



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 5 April 2013**

**9747/3/96  
REV 3**

CIREA 40

**DECLASSIFICATION**

of document:	9747/1/96 RESTREINT UE/EU RESTRICTED
dated:	14 April 1997
new status:	Public
Subject:	Summary of discussions on Iraq

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

9747/1/96  
REV 1

RESTREINT

CIREA 40

**NOTE**

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from : General Secretariat of the Council

to : CIREA

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**Subject: Summary of discussions on Iraq**

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In the context of the examination of the situation in certain third countries or regions from which applicants for asylum come, a questionnaire was sent to Member States regarding the situation in Iraq (telex 5386 of 22.12.95). The replies of Member States to the questionnaire were included in document 4682/96 CIREA 6 + ADD 1, 2 and 3.

At its meeting held on 30 September 1996, CIREA carried out an examination of the situation in Iraq, based on an analysis of these replies. A background paper by UNHCR on refugees and asylum seekers from Iraq was also distributed to delegations at that meeting (see doc. 10733/96 CIREA 52). Part of this discussion was attended by representatives of UNHCR.

Delegations will find herewith a summary of the above-mentioned discussions on Iraq, including the analysis of Member States' replies, as well as updated information submitted by UNHCR subsequent to the meeting of 30 September 1996.

Additional information on the number of Iraqi asylum-seekers and the routes taken by them, as provided by Member States further to a request for information from the German delegation, is contained in document 5818/97 CIREA 11.

**SUMMARY OF DISCUSSIONS HELD ON IRAQ**  
**on 30 September 1996,**  
**based on information provided by the EU Member States and UNHCR**  
**during the second 1996 quarter**

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**1. OVERVIEW OF THE SITUATION**

In the last three years, applications from Iraqi nationals constituted, depending on the Member State, between 0.07% and 42.7% of the total number of asylum applications.

In the same period, the recognition rate varied between 0% and 145% (the latter figure being due to a backlog of applications from previous years). On a EU-wide scale, the recognition rate is 26.80%.

Taking into account also the number of asylum-seekers authorized to stay on humanitarian or other grounds, the rate of applicants authorized to stay is 50% of above in nine Member States. Of the remaining six Member States, only three reported more than 20 Iraqi applicants over the three-year period.

The above figures are approximate and are mentioned only with a view to highlighting the general trends. For more detailed information, see the tables annexed.

**2. DETAILS OF APPLICATIONS FOR ASYLUM FROM IRAQI CITIZENS**

**a) Profile of applicants**

*Ethnic origin, religion and geographic area of provenance.*

In most Member States, asylum-seekers are principally Muslim Kurds coming from Northern Iraq and, to a lesser extent, Muslim (Shiite) Arabs and Christians of Chaldean or Assyrian origin coming from the Baghdad region or, in a small number of cases, from the south of Iraq.

The situation appears to be somewhat different in the case of three Member States where (i) more Arabs than Kurds account for the majority of applications; (ii) two-thirds of applicants are Christians and one-third are Kurds; and (iii) half are Muslims and half are Christians.

In one Member State there is a large number of applicants of Turkoman origin and there is reason to believe that some of them might in fact be Turks.

CIREA inquired of UNHCR whether it is aware of any reason why Marsh Arabs and Yazidis do not feature as asylum seekers. UNHCR continues to receive reports on gross human rights violations committed against the Marshes' inhabitants. These people seldom have undertaken opposition activities themselves, but are victimized on account of their alleged sympathies with opposition groups seeking refuge in the Marshes. Reports of such human rights violations should support the well-foundedness of any such individual claim for refugee status. UNHCR has not received reports about persecution against the Yazidi community on ground of their ethnic or religious affiliation. The Yazidi community, which has increasingly identified with Kurdish nationalism, has come under suspicion to the Iraqi regime following the 1991 uprising. Therefore, the fact of being a Yazidi could be seen as an additional element supporting a refugee claim based on presentation of political grounds.

*Sex and age.*

Applicants are mainly men aged between 20 and 45 years.

