is almost non-existent due to the constant threat to the right to life and personal integrity caused by this increase in sectarian violence. In a recent resolution the European Parliament goes so far as to mention ''*ethnic cleansing*'' as part of the violence and criminal activities in Iraq –a new interpretation in post-Saddam reporting.[89]

The civilian population continue to be victims of terrorist acts, roadside bombs, drive-by shootings, military operations, police abuse, kidnappings, common crimes, cross fire between rival gangs, or between police and insurgents. The security environment, marked by mainly sectarian attacks and revenge attacks, further erodes the freedom to worship or manifest one's religion or to express thoughts in general.[90] Attacks have become even more random and deadly, and any Iraqi can be the target of attack by insurgents at any time and any place.[91]

According to reports by the UN Assistance Mission for Iraq (UNAMI), unidentified bodies have appeared daily in Baghdad and other cities. According to reliable estimates, 6,376 civilians were violently killed alone in November and December 2006, most of them as a result of gunshot wounds. During 2006, a total of 34,452 civilians were violently killed and 36,685 wounded,[92] while a Johns Hopkins-MIT mortality study estimates that 650,000 Iraqis have died as a result of the war since 2003.[93] Indeed the then UN Secretary General, Kofi Annan, in his last report to the UN Security Council in December 2006 predicted a very bleak future for Iraq: ''*The prospects of all-out civil war and even a regional conflict have become much more real.*''[94] Since then, according to reports from the Iraqi Ministry of Interior, Ministry of Health and Ministry of Defence, 1,621 Iraqis were killed in February 2007 and 1,861 Iraqis were killed in March 2007.[95] The unstable security situation has therefore become manifestly worse over the past year, especially since February 2006,[96] and has led to:

- High civilian death tolls
- Massive displacement of the civilian population
- Urgent humanitarian needs for water, food, and shelter
- Low public confidence in government officials
- High rates of criminality
- The lack of a properly functioning judicial system
- A weak local and national security system
- Kidnappings of civilian Iraqis
- Widespread corruption.

Many people still cannot enjoy their socio-economic rights due to slow reconstruction and a lack of or instable supplies of proper health, education, water, electricity and other facilities, as well as significant housing shortages and high unemployment.[97] UNAMI estimates that more than 15 million Iraqis are now considered extremely vulnerable – including refugees, displaced people, those facing food insecurity, widows, disabled people etc. An estimated 4 million Iraqis are dependent on food assistance, while some 70% of the Iraqi population lack access to adequate water supplies, and effective sanitation. The unemployment rate is over 50%.[98]

Despite the election of Jalal Talabani as the countries president and Nouri al-Maliki as prime minister in April 2006 and the entry into force of a Constitution approved by referendum, Secretary-General Ban Ki Moon said at the International Compact meeting in New York on 16 March 2007 that "*Beyond the political violence and sectarian strife, a humanitarian crisis is stretching the patience and ability of ordinary people to cope with everyday life*".[99] Previously the September 2006 report to the Security Council by the former UN Secretary-General Kofi Annan stated: ''*Iraq is experiencing an acute human rights and humanitarian crisis, with indiscriminate killings, targeted attacks, crime and corruption contributing to the lack of law and order.*''[100] UNHCR in its most recent Return Advisory warns of a potential for major social unrest,[101] while psychologists have raised concern on the psychological impact the ongoing violence has on the mental health of millions which is ''*a major cause for concern for future generations*''.[102]

UNHCR has again stated in its most recent Return Advisory that due to the current security situation in Iraq as well as the inability of the Iraqi authorities to provide adequate protection to Iraq's population, it is highly unlikely that asylum seekers who fear persecution in central and southern Iraq will be able to find a place in this region where they would be safe from persecution [103] and according to some reports, around 80 per cent of the newly displaced are from central and southern Iraq. One commentator has observed that ''*Baghdad is breaking up into militia-controlled neighbourhoods.*''[104] There have been new security measures adopted by the government which mainly concern Baghdad but so far these have failed to prove effective. There were some reports of people returning after the security measures were put into place but many have been displaced again in new attacks, or were unable to return home because their homes are occupied.[105] One news agency reported that ''*Southern Iraq [is also] in danger of slipping into chaos*.''[106] The UN Assistance Mission for Iraq (UNAMI) added that ''*the increase in violence in typically less restive Governorates, such as Mosul, is also illustrative of the overall deteriorating security situation across Iraq*''.[107]

In relation to assessing the possibility of applying the internal protection alternative (IPA) within Iraq therefore, UNHCR has stated it is necessary to assess the individual case based on two main sets of analyses, namely whether internal relocation is relevant and reasonable. In its most recent Return Advisory, UNHCR has stated that:

> '*whether the individual is a refugee under the 1951 Convention or flees generalised violence, there is no internal flight alternative within the Southern or Central regions, given the reach of both state and non-state agents of persecution, the lack of national protection and grave insecurity and human rights violations prevailing in those parts*.'[108]

Northern Iraq

Although the situation in some parts of northern Iraq is more stable, reports by the UN, UNHCR, NGOs and experts have stressed that the situation is unpredictable.[109] There are distinct differences in the level and types of problems people may experience in the three Kurdish Regional Government controlled Governorates (Erbil (Arbil), Sulaymaniyah and Dahuk) as opposed to the others in northern Iraq.

Since 2003 ethnic tensions have been on the rise in traditionally mixed areas such as Mosul and Diyala,[110] and especially Kirkuk.[111] In February 2007, the governmental committee decided to relocate tens of thousands of mostly Shia currently living in Kirkuk.[112] People who will be relocated to their former areas of origin are supposed to receive 15,000 US-Dollar and a piece of land.[113] Violence is expected to further increase in view of the upcoming referenda in 2007 to determine the status of disputed areas[114] and there is considerable fear that the conflict in those Governorates as well as problems in central Iraq could worsen and spill over to the three northern Governorates of Dohuk, Erbil (Arbil) and Sulaymaniyah,.[115] Reports of civilians being targeted by terrorist groups and militias through intimidation and acts of terror aimed at uprooting and expelling individuals from their areas of residence are emerging on a daily basis.[116]

Despite the fact that the three northern Governorates that are controlled by the Kurdish Regional Government are safer compared to the rest of Iraq,[117] there are certain groups that remain at risk of

persecution, such as those who risk being suspected of belonging to militant Islamist groups, women who risk honour-related violence and female genital mutilation (FGM), and minorities.[118] UNAMI have reported that 534 women may have been victims of honour-related crimes (including killings, torture and sever abuse) in the KRG area since the beginning of 2006. FGM is not illegal there and is known to be practiced in rural areas. Minorities are known to face discrimination in the north include Turkam, Assyrians, Arabs, Christians and Shabak. There are also serious concerns with regard to the KRG judiciary which in practice is not independent according to the provisions of the constitution but instead is influenced by party political ties. [119] This undermines the likelihood of a person receiving a fair trial, which is particularly pertinent for persons who may return and face charges for past actions.

