

Dr. Wolfgang Schäuble
Minister of Interior
EU Presidency

11 April 2007
Our Ref : B648

Dear Dr. Schäuble,

Subject : the EU's response to the situation of Iraqi asylum-seekers and refugees in the EU and in the countries neighbouring Iraq.

As the scale of the refugee crisis both within and outside Iraq is growing, Amnesty International very much welcomes the German Presidency's initiative to discuss at the forthcoming Justice and Home Affairs Council meeting the worrying situation of Iraqi refugees in the countries neighbouring Iraq as well as the widely diverging practices of the EU Member States in dealing with the protection claims of the relatively small number of Iraqis who manage to reach EU territory. It is indeed timely, as the situation is worsening and according to UNHCR projections, between 2,300,000 and 2,700,000 people will be internally displaced by the end of 2007, and an average of 50,000 people leave Iraq each month.

Given the dramatic circumstances Iraqi refugees find themselves in, an immediate and concrete protection-oriented EU response to the situation of Iraqi refugees and asylum seekers both in the EU and in the countries neighbouring Iraq is urgently needed. EU Member States will have an opportunity to address the latter issue and the situation of internally displaced persons in Iraq also at the international conference convened by UNHCR on 17 and 18 April in Geneva focusing on the humanitarian dimension of the Iraq crisis.

The plight of Iraqi refugees in neighbouring countries

Amnesty International sent a fact-finding mission to Jordan in March 2007 to assess the situation of Iraqi refugees in the country. Although there are no official statistics of the number of Iraqi refugees in Jordan, estimates vary between 750,000 and 1 million. Crucial findings of the mission are :

- The vast majority of Iraqi refugees in Jordan are in an extremely vulnerable position as most of them have no legal residence permit and fear deportation to Iraq. As they are staying illegally in the country they have no right to work and many do not have any income which makes them dependent on relatives in Iraq or abroad.
- In a number of cases deportation has taken place and resulted in the death of Iraqi refugees repatriated over land into Iraq territory.
- Entry of Iraqi refugees into Jordan has become more difficult due to restrictive visa policies.
- Access to education is a particular concern as only a very small number of children of Iraqi refugees has access to the public school system, while there have been restrictions on establishing informal educational facilities for Iraqi children.
- Access to health care is equally problematic as most Iraqi refugees have no access to the regular health care system and are dependent on the health services provided by charity organisations.

Resettlement imperative

Although neighbouring countries like Jordan and Syria have undertaken significant efforts so far in receiving Iraqi refugees and in providing primary support, societies in those countries have come under great pressure. While these countries should continue to provide effective protection to Iraqi

refugees, the EU should do more to share responsibility. This should include financial and technical support such as for education and healthcare that benefits local communities as well as Iraqi communities, and a significant engagement in the resettlement of Iraqi refugees. Amnesty International fully supports the call from the Swedish Minister of Home Affairs to the other EU Member States as well as the European Parliament's appeal in its resolution of 15 February 2007 for more resettlement. Moreover, partial funding possibilities for Member States' resettlement activities exist already under the 2007 European Refugee Fund. The proposal for the new 2008 European Refugee Fund expands such funding possibilities further. Until now, only a few Member States have indicated their willingness to resettle Iraqi refugees and mostly for limited numbers. Amnesty International urges the Member States to adopt and urgently implement resettlement programs, especially for the most vulnerable groups of Iraqi refugees in the neighbouring regions.

A concrete and significant engagement in resettlement by the EU Member States as a tangible expression of international solidarity with the countries neighbouring Iraq will also hopefully encourage those countries to continue to give Iraqi refugees access to their territory, to respect the principle of non-refoulement and guarantee access to basic rights such as primary education and health for those Iraqi refugees who will not be resettled. At the same time, the current refugee crisis in the region and the lack of a coordinated response from the EU to resettlement challenges illustrate the need for an immediate debate at EU-level on an EU-wide resettlement scheme that is complementary to the Member States' obligations under the Geneva Refugee Convention to offer protection to those refugees arriving spontaneously at their territory.

Consistent asylum practice in the EU

The different approaches that exist between the EU Member States towards protection needs and return of Iraqi refugees and asylum seekers clearly show that the basis for a protection-oriented Common European Asylum Policy is still lacking. What Iraqi asylum seekers and refugees are facing today is no less than a protection lottery in the EU with some countries offering protection in as many as 80 % of the cases, whereas others are effectively returning rejected Iraqi asylum seekers to insecure and unstable situations.

In light of the ever worsening security situation in Iraq, Amnesty international calls upon the Member States to apply a generous interpretation of subsidiary protection grounds to those that do not qualify as refugees. In this respect Amnesty International believes that the current situation in Iraq could generally be described as a situation of 'indiscriminate violence in a situation of international or internal armed conflict' as defined in Article 15c of the Qualification Directive and that this should be taken into account when assessing individual claims for protection by Iraqi asylum seekers. In Amnesty International's view, considering the sectarian conflict that has developed over the last year, no viable internal flight alternative exists for persons fearing persecution or serious harm in Iraq.

No forced returns

Finally, it remains Amnesty International's position that there should be no forced returns to any part of Iraq, including Northern Iraq. The Kurdish region can not be considered to have the safety or stability conducive to safe and sustainable return, and as a result, any return would be premature. Moreover, the Kurdish Regional Government recently reiterated its 'strong opposition to the forced deportation of Kurdish asylum seekers from European countries such as Britain, France and Denmark'¹. Consequently, in cases where an asylum application has been rejected, measures should be taken to prevent rejected Iraqi asylum-seekers from becoming destitute. Member States should at least guarantee continued access to basic rights such as housing and financial support, health care and education and should grant permission to work as long as return to Iraq is not possible.

In summary, Amnesty International calls upon the EU and its Member States to:

- provide financial and technical assistance such as for health care and education, to neighbouring countries to assist refugees in the region of origin. Such assistance should benefit local communities as well;

¹ See KRG, KRG reiterates opposition to forcible returns of Kurdish asylum seekers from Europe, 22 February 2007.

- make a commitment and take immediate practical steps to increase and implement resettlement programs, especially for the most vulnerable groups;
- refrain from forcible return of rejected Iraqi asylum seekers to any part of Iraq;
- adopt a generous interpretation of subsidiary protection and non-refoulement obligations in light of the current situation in Iraq and stop the current protection lottery in the EU;
- adopt measures to prevent rejected Iraqi asylum seekers from becoming destitute by ensuring continued access to basic rights such as housing and financial support, health care and education and grant permission to work as long as return to Iraq is not possible.

We hope that these concerns may be taken into consideration in your discussions in Luxembourg and Geneva.

Yours sincerely,



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Barbara Lochbihler
Secretary General
Amnesty International Germany