*Socio-professional origin.*

In some Member States, applicants belong to lower and middle social strata, with a small number having secondary or university education. In others, they are of a higher socio-professional background with a middle class, second-level and university education.

**b) Basis of claims**

The following reasons are given as grounds for application:

- members of or sympathisers with the two principal Kurdish parties (PUK, KDP);
- persecution by the Islamic Movement of Kurdistan (MIK);
- members of or sympathisers with the Iraqi Communist Party;
- members of the Assyrian Democratic Movement;
- members of Al Dawa;
- refusal to join the BAA'TH party or to co-operate with it;
- membership of the Christian faith;
- membership of the Shiite minority;
- conscientious objection, draft evasion or desertion;

- illegal exit from Iraq;
- poor economic situation;
- refusal by medical student or doctor to carry out certain amputations or experiments;
- unfounded accusations of opposition to regime; and
- links with prisoners or with refugees in Western countries.

**c) Methods of departure from Iraq**

Iraqi asylum-seekers leave their country in two ways:

- illegally, without passport or with false documents, sometimes in company with traffickers who supplied false documents for money and who either take the documents back or recommend that they be destroyed, or
- legally, with visa issued on the basis of an invitation from a relative or for medical or study purposes.

One Member State mentions that it has a suspicion that the majority of applicants leave the country legally, which strengthens some other indications, known to the Member State in question, that an unknown number of them have their departures organized or encouraged by the Iraqi government, maybe due to its precarious financial situation. The Iraqi authorities may also have other purposes for sanctioning departures out of Iraq.

Other Member States have no such indications, although one Member State had noted that the profile of the Iraqi applicants were surprisingly differing from what was expected. It has also been observed among the Member States that in countries such as Iraq, those who leave are not necessarily those who are in the highest risk situations and need protection, but often those who are more well off and can afford to leave. It is also known that a number of Iraqi applicants have had to pay enormous amounts of money in order to reach a Member State.

Likewise, UNHCR does not have any evidence to suggest that applicants are assisted or encouraged to leave by government authorities, for reasons linked to Iraq's present financial situation. In UNHCR's view, there are some indications to the contrary, specifically the increase of the tax levied on exit visas, which discourages asylum seekers from exiting through Jordan. In reply to the question as to what approach UNHCR recommends as regards the asylum seekers who leave the country legally or have no religious or political beliefs or have contacts with the Iraqi authorities abroad, UNHCR does not provide any particular recommendation other than the fact that applications should be assessed in conformity with the provisions of the 1951 Convention.

**d) Routes followed**

Via Turkey, Jordan or Syria, from where they reach EU territory by air or overland (car or train) through eastern European countries or by sea.

**e) Documents presented**

Applicants who arrive with visas and passports may have other identity documents (birth certificate, driving licence). The majority of applicants, however, are not in possession of travel documents. They have an Iraqi identity card or one issued by the authorities in the Kurdish autonomous zone, or a party membership card of PUK or KDP, or educational certificates, "membership certificates", arrest warrants, summonses, judgments, prisoner transfer documents.

Member States take account of the possibility that there can be serious doubts about the authenticity of documents presented. However, based on the few applicants who present documents, one Member State does not regard the authenticity of documents presented as a main issue. In fact, most applicants in that Member State are Kurds and they tend not to have any documents.

In connection with the problem of the authenticity of documents, another Member State raises the issue of the so-called pseudo-Iraqis.

In this respect, two Member States indicate that a large number of "fake Iraqis" are detected by making use of language tests, taking place with the help of interpreters and translators. During the interview process, asylum seekers are asked "check questions": a person claiming to come from a certain geographic area is thus asked questions that a person from that area would normally be able to answer. Although a large number of such "fake Iraqis" are detected yearly (e.g., Jordanians or Palestinians), the problem the authorities are faced with is that they do not know where these people come from and where they should be sent back to. Many asylum seekers do not possess any document upon arrival, but, in any case, because of the large number of false documents in circulation, the documents presented by asylum seekers are not accepted, or are rarely believed to be genuine.

