

URGENT ACTION

FORCED RETURNS TO IRAQ DEFERRED

Authorities in the Netherlands have deferred the forcible return of a number of Iraqis on a flight scheduled to leave for Baghdad, Iraq, on 3 November, following a strongly worded letter sent to the Dutch authorities by the European Court of Human Rights.

The temporary deferral follows an interim decision by the European Court of Human Rights (the Court) on 22 October 2010 preventing the Dutch authorities from returning to Baghdad any Iraqi who challenges his or her return. The Court wrote to the Dutch government on 22 October stating that its decision had been taken “in view of the increasing number of Rule 39 requests [i.e. for interim measures] made by applicants seeking to prevent their return to Baghdad on single or joint charter flights from European countries and the reported recent deterioration in the security situation in Baghdad and other governorates” and that the court had taken note of the UN Refugee Agency (UNHCR’s) continuing concern about the safety of returning Iraqis to Baghdad and other provinces of Iraq. The Court requested that the Dutch authorities stop forcibly removing any Iraqis until it has handed down judgment, which is expected later this year. The Court stated that it would consider it appropriate to apply such measures to “any Iraqi challenging his or her return from the Netherlands to Baghdad”.

On 3 November, the Court wrote a sternly worded letter to the Dutch authorities, reminding them of the Court’s earlier letter, and giving an “exceptional indication” that the President of the Court considers that “no expulsions of rejected asylum-seekers should take place to Baghdad until 24 November 2010”. The Court wrote this additional letter after it received reports that between 15 and 30 Iraqis facing forced return were unable to access their lawyers or the Court in order to seek interim measures preventing their removal.

On 2 November, following an emergency debate, the Dutch Parliament voted, by a narrow margin, not to defer forced removals of Iraqis until the European Court of Human Rights hands down judgment. However, the Dutch Minister for Immigration and Asylum Policy has now confirmed that the Netherlands will comply with the Court’s request. The Dutch Parliament is holding another emergency parliamentary debate on this issue of forced returns to Iraq on the evening of 4 November.

Amnesty International has called on European states to desist from any forcible returns to Iraq, particularly to the provinces of Ninewa (Mosul), Kirkuk, Diyala, Salah al-Din and Baghdad, as well as to other particularly dangerous areas such as parts of al-Anbar province. Iraqis from these areas should be granted asylum or alternative forms of protection. The ongoing indiscriminate threats to life, physical integrity or freedom arising from violence or events seriously disturbing public order in the above-mentioned areas of Iraq are all valid grounds for international protection. In the case of asylum-seekers whose removal is envisaged to other provinces of Iraq, an individual assessment should be made to assess whether they qualify for refugee status or alternative forms of protection. Any such assessment for protection should also consider the viability and safety of people’s onward route and method of travel from Baghdad to eventual destination envisaged as the place of residence in Iraq, and protection should be granted when people would face a real risk of persecution or serious harm en route.

The Dutch authorities, along with authorities in Denmark, Sweden, Norway and the United Kingdom, continue to maintain that it is “sufficiently safe” to return people to Iraq, in disregard of clear guidelines to the contrary from the UNHCR. Amnesty International continues to monitor this issue across the region. In this case, the intervention of the European Court had a significant impact, and in the future, action taken by the UA network may prove vital.

No further action is needed on this appeal at the moment from the UA network. Many thanks to all who took action.

This is the first update of UA 227/10 (EUR 35/003/2010). Further information: <http://www.amnesty.org/en/library/info/EUR35/003/2010/en>

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ADDITIONAL INFORMATION

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

At least five European countries—Norway, Sweden, Denmark, the United Kingdom and the Netherlands—have forcibly returned hundreds of Iraqis whose asylum claims had been dismissed since 2009. In the month of September 2010 alone, more than 150 individuals were returned from these five countries to Iraq. Most of these removals have been conducted in breach of UNHCR guidelines issued in April 2009 (and repeatedly reiterated, including as recently as September 2010) that identify particularly dangerous regions in Iraq to where no one should be forcibly returned – namely the provinces of Ninewa (Mosul), Kirkuk, Salah al-Din, Diyala and Baghdad. UNHCR also advised that no forcible returns should be conducted to other areas of Iraq unless an individual assessment has been carried out which indicates that it would be safe to return the individual in question.

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

In practice, the number of Iraqi refugees seeking asylum in European states is relatively small compared to the numbers of those currently residing in states neighbouring Iraq. Syria hosts by far the greatest number of refugees from Iraq, followed by Jordan and other Middle Eastern states. Amnesty International is concerned that the increasing pattern of forcible returns from the Netherlands and other European states sets a very poor example to these Middle Eastern states, whose resources have been stretched by the influx of people fleeing from Iraq, and may contribute to an overall weakening of the international system of refugee protection.

Further information on UA: 227/10 Index: EUR 35/004/2010 Issue Date: 4 November 2010

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