The KRG also has poor infrastructure and basic services, high levels of corruption and political coercion.[120] Arabs, even Baathist-families, are allowed to live in the KRG-area if they register with the Kurdish authorities and have a Kurdish sponsor,[121] but face many of these problems. While infrastructure and basic serves are improving, what makes this area a very difficult place to live is the fact that those not belonging to one of the large Kurdish political parties (PUK, KDP)[122] and who, for example, want to start a business or do something independent, face many obstacles. On top of that, every day more and more Iraqis from other parts of the country are moving to this region, especially Erbil (Arbil), to find security and have urgent needs such as shelter, food, fuel and financial assistance.[123]In the KRG- controlled area, in general IDPs have access to free health care in public hospitals and children can go to school free of charge but people are fighting for the scarce resources that exist[124] and are facing great difficulties with integrating into traditional and /or tribal society. They have access to the labour market but hardly actually find jobs because of language and other problems.

Agents of persecution in Iraq

There are still growing indications that state and non-state persecution is taking place in Iraq, in particular by police commandos from the Iraqi Security Forces (ISF) - so-called 'death squads'- working under the authority of the Ministry of Interior and party militias. They are being accused of abduction, torture and killings, often dumping the mutilated corpses in public areas to terrorise the population further.[125] These 'death squads' are believed to be responsible for numerous sectarian killings; deliberately targeting Sunnis considered to be supporting the insurgency.[126] Human Rights Watch (HRW) recently stated that since June 2004 successive Iraqi governments have failed to adequately address continuing human rights abuses perpetrated by the security forces, including arbitrary arrest, prolonged detention without due process, and wide-spread torture. As a result a clear climate of impunity is prevailing.[127]

Acts of persecution are also committed by a number of non-state actors, including Islamic extremists, foreign terrorists, private militias, loyalists of the former regime, persons fighting against the presence of foreign troops in the country or family/tribe members in the case of honour killings or tribal feuds.[128] The risk of being subjected to persecution by any of these groups has become more pervasive, affecting all groups in society, and the number of such groups has become even more varied.

Particular groups at risk

Religious and ethnic minorities are persecuted but this is not necessarily directly linked to individuals' own religious beliefs or practice. More often, there are strong perceptions vis-à-vis members of these groups, e.g. that they all support the US-led Coalition Forces or act in disrespect of Islamic values, which put individuals at risk of persecution irrespective of their actual belief or behaviour.[129] Most of the violence in public places hits people from all ethnic, social, religious and political groups.

According to numerous UNHCR, NGO and news reports, the following groups listed below are likely to have ongoing protection needs:[130]

- *Women. who have transgressed perceived social mores or strict Islamic traditions, single women or female heads of households.* [131] The situation for women has worsened: there is evidence of physical force (murder, rape, kidnappings, domestic violence, 'honour killings') and increasing pressure due to stricter dress and behaviour rules, as well as numerous cases of forced marriage and systematic discrimination. Women who are members of 'mixed families' are also vulnerable with a number of reports suggesting separation of mixed families- especially Sunni Arab and Shiite, which can leave women and children in single-headed households and in poverty.

- *Men who have transgressed perceived social mores or strict Islamic traditions and who are homosexual.*[132] Similarly to women, men are being subjected to attacks and killings by Islamic groups or militias for their alleged non-Islamic behaviour (e.g. mingling with women in public, or having 'Western' haircuts).

- *Members and associates of the Ba'ath Party and former regime.*[133]

- *Sympathisers or affiliates (perceived or real), or employees of the former Coalition Provisional Authorities, of US-led Coalition Forces, of the current government, as well as members of political parties.*[134] People who have no affiliations however are also targeted, e.g. Kurds who do not support the current Kurdish Regional Government face continuous harassment and discrimination.

- *Iraqis employed by foreign contractors, the UN or other international organisations (including NGOs).*[135]

- *Professionals.*[136] For example academics,[137] judges and lawyers,[138] teachers,[139] journalists,[140] artists, doctors and medical personnel[141], due to suspected co-operation with or perceived support of the US-led Coalition Forces, suspected association with the former and/or current regime, as well as for their alleged non-Islamic behaviour. In addition to these attacks, death squads and terrorist groups attacked and killed bakers, street cleaners and garbage collectors, shopkeepers and storeowners, again largely on a sectarian basis as part of their "visual terror strategy".[142]

- *Members of religious minorities.*[143] For example Sabeans-Mandeans, Kurdish Yazidis,[144] Mandaeans,[145] Jews,[146] and Christians (including members of the Assyrian, Catholic, Chaldean[147], Armenian, Orthodox and Catholic religious branch). Iraqi Christians increasingly experience discrimination with regard to access to the labour market or basic social services and many are afraid of persecution by insurgent groups as well as Islamic militias, which have gained *de facto* control over entire neighbourhoods in various cities and villages in Iraq. Additionally, there are reports from almost all parts of the country of assaults and attacks against Christian individuals and facilities (e.g. churches, community centres). As part of increasing tensions between Sunnis and Shia, individuals may also be targeted on the basis of their membership of either of these two religious groups.[148]

- *Members of ethnic minorities.*[149] There are continuous reports that long-term residents of Arab origin in the Governorates of Kirkuk and Mosul are victims of stigmatisation, harassment and arbitrary detention because of their perceived association with 'foreign fighters'. Arabs in the region administered by the Kurdish Regional Government are especially viewed as possible agents of Iraqi insurgency groups or as former Ba'athists. The Kurdish Regional Government's vision for a ''Kurdistan for Kurds'' does not include the Arabs.[150] Similarly, many Turkmen complain about being subjected to investigation and/or arrest by the Kurdish authorities in the three Northern Governorates.[151] Additionally, HRW reports that Kurds have been targeted due to their assumed support for the foreign invasion and presence in Iraq.[152] Palestinians also face increasing persecution and are being driven out of Iraq (see section below).