One Member State points out that the practice of language tests is not specific to Iraqi asylum seekers, but applies to all asylum seekers.

### 3. ASSESSMENT OF APPLICATIONS BY REFERENCE TO THE GENEVA CONVENTION

#### a) How applications for asylum are analyzed

*General situation in the country.*

Although described as a dictatorship which does not respect human rights, that alone is not regarded as justifying the grant of refugee status.

*Membership of a specific group.*

Simple troubles by reason of membership of a particular group (Kurd, Assyrian) is not sufficient; membership of the group must have given rise to personal, individual persecution. Membership of the Kurdish ethnic group on its own does not give rise to political persecution; rather personal opposition activity on the part of the applicant, whether actual or assumed.

*Militant activity within opposition parties.*

The right to asylum is generally recognised in cases of active support for opposition parties.

*Membership of a specific religion.*

Most Member States take the view that membership of a specific religion (Shiite, Christian) on its own is not usually sufficient in Iraq to result in persecution such as would qualify for refugee status.

In two Member States, Shiite Muslims are regarded as a vulnerable group, who are treated as suspects and are persecuted for their religious persuasion. The Shiite clergy has been virtually eliminated.

In reply to a question from one Member State, UNHCR reports that Christians are free to exercise their religious and cultural rights. However, although they are not as such persecuted in Iraq, Christian Iraqis, in particular Assyrians and Chaldeans, may, if they are known to have been actively involved with the opposition, qualify for refugee status. Hence, the fact of being a Christian could be seen as an additional element supporting a refugee claim based on persecution on the basis of a political opinion.

*Victims of exceptionally severe punishment.*

In some Member States, such penalties are not taken into account except where they are imposed on account of the political convictions of the person concerned or where there are other elements which would attract refugee status.

In another Member State, refugee status can be granted to persons who have been the subject of excessive sanctions or of inhuman treatment during detention.

In any case, the imposition of the death penalty or a sentence of corporal punishment acts as an obstacle to the expulsion of the applicant.

*Desertion, draft evasion.*

Having regard to the penalties imposed for draft evasion and desertion, which do not constitute political persecution, refugee status is generally granted in some Member States to applicants who offer these reasons in a believable way; in one Member State, there must be discriminatory treatment by comparison with other similar cases or, in another Member State, that "deserters or draft evaders have acted on the basis of personal conviction following inner debate informed by solid argument".

In March 1996, the Iraqi media reported that President Saddam Hussein had abrogated Decree No 115 and established a conditional amnesty beneficial to those imprisoned for draft evasion or deserting the army. These conditions are: (i) the deposit of 500,000 ID (around US\$ 800) as a guarantee and (ii) a prescribed training period of 27 days. Yet, taking into consideration past



experience with amnesties and given the lack of information regarding the manner in which presidential decisions are to be implemented, UNHCR warns against drawing any premature conclusions from the abrogation of Decree No. 115. Asylum claims made by deserters and draft evaders should continue to be assessed with reference to the Penal Code, which stipulates that draft evaders are in principle sentenced to 15 years imprisonment and deserters to capital punishment.

*Pressure to collaborate with the Government party (BAA'TH).*

In some Member States, this is not regarded on its own as giving rise to a right to asylum, but can be taken into account having regard to the personal situation of the applicant.

Another Member State deems that the BAA'TH party exercises effective and complete control; it uses the judicial system as a means of exercising that authority, arbitrary arrests, death sentences on the increase; anyone considered anti-government is at risk.

UNHCR indicates that, whilst many Iraqis suffer harassment on account of their refusal to join the Baath Party, such lack of cooperation is, in itself, unlikely to rise to the level of persecution. The same could be said of Iraqis who have refused to co-operate with the authorities in other ways. These factors, however, could contribute to rendering a person vulnerable to persecution for other reasons, as such persons may have been "black-listed" on account of their refusal to co-operate with the authorities.

