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UNHCR Advisory Regarding the Return of Iraqis

United Nations High Commissioner for Refugees
Geneva, September 2005

I. Return of Iraqis¹

1. Since the last UNHCR return advisory in September 2004, there has been no improvement in the security situation in most parts of Iraq. To the contrary, the most relevant indicators signal that the security situation has generally deteriorated between January and August 2005 when compared to the same period last year. It is thus of serious concern to note that some States are considering the withdrawal of protection afforded generally to asylum-seekers from Iraq and that Convention and complementary protection recognition rates are, in some host countries, extremely low.

2. Despite the elections which took place in Iraq in January 2005, the Iraqi authorities 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 basic services needed for a secure and stable life. In addition, it should be taken into consideration that pre-mature returns could further exacerbate tensions between residents and returnees, thereby increasing insecurity.

3. Against this backdrop, UNHCR:

- Encourages governments to conduct refugee status determination for individuals who face serious protection problems within the country of asylum or who are in an uncertain, precarious situation or are deemed to be especially vulnerable (e.g. single female heads of households without support, medical cases or victims of severe past persecution);
- Recommends that cases not be rejected simply on the basis of an internal flight or relocation alternative.² Relocation inside of Iraq is usually neither safe nor practical due to security risks, a lack of or inadequate basic services and/or logistical constraints. Moreover, as effective national protection is currently unavailable, no area can be considered safe, particularly for persons who do not originate from the place of proposed relocation. Relocation is therefore not likely to address threats of persecution or security risks.
- Recommends, if an asylum-seeker from Southern or Central Iraq is not recognized as a refugee, that he or she be granted some form of complementary protection in keeping with international human rights principles until such time as an improvement in the security situation and the overall absorption capacity makes return feasible.
- In line with the above, asks States to postpone the introduction of measures which are intended to promote or induce voluntary returns for persons originating from Southern or Central Iraq, including for those who have been found not to be in need of international protection. This includes time-limited

¹ Within the context of the present Advisory, the term “Iraqi” refers to both Iraqi nationals as well as former habitual residents of Iraq.

² See, UNHCR, “Guidelines on International Protection: ‘Internal Flight or Relocation Alternative’ within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees”, HCR/GIP/03/04, 23 July 2003, particularly para. 7.

financial or other incentives and relates particularly to deterrent or punitive measures.

- Reiterates its request to States that, within the framework of international solidarity and burden-sharing, asylum-seekers from Iraq, or whose former habitual residence was in Iraq should not be returned to other countries in the region, regardless of their prior stay in or transit through these countries. While these countries have to date been generous in their tolerance of a large number of asylum-seekers from Iraq on their territories, the socio-political consequences of this large Iraqi presence are beginning to take their toll on the ability or willingness of authorities to continue extending protection to these persons.
- UNHCR strongly recommends to States that there be no forcible return of Iraqis to Central and Southern Iraq until such time as the necessary security conditions and absorption capacities for sustainable return are in place.

II. Specific Considerations for the Three Northern Governorates (Sulaymaniyah, Erbil and Dohuk)

Based on in-depth assessments over the last two years by UNHCR as well as other UN agencies and humanitarian organizations, UNHCR has concluded that a differentiated approach as regards returns to the three Northern Governorates could be envisioned. While security concerns persist in the three Northern Governorates and the economy is still fragile, acts of violence are far less frequent as compared to the rest of the country and a certain level of political stability has been achieved. Serious protection concerns, however, remain in particular for persons who do not originate from these areas.

UNHCR therefore:

- Believes that the promotion of voluntary returns of Iraqis originating from the three Northern Governorates is feasible, provided they have family and community links that can ensure their access to protection, housing and other basic services. Advises also that no persons should be returned forcibly unless it has been ascertained that they have family and community links that can enable access to protection, housing, employment and basic services.
- Strongly encourages States not to forcibly return rejected asylum-seekers to the three Northern Governorates if they do not originate from there. Individuals who do not originate from the three Northern Governorates would most likely be denied entry to this area by the Kurdistan Regional Government (KRG). Even if they should be admitted, they would nevertheless face substantial obstacles to obtaining physical protection, legal residence, accommodation and employment. In sum, family, community or political links are necessary for residents of the three northern governorates to meet the basic norms of civil, political and socio-economic human rights and establish sustainable integration in the place of return.

- Encourages host countries considering forced returns of persons who have been found through fair procedures not to be in need of international protection, including new protection needs arising from recent developments, or not to have other compelling humanitarian grounds justifying stay,
 - to be sensitive to concerns of the Central Government as well as the KRG authorities who have repeatedly emphasized the destabilizing effect large numbers of forced returns would have on an already fragile situation as well as the lack of sufficient absorption capacity (and in particular shortage of housing). In particular, host countries are encouraged to provide assistance packages to the returnees and receiving communities;
 - to grant a reasonable period of time to the affected persons to avail themselves of different types of assistance offered for return by the host country following rejection of their asylum claims and be counselled of their options;
 - to ensure that return is to the place of origin only in order to provide the individual with a reasonable opportunity for durable re-integration in Iraq.
 - to ensure that any forcible returns should be phased, conducted in an orderly manner and be closely coordinated with the KRG authorities in order to take into account the limited absorption capacities in the three Northern Governorates.