IDPs and refugees in Iraq[153]

Estimates suggest there are at least 1.9 million Iraqis internally displaced many of which were displaced prior to 2003, however, increasing numbers are fleeing now. It is believed that some 425,000 Iraqis have fled for other areas inside Iraq during 2006 and that internal displacement is continuing at a rate of some 40,000 to 50,000 a month. Should internal displacement continue at the present pace, UNHCR estimates that the total number of IDPs might increase to 2.7 million by the end of 2007.[154] Displaced Sunni Arabs from Shiite majority areas are the IDP group that has grown most dramatically in 2006. [155] Mrs Razak, Member of the Human Rights Committee of the Iraqi National Assembly, recently underlined this problem by stating: ''We face a major problem with refugees and, in particular, with internally displaced persons (…) whose situation is very unsafe often without shelter and trying to survive on the streets of Baghdad (…)''.[156]

Secondary movements seem to be taking place within Iraq due to ongoing insecurity, including armed conflict and continuing ethnic and religious tensions, as well as the acute lack of services and infrastructures. The Governorate of Karbala recently stopped accepting new IDPs due to the strains that have been placed on existing infrastructure and social services,[157] while the Governor discouraged the movement of Arab families to Kirkuk Governorate.[158] Similarly, the International Organisation for Migration (IOM) reported that during the year 2006, several of the more stable Iraqi governorates decided to restrict entrance to or have closed their governorates altogether to IDPs as new arrivals placed an ever greater burden on local infrastructure and services such as hospitals, schools and sanitation facilities - adding to growing tension between the newly displaced and the host communities and meaning that many IDPs may have even less access to basic assistance.[159] In some Governorates restrictions are applied based on ethnic origin which also indicates discrimination in distribution of and access to services.

A recent IOM report found that single women, children, the elderly and the sick who have been displaced by recent sectarian violence are most at risk as they are left without adequate support and care. Lack of economic opportunities for women and the gradual breakdown of a traditional support system only aggravate this situation.[160] The Internal Displacement Monitoring Centre estimates that between February 2006 and March 2007, 727,000 Iraqis were displaced, of which 70% were women and children.[161]

Most IDPs seek shelter with their families and relatives. However, rising tensions between families over scarce resources has forced many people to seek alternative accommodation facilities. With the ongoing sectarian violence, there have also been a number of reports on militias forcibly evicting people from houses and shops in order to rent them out to other IDPs. Most IDPs prioritise their needs to be those of a more permanent shelter, food assistance, personal safety and access to school, health and other social services and economic resources, reports the UN Assistance Mission for Iraq (UNAMI).[162] Yet, UNHCR has warned in January 2007 that the scale of internal displacement in Iraq was beyond the capacity of humanitarian agencies.[163]

Ongoing military operations continue to affect the right to life and security of the local population. Some 22,400 people have been displaced due to military operations since the attack on the Samarra Al-Askari Shrine on 22 February 2006.[164] In recent months, incidents involving the US-led coalition forces included the use of facilities protected by the Geneva Conventions, such as hospitals and schools, as well as military bases.[165] The use of snipers and allegations of use of illegal non-conventional weapons in those areas have also been reported by the UNAMI.[166]

It has been estimated that within Iraq itself there are some 46,000 refugees from Palestine, Turkey, Iran, Syria and Sudan.[167] In recent months, numerous reports have raised concerns about the particularly desperate situation of Palestinian refugees inside Iraq and in neighbouring countries, with ever more reports from UNHCR of harassment, arrest and detention.[168] It is estimated that half of the 34,000-strong Palestinian community in Iraq who had been living in the country since 1948 have fled and/or are trapped in the no-

man's land between Iraq and Jordan, and Iraq and Syria.[169] Palestinians are facing increasing protection problems, living in constant fear of harassment, killings and kidnappings, especially in the Baghdad area.[170]

The duty of protection

Recent developments have again emphasised the fact that no state protection is available for persons fearing persecution in the areas under the administration of the central government. The Iraqi authorities, also the targets of attacks, are not yet able to provide residents with even a minimum of protection from violent attacks, including bombings specifically targeting civilians, nor guarantee them access to the basic services needed for a secure and stable life. In addition, the lack of a functioning judiciary often leaves victims of assault, maltreatment, expropriation and other attacks without legal protection and redress. Increasingly, Iraqis are resorting to extra-judicial conflict resolution and relying on protection mechanisms provided by family, tribe, community and neighbours.[171]

Similarly, in the KRG-controlled part of northern Iraq, neither the Kurdistan Democratic Party nor the Patriotic Union of Kurdistan can provide adequate protection to all segments of society, since they do not allow political dissent in their respective areas of control, which could in cases amount to persecution. Moreover, the judicial system has neither reached basic standards regarding independence from political influence nor is it capable of providing sufficient protection from persecution by non-state actors.[172]

---

[86] For a humanitarian country profile see Integrated Regional Information Network (IRIN), *Iraq: Humanitarian Country Profile*, http://www.irinnews.org/country.aspx?CountryCode=IQ&RegionCode=ME (last viewed 4 March 2007), while for a comprehensive report on the current situation in Iraq see United States Institute of Peace (USIP), *The Iraq Study Group Report*, December 2006, as well as UNHCR's *Update on the Iraq situation*, November 2006. Up-to-date news reports can also be found at the Institute for War and Peace Reporting (IWPR), http://iwpr.net/?p=icr&s=p&o=-&apc_state=henh (last viewed 31 March 2007).

[87] The International Crisis Group (ICG) noted that during November 2006 '*sectarian killings in Iraq rose to their worst levels since the U.S.-led invasion in 2003*'. See ICG, *CrisisWatch No 40*, 1 December 2006; and United Nations Security Council (UNSC), *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, S/2006/945, 5 December 2006, p.1 & 13. A survey of armed groups operating in Iraq can also be found at http://www.rferl.org/specials/IraqCrisis/specials-armedgroups.asp (last viewed 31 March 2007) and UNHCR, *Country of Origin Information-Iraq*, October 2005, p.59-73.

[88] UK Discussion Paper, *Developing the rule of law in Iraq*, EU Experts' Seminar on Human Rights in Iraq, February 2007.

[89] European Parliament Resolution on the *Humanitarian situation of refugees from Iraq*, P6_TA-PROV(2007)0056, 15 February 2007, para. A.

[90] Human Rights Watch (HRW), *Annual Report 2006 – Country Summary Iraq*, January 2007, p.2; UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.2, 4-10; IRIN, *Iraq: Explosions destroying people and infrastructure*, 31 January 2007; UNAMI, *Human Rights Report 1 September – 31 October 2006*, November 2006, p.2 & 6; and Amnesty International, *Iraq: Amnesty International greatly concerned by rising toll of civilian killings, including for discriminatory motives*, 10 August 2006. According to UNAMI, abductions have increased dramatically in the past months and have become a tool for armed groups to finance their activities, to intimidate and eliminate opponents, and to instil fear by targeting prominent personalities.