*Other aspects.*

One Member State has asked whether any other Member State is of the opinion that the Iraqi authorities consider the mere fact of applying as an act of political opposition and therefore grants asylum. This is not the case in any of the five Member States which have replied.

In reply to a question regarding the situation of the Iraqis living abroad for economic reasons, without being members of any political party, UNHCR reiterates its position that the grant of convention refugee status should have its basis in at least one of the inclusion clauses of the 1951 Convention.

Further to a question from another Member State, UNHCR has expressed the view that, while refugee status could be withdrawn in the event of long stays back home, short stays in Iraq occurring under particular circumstances should not result in withdrawal of the refugee status.

**b) Is the concept of internal asylum applied?**

No, in most Member States.

Yes, in three Member States (Kurds with links to the Kurdish autonomous zone or having stayed in that zone prior to their departure).

**c) How are applications coming from the region north of the 36th parallel (Kurdistan) and from the south of Iraq assessed?**

In a number of Member States, these zones are not regarded as havens from persecution.

In three Member States, the Kurdish autonomous zone is considered in principle as safe from persecution.

UNHCR states that, as a result of the new developments that have recently occurred in Iraq (see below, under section 4), the internal flight alternative to Northern Iraq is no longer possible, except for persons who have nothing to fear from the KDP authorities currently ruling in Northern Iraq. In general, Northern Iraq has ceased to be a "safe haven", particularly for Iraqi Kurds in opposition to the KDP, as well as for Iraqi citizens fleeing from Government-controlled areas. There is an anxiety for the situation of local UN and NGO staff in Northern Iraq, since the KDP has taken over. A general amnesty has been declared for this region, excluding certain categories, but there is a fear that these staff could be considered as "traitors" and excluded from the amnesty, since many of their employer NGOs have not signed an agreement with the Government of Iraq. As of March 1997, the situation has stabilized in Northern Iraq and UNHCR is examining the possibility of resuming the implementation of the initial flight alternative.

#### **4. POLITICAL SITUATION**

*Assessment by Member States.*

A political dictatorship is exercised by Saddam Hussein - who is still firmly entrenched in power - and the government party BAA'ATH which controls the judicial system. Any attempt at opposition to the regime is repressed. Serious violations of human rights occur: torture, disappearances, arbitrary execution and detention. No change in the situation seems likely in the near future.

Authority exercised by the Kurdish government in the north of the country is both arbitrary and ineffective: there is conflict between the two Kurdish political parties KDP and PUK which, among other things, renders them also guilty of human rights violations.

*Information added by UNHCR.*

Saddam Hussein still has tight control of the country, and through the military operation launched in Kurdistan on 31 August 1996 has recovered his influence on Northern Iraq.

As a result of this operation, the KDP has grown stronger than the PUK, which has caused a flow of refugees into Iran. The potential for instability in the region remains.

The socio-economic conditions have greatly deteriorated since the U.N. sanctions were imposed in 1990.

No improvement is reported regarding the human rights situation.

Iraqis who are known by the Iraqi authorities to have applied for asylum abroad, especially in the West, will be subject to investigation and punishment. The extent of punishment would depend upon each individual's background. In principle, it is unlikely that the asylum-seeker who does not qualify under any of the definitions contained in the Convention/Protocol and/or the Statute of the UNHCR, would be subject to severe punishment amounting to persecution. However, the attitude of the Iraqi authorities towards asylum-seekers cannot be reasonably predicated, as past experience has shown with regard to e.g. amnesties.

On the question of the effects of the recent crisis on the situation of the Kurds displaced in south east Turkey and of the increasing pressure exercised on them from the Turkish authorities to make them return to Iraq, UNHCR has called on the Turkish authorities not to return forcibly Iraqi Kurds, or Iraqi citizens, to Northern Iraq, while at the same time asking for access to Turkish territory by those Iraqis who are in need of international protection. Turkey recently closed its borders for Iraqi Kurds, except for a limited number of asylum-seekers, though many of these remained blocked at the border.

## **5. BASIC PROCEDURES FOR SCRUTINISING APPLICATIONS: INTERVIEW**

The practice of systematic interview of applicants is generally applied in the European Union. Exceptionally, in some Member States, refugee status can be granted without an intensive interview when the reasons are sufficiently evident.

In one Member State, an interview is carried out when it is necessary to obtain information regarding the application, and the application is not manifestly unfounded.

## **6. EXPULSION: TO WHICH COUNTRY?**

Most Member States experience difficulties in expelling people to Iraq. A number of them report no instance of expulsion to Iraq at all. Another Member State explains that expulsion to Iraq are prevented by the insurmountable difficulties due to suspension of air links with Baghdad, the failure of diplomatic efforts with Turkey and Jordan as regards transit through those countries, and the difficulties to obtain travel documents; this Member State envisages concluding bilateral or multilateral readmission agreements with third countries permitting transit through those countries.

One Member State mentions that it undertakes expulsions only to the safe area of Iraq, and only if the applicant consents. In this respect, UNHCR has informed CIREA that until September 1996 repatriation was mainly to northern Iraq. Repatriation to government-controlled areas was episodic and without UNHCR's involvement. Further to the recent developments described above, UNHCR is not in a position to guarantee the safe return of rejected cases.

As far as expulsions to third countries are concerned, various criteria are used by Member States. One criterion is that compulsory expulsion occurs only to a third country regarded as the applicant's first country of asylum. Another one, within the Schengen system, is that expulsion occurs to the Schengen country responsible for investigating the application. A third criterion within the framework of the Nordic Passport Control Agreement is the possibility of expulsion to a Nordic third country, where an applicant has entered via that third country.

Concerning the specific third countries to which expulsions are undertaken, three Member States mention Jordan. One of these Member States points out that expulsion occurs through its neighbouring States on the basis of readmission agreements or by air to Amman. Another Member State requires that the person concerned must be in possession of a valid passport and must have travelled legally from Iraq to Jordan.

Other third countries mentioned include Turkey, the Czech Republic, Hungary, Romania, as well as western European countries.

**7. TREATMENT OF ASYLUM-SEEKERS WHOSE APPLICATIONS ARE REFUSED, IN CASES WHERE THEY DO NOT HAVE LEGITIMATE DOCUMENTS OR HAVE REMAINED ABROAD BEYOND THE AUTHORISED PERIOD**

Some Member States refer to the possibility, in such a case, to issue a permission to remain on humanitarian grounds or a conditional permission to remain on a temporary basis.

Other Member States state that the question has not arisen or is under examination.