[91] A former Kurdish peshmerga soldier said in a recent interview that '*there used to be only Saddam. Now there are a thousand – from the Shia, from the Arabs, al-Qaida, terrorist. You used to know who your enemy was. It is not like that any more.' See* npr, *Europe struggles with influx of Iraqi refugees*, 6 March 2007. The UK Foreign and Commonwealth Office, *Travel Advice: Iraq*, 5 March 2007, although aimed at British nationals, states that '*terrorists and insurgents conduct frequent and widespread lethal attacks on a wide range of targets in Iraq, including against military, political and civilian targets…[and] indiscriminate attacks against civilian targets also occur*.' According to reports, children are also specifically targeted this should be in main text somewhere, see IRIN, *Iraq: Sectarian violence shows no mercy to children*, 1 March 2007.

[92] See UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.2; IRIN, *Iraq: UN death figures paint a grim picture*, 17 January 2007; and Iraq Body Count at http://www.iraqbodycount.org/, which maintains

a public database of media-reported civilian deaths in Iraq that have resulted since the 2003 military action. The count includes civilian deaths caused by coalition military action and by military or paramilitary responses to the coalition presence (e.g. insurgent and terrorist attacks). The current (4 March 2007) toll is approximately 66,210 civilians killed (last viewed 31 March 2007).

[93] HRW, *Annual Report 2006 – Country Summary Iraq*, January 2007, p.1.

[94] UNSC, *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, S/2006/945, 5 December 2006, p.13.

[95] Neue Zürcher Zeitung, 03 April 2007, p. 3.

[96] The turning point in relations between Sunni and Shia Muslims in Iraq can be traced back directly to 22 February, 2006, when a revered Shia shrine in Samarra, 60 miles north of Baghdad, was bombed by what many believe was a Sunni group. See IRIN, *Iraq: No end to the year-old sectarian strife*, 21 February 2007; and Reuters, *108,000 Iraqis flee homes in last month – official*, 28 December 2006.

[97] UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.2; UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 2; Refugees International, *Iraqi Refugees: Critical Needs Remain Unmet*, 8 December 2006; United Nations Security Council (UNSC), *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, S/2006/945, 5 December 2006, p.13; UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.2.

[98] UNHCR, *Briefing Notes*, 20 March 2007.

[99] http://www.un.org/apps/news/infocus/sgspeeches/statments_full.asp?statID=74

[100] See UNSC, *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, S/2006/706, 1 September 2006, p.7.

[101] UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 2.

[102] See IRIN, *Iraq: Violence distressing mental state of population*, 31 January 2007.

[103] UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p.3.

[104] Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007, p. 61.

[105] Internal Displacement Monitoring Centre (IDMC)/Norwegian Refugee Council (NRC), *Iraq: a displacement crisis*, 30 March 2007 at www.internal-displacement.org

[106] IRIN, *IRAQ: Southern Iraq in danger of slipping into chaos*, 4 February 2007.

[107] UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.4

[108] UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 3.

[109] For example in a recent statement Amnesty International insisted that the Kurdish region of Iraq cannot be considered to be sufficiently safe or stable, see Amnesty International UK, *Iraq: US, UK and other states must protect Iraqi refugees*, 10 February 2007.

[110] For an account of the current situation in Diyala, see International Organisation for Migration (IOM), *New Report on Internal Displacement*, 22 December 2007. See IRIN, *Iraq: Kirkuk's time-bomb could explode at any time*, 22 January 2007.

[111] UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.23-24; Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007, p. 62.

[112] IRIN, *IRAQ: Ethnic tensions in Kirkuk take a dangerous turn*, 7 February 2007.

[113] Neue Zürcher Zeitung, 03 April 2007, p. 3.

[114] UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.3/4 & 24/25; and UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 1, 5 & 6.

[115] UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 5; IOM, *Iraq – Internally Displaced Persons Worse Off in North Eastern Kirkuk Governorate*, Press Briefing Notes, 14 November 2006; and ICG, *Iraq and the Kurds: The Brewing Battle over Kirkuk*, Middle East Report N°56, 18 July 2006.

[116] UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 1 & 6.

[117] Yet, the UK Foreign and Commonwealth Office in its *Travel Advice: Iraq*, 5 March 2007, warns travellers to the three northern Governorates that there remains a '*serious threat from terrorist groups in the region [and that although] there have been fewer attacks in cities in this area…the threat of terrorism and kidnap remains real*.'

[118] US Department of State, *Iraq – Country reports on Human Rights Practices – 2006*, 6 March 2007.

[119] *Ibid.*

[120] See IRIN, *Iraq: Kurdistan, low in violence but lacking services*, 18 January 2007.
[121] International Herald Tribune, 01 September 2006, Source: www.iht.com/bin/print_ipub.php?file=/articles/2006/09/01/news/arabs.php
[122] US Department of State, *Iraq – Country reports on Human Rights Practices – 2006*, 6 March 2007, parag. f.
[123] QANDIL, New IDPs in the Northern Iraqi Kurdistan Region, Interim Report, 11th January 2007.
[124] IRIN, *Iraq: Number of displaced increases in Arbil*, 26 February 2007.
[125] UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.5.
[126] HRW, *Annual Report 2006 – Country Summary Iraq*, January 2007, p.3; HRW, *Iraq: US Plan Must Rein in Death Squads*, 8 January 2007; UNHCR, *Return Advisory and Position on international protection needs of Iraqis outside* Iraq, 18 December 2006, p. 2; and HRW, *Iraq: End Interior Ministry death squads*, 29 October 2006.
[127] HRW, *Iraq: US Plan Must Rein in Death Squads*, 8 January 2007; UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.2; UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.2; HRW, *Iraq: End Interior Ministry death squads*, 29 October 2006. In light of the above, the recently unveiled security plan by the Iraqi government will only increase the rights of these groups, see HRW, *Iraq: New Martial Law Powers Threaten Basic Rights*, 23 February 2007.
[128] UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.55.
[129] UNHCR, *Background Information on the Situation of Non-Muslim Religious Minorities in Iraq*, October 2005, p.2, (unofficial translation from German).
[130] This list has also been reiterated by a recent European Parliament Resolution on the *Humanitarian situation of refugees from Iraq*, P6_TA-PROV(2007)0056, 15 February 2007, para.B.
[131] Angelo, L. (EUJUST LEX), *Brief on Human Rights in* Iraq, EU Experts' Seminar on Human Rights in Iraq, February 2007; UN Assistance Mission for Iraq (UNAMI), *An Overview of the Human Rights Situation in Iraq*, http://www.uniraq.org/aboutus/HR.asp (last viewed 31 March 2007); UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p. 12/13; UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.3 & 11/12; Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007, p. 62; UNHCR, *A proud Iraqi laments violence against women from her Spanish exile*, 6 December 2006; UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.20-21; For a detailed account of the situation faced by women see UNHCR, *Aktualisierte Anmerkungen von UNHCR zur gegenwärtigen Situation von Frauen im Irak*, November 2005 (only available in German).
[132] UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.26/27; IRIN, *Male homosexuality still a taboo*, 5 February 2006; UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.21.
[133] UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.14-17; and Schweizer Flüchtlingshilfe (SFH), *Irak: Gefährdung von ehemaligen Mitgliedern der Baath-Partei*, 27 January 2006.
[134] *Letter to Tony Blair from Issa Jafer Al-Saed, Loay Mohammed Al-Tahar and Akran Moaiy'd Kalaf*, Damascus, 12 April in British Refugee Council News release "'Do not abandon us' urge Iraqi refugees who served alongside British troops", 16 April 2007; IraqSlogger, *Dutch loosen entry rules for Iraqi refugees*, 30 March 2007; Angelo, L. (EUJUST LEX), *Brief on Human Rights in* Iraq, EU Experts' Seminar on Human Rights in Iraq, February 2007; UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.3.
[135] UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.13.
[136] UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.14-17.
[137] Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007, p. 62; and The Guardian, *Death of a professor*, 28 February 2006.
[138] Angelo, L. (EUJUST LEX), *Brief on Human Rights in* Iraq, EU Experts' Seminar on Human Rights in Iraq, February 2007; UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.3; and UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p. 9.
[139] Amnesty International Deutschland (Germany), *Sicher ist sicher*, 1 January 2007.
[140] UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.3 & 10/11; and UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.3.
[141] See IRIN, *Iraq: Armed groups occupy hospitals and kidnap doctors*, 13 February 2007; and UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.18.
[142] U.S. Department of State, Country Reports on Human Rights Practices – 2006, 06 March 2007.
[143] UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.13/14; UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.3 & 12/13; Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007, p. 62; and IRIN, *Iraq: Minorities living tormented days under sectarian violence*, 4 January 2007. For general information see UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005.

[144] UNHCR, *Background Information on the Situation of Non-Muslim Religious Minorities in Iraq*, October 2005, p.7/8 (original in German).
[145] Mandaean Human Rights Group, *Sabian Mandaeans in Iraq face annihilation*, January 2007; and UNHCR, *Background Information on the Situation of Non-Muslim Religious Minorities in Iraq*, October 2005, p.5-6 (original in German).
[146] UNHCR, *Background Information on the Situation of Non-Muslim Religious Minorities in Iraq*, October 2005, p.6-7 (original in German.
[147] The Chaldean Federation of America noted in a survey undertaken in 2006 amongst 3,927 Iraqi Christian refugees that nearly 70% reported multiple factors for their flight, including the experience of torture or violence themselves or among family members directly attributable to their religious minority status. See The Chaldean Federation of America, *Operation R4-Wave I – A survey study of Iraqi-Christian refugees worldwide*, August 2006.
[148] UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.13; and BBC News, *Iraqi blast damages Shia shrine*, 22 February 2006.
[149] IRIN, *IRAQ: Minorities living tormented days under sectarian violence*, 4 January 2007; and UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.9-13.
[150] UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.17-18.
[151] UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, October 2005, p.12, 14 & 17.
[152] HRW, *A Face and a Name: Civilian victims of insurgent groups in Iraq*, 3 October 2005.
[153] For a detailed account of Iraq's displacement population see the Internal Displacement Monitoring Centre (iDMC)'s and the Norwegian Refugee Council (NRC)'s most recent report *Iraq-a displacement crisis*, 30 March 2007; IOM, *Iraq displacement - 2006 year in* review, February 2007; UNAMI, *IDP movement in Iraq*, October 2006, http://www.uniraq.org/maps/IDP%20movementOctober2006.pdf (last viewed 31 March 2007); and iDMC's country page on Iraq, http://www.internal-displacement.org/countries/iraq (last viewed 31 March 2007).
[154] UNHCR, *Regional strategic presentation summary to 38th Standing Committee Meeting 6-9 March 2007*, 28 February 2007.
[155] Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007, p. 61; UNHCR, *Iraq displacement*, 3 November 2006; UNHCR, *Iraq displacement*, 13 October 2006; and UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.4.
[156] Mrs Shatha M. Abdul Razak, Member of the Human Rights Committee of the Iraqi National Assembly in response to questions at the meeting of the Committee on Foreign Affairs of the European parliament on 28 March 2007 in Brussels, Belgium.
[157] Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007Forced Migration Review 27, January 2007, p. 62.
[158] UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.16.
[159] IOM, *Iraq displacement – 2006 year in review*, February 2007; and Amnesty International Deutschland (Germany) *Sicher ist sicher*, 1 January 2007.
[160] IOM, *Women and children at increasing risk from effect of violence in Iraq*, 21 November 2006
[161] iDMC and NRC, *Iraq-a displacement crisis*, 30 March 2007.
[162] UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.16.
[163] IRIN, *Iraq: Aid agencies cannot cope with displacement, says UNHCR*, 9 January 2007.
[164] UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.14/15.
[165] UNSC, *Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)*, S/2006/945, 5 December 2006, p.7; and UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.27.
[166] UNAMI, *An Overview of the Human Rights Situation in Iraq*, http://www.uniraq.org/aboutus/HR.asp.
[167] UNHCR, *UNHCR launches new appeal for Iraq operations*, 8 January 2007.
[168] IRIN, *Iraq: Violence against Syrian refugees increasing*, 4 January 2007; and Wengert G., Alfaro, M., *Can Palestinian refugees in Iraq find protection?*, Forced Migration Review 26, September 2006.
[169] For a more detailed account of Palestinian Refugees plight in Iraq see IRIN, *Iraq: Police raids spread panic among Palestinians*, 18 March 2007; UNHCR, *UNHCR Briefing Notes*, 16 March 2007; UNHCR, *Regional strategic presentation summary to 38th Standing Committee Meeting 6-9 March 2007*, 28 February 2007; UNHCR, *More Palestinians fleeing Baghdad arrive at Syrian border*, 6 January 2007; UNHCR, *Increasing numbers of Palestinians leaving Baghdad*, 27 December 2006; UNHCR, *More Palestinians arrive at Iraq-Syria border after fleeing Baghdad*, 22 December 2006; UNHCR, *Palestinians on Iraq-Syria border*, 24 November 2006; Refugees International, *Syria: An Urgent Appeal for Palestinians Fleeing Iraq*, 13 November 2006; and Human Rights Watch (HRW) Report, *Nowhere to flee – The perilous situation of Palestinians in Iraq*, Vol. 18, No.4 (E), September 2006.
[170] IRIN, *Iraq: More Palestinians flee* Baghdad, 1 February 2007; UNHCR, *UNHCR extremely concerned by reports of abduction of Palestinian men in Baghdad*, 23 January 2007; UNHCR, *UNHCR urges help from global community as*

Palestinians flee Baghdad, 24 January 2007; UNAMI, *Human Rights Report 1 November - 31 December 2006*, January 2007, p.24-26; UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p. 14; UNHCR, *UNHCR alarmed by increased violence against Palestinians in Iraq*, 20 October 2006; and HRW, *Iraq: Palestinians targeted with death threats*, 6 October 2006.