## STATISTICS

## (EXTRACTS FROM THE REPLIES TO THE QUESTIONNAIRE ON IRAQ)

	B	DK	D	GR	ESP	F	IRL	I	LUX <sup>(1)</sup>	NL	A	P	FIN	S	UK	UE
Asylum seekers of Iraqi nationality																
1993	92	718	1.246	335	210	179	0	32		3.229	541	0	179	2.323	495	9.579
1994	83	515	2.066	426	310	204	4	42		2.858	899	1	55	1.668	550	9.681
1995	99	511	6.880	627	129	244	11	180		2.431	659	1	78	1.782	930	14.562
Evolution 93/95	+ 7	-207	+5.634	+292	-81	+65	+11	+148		-798	+118	+1	-101	-541	+435	+4.983
%	+ 7,61 <sup>(2)</sup>	-28,83	+ 452	-87,16	-38,57 <sup>(2)</sup>	+36,31		+462,5		-24,71	+21,81		-56,42	-23,29	+87,88	+52,02
TOTAL I	274	1.744	10.192	1.388	649	627	15	254		8.518	2.099	2	312	5.773	1.975	48.140
Total number of asylum applications																
1993 <sup>(3)</sup>	26.717	14.347	322.599	862	12.645	27.564	91	1.323	225 <sup>(4)</sup>	35.399	4.744	1.659 <sup>(7)</sup>	2.023	37.581	28.500	516.279
1994 <sup>(3)</sup>	14.340	6.651	127.210	1.107	10.230	26.044	355	1.834	<sup>(5)</sup>	52.576	5.082	614	839	18.640	42.200	307.722
1995 <sup>(3)</sup>	11.409	5.112	129.937	1.281 <sup>(6)</sup>	4.429	20.170	424 <sup>(6)</sup>	1.732	<sup>(5)</sup>	29.258	5.920	337 <sup>(6)</sup>	854	9.046	55.000	274.909
Evolution 93/95	-15.308	-9.235	-192.662	+419	-8.216	-7.394	+333	+409		-6.141	+1.176	-1.322	-1.169	-28.535	+26.500	-244.370
%	-57,29	-64,36	-59,72	+48,60	-64,97	-36,35	+365,93	+30,91		-17,34 <sup>(3)</sup>	+24,78	-79,69	-57,78	-75,92	+92,98	-46,75
TOTAL II	52.466	26.110	579.746	3.250	27.304	73.778	870	4.889		117.233	15.746	2.610	3.716	65.267	125.700	1.098.910
% TOTAL I / TOTAL II	0,52	6,68	1,76	42,7	2,38	0,85	1,72	5,20		7,27	13,33	0,07	8,40	8,85	1,57	4,22

Number of Iraqi asylum seekers, in decreasing order : D, NL, S, A, UK, DK, GR, ESP, F, FIN, I, IRL, P

% of Iraqi asylum seekers with respect to total number of asylum applications, in decreasing order : GR, A, S, FIN, NL, DK, I, ESP, D, IRL, UK, F, B, P.

<sup>(1)</sup> Did not reply to the questionnaire. Negligible number of asylum seekers.<sup>(2)</sup> Movement in the opposite direction during 1994.<sup>(3)</sup> Source : EUROSTAT (Asylum seekers : 1/1996 Quarterly)<sup>(4)</sup> Not taken into account in UE total<sup>(5)</sup> Data not available<sup>(6)</sup> Source : Statistics CIREA 1995<sup>(7)</sup> Figure provided by Portugal at the meeting

**STATISTICS  
(EXTRACTS FROM THE REPLIES TO THE QUESTIONNAIRE ON IRAQ)**

	B	DK	D	GR	ESP	F	IRL	I	LUX <sup>(1)</sup>	NL	A	P	FIN	S	UK	UE
Asylum seekers recognised as refugees																
1993	25	96	485	3	429	186	0	19		868	153	0	0	95	185	2.544
1994	5	105	1.013	39	479	125	0	33		1.250	91	1	6	48	380	3.575
1995	10	61	2.346 + 2.184	55	34	129	0	51		1.198	140	0	1	2	570	6.781
TOTAL III	40	262	6.028	97	942	440	0	103		3.316	384	1	7	145	1.135	12.900
recognition 93,95 % TOTAL III/ TOTAL I	14,59	15,02	59,14	6,9	145	70,17	0	40,5		38,92	18,29	50	2,24	2,51	57,47	26,80
Asylum seekers authorized to stay on humanitarian or other grounds																
1993	(2)	431	(2)	(2)	(2)	(2)	(2)	(2)		203	(2)	(2)	128	2.379	300	
1994		248								1.082			19	1.480	220	
1995		488								740			15	1.098	175	
TOTAL IV		1.167								2.025			162	4.957	695	
% TOTAL IV/ TOTAL I		66,91								23,77			51,92	85,87	35,19	
TOTAL : % recognition + % pers. who stay in the country		81,93								65,69			54,16	88,38	92,66	

Number of refugees in decreasing order : D, NL, UK, ESP, F, A, DK, S, I, GR, FIN, P, IRL  
Recognition percentage in decreasing order : ESP, F, D, UK, [P], I, NL, A, DK, B, GR, S, FIN, [IRL]

<sup>(1)</sup> Did not reply to the questionnaire. Negligible number of asylum seekers.

<sup>(2)</sup> Data not available.