[171] One news agency reported that '*militia fighters and insurgents responsible for much of the internal violence in Iraq are also offering humanitarian assistance to their own communities to fill a vacuum left by the government and aid agencies'*. See IRIN, *Iraq: In absence of police, vigilantes take to the streets*, 19 February 2007; and IRIN, *Iraq: Fighters fill humanitarian vacuum*, 14 February 2007.

[172] UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, October 2005, p. 48, 50, 51 & 55; and Schweizer Flüchtlingshilfe (SFH), *Gefährdung von ehemaligen Mitgliedern der Baath-Partei*, 27 January 2006, p.8.

Annex II: The situation in countries neighbouring Iraq

Due to the situation in Iraq, its neighbouring countries have seen a massive displacement flow out of Iraq - mainly into Syria and Jordan. António Guterres, the United Nations High Commissioner for Refugees, and Andrew Harper, the coordinator for the Iraq unit at UNHCR in Geneva, described it as ''*the largest long-term population movement in the Middle East since Palestinians were displaced in 1948… around one in eight Iraqis is displaced''*.[173] Estimates suggest that there are some two million Iraqis in neighbouring states. There may be at least one million displaced Iraqis in both Syria (approx. 600,000) and Jordan (between 500-700,000), with fewer numbers in Egypt, Lebanon and Iran.[174] UNHCR believes that up to 2-3,000 leave Iraq each day, approximately 100,000 each month, the vast majority to Syria and Jordan, but also to Turkey and the Gulf States.[175]

While Lebanon has closed its borders to Iraqis entirely, Iraqis fleeing their country's sectarian violence are finding it increasingly harder to get into Egypt, Jordan and Syria, however, after the authorities in these countries recently began implementing much stricter border controls.[176] Egypt has been imposing new restrictive procedures for Iraqis trying to enter its territory since early January 2007.[177] Jordan and Syria had been the only ones of Iraq's neighbours to open their doors to the hundreds of thousands of Iraqis on the move. Now also with new entry conditions in place, tens of thousands of refugees are stranded on Iraq's borders and families are being divided according to their age and the type of passport they hold,

Jordan "has all but stopped the entry of Iraqi nationals at its border crossing with Iraq and is turning away many, if not most, of the Iraqis attempting to arrive by plane".[178] Jordan is particularly worried about the security and economic fall-out and the strain on public services. The government first started barring single men between 17 and 35 at the border and "is now applying bars to entry much more widely" and apparently undertaking discriminatory border procedures. [179] Jordan is also unwilling to recognise 700,000 Iraqis living on its territory as refugees. Additionally, the authorities limit the number of residency permits for Iraqis, detain Iraqis residing illegally in Jordan, and turn away Iraqis without proper documentation at the border.[180] Should the borders continue to be closed for a prolonged period of time then the international community faces a potential humanitarian catastrophe in attempting to provide emergency assistance to tens of thousands in an insecure, hostile, and remote location.

To enter Jordan, Iraqi refugees must now prove that they have sufficient funds to support themselves while staying in the kingdom and, most importantly, must hold a new 'G' generation passport. There are no official figures on the number of Iraqis who have been denied entry to Jordan, but a Jordanian interior ministry official said more than half of those who attempted to enter had been denied. The embassy is further facing an almost impossible task in meeting the needs of more than 700,000 Iraqis, the majority of whom hold the older version of passports.[181]

Once inside Jordan, Iraqi refugees have to pay for all services. The influx is creating a host of problems and the Jordanian government says it cannot cope. On the economic front, the Iraqi refugee crisis has helped double rents and push up the cost of food, transportation and gas.[182] Access to education is also a big issue, for instance in Syria Iraqis can attend public schools, but many do not have the money for school supplies and uniforms. The government of Syria estimated that some 30 per cent of Iraqi children aged between 6 and 11 in Syria do not attend school. Some NGOs and the UN have also expressed concern about lack of social support services for Iraqis who have suffered traumatic events prior to fleeing.

Until the end of February 2007, Syria maintained its 'open door policy' to Iraqi refugees in the name of pan-Arabism. In addition to the influx of Iraqi refugees, Syria is home to 450,000 Palestinians, and has also provided assistance and temporary shelter to hundreds of thousands of Lebanese civilians fleeing the bombings during the recent Israel-Lebanon conflict.[183]

Similarly, until recently Iraqis were issued six-month visas. Recent stricter policy changes now mean that Iraqis get a 15-day permit on arrival after which they must apply to immigration authorities for a three-month permit that can be renewed once. Before the expiry of their residence permits, Iraqis have to leave the country for one month before they can enter the country again. Various categories of people, including students and businessmen, are still exempt.[184]

Before 2005, Iraqis had access to the same public services as Syrians. In the face of the growing Iraqi population, Syria started imposing restrictions on Iraqi refugees: it now charges for healthcare that used to be free. Access to work is also a problem.[185] In February 2007, Syria tightened residency rules for a million Iraqi refugees there, raising fears that mass deportations would begin.[186] Some United Nations agencies are concerned about the increasing credible reports of vulnerable Iraqi women and girls being trafficked into the sex trade, particularly in Syria and a number of the Gulf States.[187]

Also of concern are the many Palestinians who have left Iraq but do not have valid identification documents and are therefore in a "legal limbo".

---

[173] IRIN, *Iraq-Jordan: Iraqi asylum seekers in Jordan to increase threefold*, 8 February 2007; and Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007, p. 61.

[174] Islamic Republic News Agency, *UN urges EU for generous policy towards Iraqi refugees*, 17 March 2007; Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007, p. 62; UNHCR, *UNHCR Return Advisory and Position on international protection needs of Iraqis outside Iraq*, 18 December 2006, p. 4; and UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p. 15.

[175] UNAMI, *Human Rights Report 1 September 2006 – 31 October* 2006, November 2006, p.15; and UNHCR, *Iraq displacement*, 3 November 2006.

[176] HRW, Iraq: Neighbors Stem Flow of Iraqis Fleeing War, 17 April 2007.

[177] *Ibid.*

[178] *Ibid;* HRW, '*The silent treatment' – Fleeing Iraq, surviving in Jordan*, Volume 18, No. 10(E), November 2006. See also UNHCR, *Annual Tripartite Consultations on resettlement*, June 2006, p. 140, for its 'protection framework' for Jordan.

[179] HRW, Iraq: Neighbors Stem Flow of Iraqis Fleeing War, 17 April 2007.

[180] See IRIN, *Iraq-Jordan: New rules a 'death sentence' for Iraqis*, 1 March 2007; HRW, *Iraq's other surge*, 15 February 2007; UNHCR, *Iraqis struggle to get by as Jordan tries to cope with influx*, 22 January 2007; Refugees International, *Iraqi Refugee Crisis: International Response Urgently Needed*, 5 December 2006; and HRW, *Scant refuge in Jordan*, 30 November 2006.

[181] IRIN, *Iraq-Jordan: New rules a 'death sentence' for Iraqis*, 1 March 2007;HRW, *Iraq's other surge*, 15 February 2007; UNHCR, *Iraqis struggle to get by as Jordan tries to cope with influx*, 22 January 2007; Refugees International, *Iraqi Refugee Crisis: International Response Urgently Needed*, 5 December 2006; and HRW, *Scant refuge in Jordan*, 30 November 2006.

[182] UNHCR, *Iraqis struggle to get by as Jordan tries to cope with influx*, 22 January 2007; Refugees International, *Iraqi Refugee Crisis: International Response Urgently Needed*, 5 December 2006; and Human Rights Watch (HRW), *Scant refuge in Jordan*, 30 November 2006.

[183][183] Refugees International, *Iraqi Refugee Crisis: International Response Urgently Needed*, 5 December 2006. See also UNHCR, *Annual Tripartite Consultations on resettlement*, June 2006, p. 143, for its 'protection framework' for Syria.

[184] European Parliament Resolution on the *Humanitarian situation of refugees from Iraq*, P6_TA-PROV(2007)0056, 15 February 2007, para. I; UNHCR, *Some 5,000 Iraqis queue outside UNHCR's Damascus office to register*, 12 February 2007; and Refugees International, *Iraqi Refugee Crisis: International Response Urgently Needed*, 5 December 2006.

[185] Letter to Tony Blair from AI UK, HRW and British Refugee Council, in British Refugee Council News release "'Do not abandon us' urge Iraqi refugees who served alongside British troops", 16 April 2007.

[186] See HRW, *Iraq's other surge*, 15 February 2007; and Refugees International, *Iraqi Refugee Crisis: International Response Urgently Needed*, 5 December 2006.

[187] UNHCR, *Regional strategic presentation summary to 38th Standing Committee Meeting 6-9 March 2007*, 28 February 2007; UNHCR, *UNHCR chief tells Iraqi refugees that the world is waking up to their plight*, 9 February 2007; and Harper, A., *Iraq's neglected humanitarian crisis*, Forced Migration Review 27, January 2007, p. 62.

ANNEX III: EU Member States treatment of Iraqi asylum seekers and refugees - 2006

	Austria	Belgium	Cyprus	Denmark	Finland	France	Germany	Greece	The Netherlands	Spain	Sweden	United Kingdom
NUMBERS 2006												
Asylum applications	384	695		600	224	99	2177.00	1415**	2200.00	42	9000.00	950
Refugee status	92	18		0	12	N/A	N/A	0	N/A	12	N/A	30
Refugee status denied	48	N/A		N/A	0	N/A	N/A	1756***	N/A	1	426****	640
Subsidiary protection	44	70		N/A	7	N/A	N/A	0	N/A	22	N/A	
Other:							360*					
* Right to remain/discretionary leave			N/A	13								60
* Humanitarian protection					12							0
* Temporary Residence Permits					83							
* Dublin II cases					66						462	
* Appeals											396	
* Absconded											225	
POLICIES												
Subsidiary protection/ Humanitarian protection	Iraqis are very likely to get subsidiary protection if their claims are rejected.	Asylum seekers whose procedure is finished, but who received a 'no-reconduction clause' amounts to an official statement that they cannot be sent back to their country or origin. This is only valid for people from central & southern Iraq.	Asylum seekers do receive subsidiary protection. However, there are some asylum seekers who went on strike in order to be granted full protection rights as under the refugee status.	N/A	The temporary permits given, especially to Iraqis, are a problem. They can neither work nor do they have the right to education or integration programmes, nor the right to access any social or health services. They have to stay in reception centres.	The situation has changed since the beginning of the year and Iraqis seem to be authorised to enter the territory to lodge their asylum claim. Between 2004-2005 France suspended determination of Iraqi asylum claims. Iraqis can be granted now subsidiary protection due to serious threats resulting from an internal conflict, but only after proving that an individual threat exists. However, this does not apply to Iraqis from 'Kurdistan', since 'Kurdistan' was placed under the protection of the international community after the Gulf War and its autonomy is recognised by the Iraqi constitution.	N/A	There is no offical policy granting humanitarian status to Iraqis.	Until February 2006, there was a policy under which all Iraqis from central & southern Iraq, who did not individually qualify for protection, fell under a general protection scheme. These Iraqis were entitled to an asylum permit, which gives them the same rights as under the refugee status. The government abolished this general protection referring to policies in Belgium, Denmark, the United Kingdom and Switzerland, which did not have a policy of granting permits to this particular group of Iraqis. This policy, however, was reinstated on 2 April 2007. On 20 December 2006, the Parliament stopped deportations to central & southern Iraq. In a letter dated 21 February 2007, the Dutch government indicated that it will develop a new policy with regards to Iraqi asylum seekers, as the Parliament had requested back in December 2006. This would be based on new information collected in the Iraqi country report of the Ministry of Foreign Affairs.	N/A	N/A	Only a very small number of asylum seekers receive subsidiary protection. Asylum seekers whose cases are rejected are initially offered a voluntary return package under the IOM Voluntary Assisted Return & Reintegration Programme (VARRP).
Return	Austria does not deport people back to Iraq.	N/A	No forced returns back to Iraq.	Asylum seekers whose cases have been rejected are on a so-called 'lunch box regulation'. Food and a place to stay are provided in the expulsion centres, which have been criticised for their bad living conditions. The government refuses to move these people to asylum centres, although vacancies exist. No forced returns back to Iraq.	During 2006 no forced returns back to Iraq, but currently (April 2007) considering to do so.	At the waiting zone of Roissy airport, which is the main entry point, until recently, a large number of Iraqi claims were judged 'manifestly unfounded' and Iraqis were sent back to Syria or Jordan with no monitoring of their return. French authorities say that they do not return back people to Iraq.	On 17 November 2006, the conference of German Interior Ministers agreed to begin returning Iraqi nationals who have been convicted and sentenced for a criminal offence back to Iraq, *"in accordance with UNHCR guidelines"*.	There is no official policy of returing Iraqis.	N/A	Spain is not enforcing mandatory or forced returns.	N/A	The Home Office are only forcibly removing those individuals who are from the Kurdish Regional Government (KRG) area. For the time being, they are not enforcing the return of women or children nor will they separate pre-existing family units.
CONSEQUENCE OF RETURN POLICY												
'Limbo' situations	N/A	N/A	N/A	Estimates suggest that almost 600 asylum seekers whose cases have been rejected are living in a 'limbo' situation. Growing evidence suggests that rejected Iraqi asylum seekers are facing destitution.	People with temporary permits (see above) should be considered people in 'limbo' since they are missing fundamental rights.	N/A	The termination of refugee status effectively means that thousands of refugees end up in the legal limbo of 'tolerated' status ("Duldung"). Precise numbers of tolerated Iraqi refugees are not available. However, as of October 2006, approx. 8,897 Iraqis who had arrived prior to 2005 were living in Germany with a 'tolerated' status. The total number is most likely somewhere between 9,000 and 10,000.	Those residing illegally or whose cases have been rejected might be exposed to arrest and detention. However, in most cases Iraqis are not kept in detention.	N/A	People are left in 'limbo' only if the exclusion clause has been applied.	N/A	The vast majority of Iraqis present in this country will by now be at the end of the asylum process, unwilling to voluntarily return but denied any entitlements to welfare support, housing and non-emergency health care. They are also not allowed to take up employment.
RESETTLEMENT												
	Austria does not run any resettlement programme.	N/A	N/A	No plans to resettle refugees from Iraq's neighbouring countries. According to the government help should be targeted in the 'regions'. Denmark has a resettlement quota of 500 but does not intend to use that for Iraqis.	Finland has decided to resettle Iraqis from Turkey and/or Syria during 2007.	France does not resettle Iraqi refugees since there is no active resettlement programme.	N/A	N/A	N/A	There is no resettlement programme for Iraqi refugees from neighbouring countries in place.	N/A	N/A

N/A: Information currently not available from contributing agencies.
Austria: Only refers to second quarter of 2006.
Germany: Officials estimate that approx. 50 percent of Iraqi asylum seekers are Kurdish. During 2004-2006 Germany terminated the refugee status of over 18,000 Iraqi refugees.
The Netherlands: Including 4 who were immediately deported
* Refugee status or subsidiary protection granted between 2004-2006.
** The Greek authorities have suspended the examination of applications submitted by Iraqis during the last 4 years, but only at second instance following appeal.
*** There is no distinction made in the statistics between first and second instance decisions. Morever, the decisions might refer to applications submitted and examined during previous years.
**** 4 of those were immediately deported.

ANNEX IV: Non- EU States treatment of Iraqi asylum seekers and refugees - 2006			
	Croatia	**Norway**	**Switzerland**
NUMBERS 2006			
Asylum applications	6	876	816
Refugee status	0	16	15,6%
Refugee status denied	N/A	207	N/A
Subsidiary protection	N/A	195	N/A
Other:			
* Humanitarian protection		65	
POLICIES			
Subsidiary protection/ Humanitarian protection/ Temporary protection	Iraqi asylum seekers who are refused refugee status either illegally leave Croatia and then try to enter other European countries in which they can apply for asylum or they are granted the right to temporarily reside in Croatia on humanitarian grounds. Iraqis for now are not getting subsidiary protection because the current Croatian asylum law does not contain such a provision.	Since 2004, people originating from central Iraq have been granted asylum or protection status. People from the Kurdish area after 1991 are generally rejected. People from southern Iraq and the area between the Kurdish Regional Government and central Iraq (e.g. Kirkuk, Mosul etc.) are also normally rejected. Iraqi asylum seekers have not been granted temporary protection status.	Since September 2005, Switzerland is granting all Iraqi asylum seekers and refugees subsidiary protection status. Subsidiary protection for already rejected cases of Iraqis is only granted upon request.
Return	Iraqis are not being deported. However, Croatia is enforcing deportations of asylum seekers whose cases are rejected when there are financial means for doing it and in most cases to the countries in the region.	Two Iraqis were forcibly returned and 5 Iraqis are currently awaiting forced return to northern Iraq (e.g. Erbil). They have been convicted, and served prison sentences, for serious crimes.	So far there was no removal to central Iraq, but there has been return to the Northern (Kurdish-controlled) part. However, as far as they know only men who committed criminal offences are supposed to be returned. IOM and the Federal Office for Migration are planning a return programme for 2007 to Iraq. In 2006, 49 Iraqis have been returned to a third country of origin. As authorities are withdrawing staying permits and there is increased pressure on Iraqis to return, quite a few left voluntarily or went somewhere else.
CONSEQUENCE OF RETURN POLICY			
'Limbo' situations	Currently, there are two asylum seekers whose cases are rejected, who are temporarily residing in Croatia on humanitarian grounds without concrete plans for any permanent solution after the expiry of their permits.	Iraqis whose cases have been rejected will be allowed to stay in reception centres and are given very basic subsistence, but are not allowed to work unless they sign up for the International Organisation of Migration's (IOM) voluntary return programme.	In case that asylum seekers from Iraq commit criminal offences they get a negative decision and have their removal pending. Removals are rarely enforced.
RESETTLEMENT			
	Croatia does not organise or conduct any resettlement of refugees	No data for resettlement plans exist for the moment.	N/A

N/A: Information currently not available from contributing agencies

ANNEX V: Contributing Organisations

ECRE MEMBER AGENCIES

Austria
Asylkoordination
Belgium
Vluchtelingenwerk Vlaanderen
Croatia
Croatian Law Centre
Denmark
Danish Refugee Council
Finland
Finish Refugee Advice Centre
France
Forum Réfugies
Germany
Pro Asyl
Greece
Greek Council for Refugees
The Netherlands
Dutch Council for Refugees
Norway
Norwegian Organisation for Asylum (NOAS)
Norwegian Refugee Council (NRC)
Romania
Romanian National Council for Refugees (CNRR)
Slovakia
Slovak Humanitarian Council
Spain
Asociación Comisión Católica Espanola de Migración (ACCEM)
Sweden
Caritas Sweden
Switzerland
Schweizerische Flüchtlingshilfe (SFH)/Organisation Suisse d'Aide aux Réfugiés (OSAR)
United Kingdom
British Refugee Council
Scottish Refugee Council
Refugee Legal Centre

OTHER AGENCIES

Cyprus
UNHCR Cyprus
United Kingdom
Hackney Law Centre